



# GERALDEVE

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21 February 2014

**Our ref: RWF/MWA/J5255**

**Your ref:**

Dear Sir or Madam

**Royal Borough of Kensington & Chelsea Draft Charging Schedule for the Community Infrastructure Levy**

The Cadogan Estate welcome the opportunity to comment upon the CIL Draft Charging Schedule and supporting information (DCS). We attach representations which have been prepared by Gerald Eve on behalf of The Cadogan Estate.

The attached representations on the DCS highlight a number of concerns in connection with the setting of the proposed CIL levels in respect of the various issues. Gerald Eve have provided a high level review having regard to their significant experience in undertaking viability assessment throughout the Central London and in undertaking area wide viability studies for CIL purposes.

The basis of the attached representations is that when comparing current planning obligations with the effect of the proposed CIL rates, there is a very significant increase in the cost burden on schemes. This will consequentially put at risk the delivery of schemes in RBKC, including affordable housing.

Whilst RBKC has sought to apply zones in respect of the CIL residential charging rates, the levels arrived at in each instance are clearly substantially in excess of what can viably be supported based upon the analysis undertaken by Gerald Eve.

We would be pleased to discuss this with you at your convenience. We also request to be notified at the address above when (i) the Draft Charging Schedule has been submitted to the examiner; (ii) the recommendations of the examiner have been published and (iii) on the approval of a charging schedule by the charging authority.

Yours faithfully

*Gerald Eve LLP*

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**Royal Borough of Kensington & Chelsea**

**Community Infrastructure Levy Preliminary Draft Charging Schedule and  
Supporting Information (January 2014)**

**On behalf of The Cadogan Estate**

**Representations by Gerald Eve LLP**

**Introduction**

1. Gerald Eve LLP has reviewed the draft charging schedule (DCS) and supporting information (January 2014) of the Royal Borough of Kensington & Chelsea (RBKC) on behalf of The Cadogan Estate. The purpose of this exercise was to consider the approach undertaken and potential effects of the imposition of the proposed Community Infrastructure Levy (CIL) rates for residential use in respect of development across the Borough. In particular, Gerald Eve has considered the DCS in respect of the following:

- the basis and methodology employed in setting the level of CIL;
- the operation of CIL in the Borough; and
- site-specific examples of the impact of CIL.

2. Gerald Eve has summarised its findings below based upon this initial analysis. It is not the intention of this note to provide a full detailed analysis or put forward alternative viability evidence.

3. In reviewing the DCS, Gerald Eve has had regard to the CIL Regulations 2010 as amended (the "Regulations") as well as information published by the DCLG on CIL. In particular, we have had regard to Regulation 14 as set out in the DCS with regard to the balance between funding infrastructure as a result of development and economic viability of development. We also note DCLG guidance which states that:-

*"The CIL regulations place this balance of considerations at the centre of the charge setting process. In view of the wide variation of local charging circumstances, it is for charging authorities to decide on the appropriate balance for their area and 'how much' potential development they are willing to put at risk through the imposition of CIL"*

*"In their background evidence on economic viability to the CIL examination, charging authorities should explain briefly why they consider that their proposed CIL rate (or rates) will not put the overall development across their area at serious risk"*

4. Gerald Eve has also had regard to recent best practice guidance including the RICS GN published August 2012, LHDG Advice published in June 2012. Both these publications address area-wide viability testing.

### **Operation of CIL**

5. It is noted that RBKC is considering the adoption of an instalment policy to provide developers some additional time to make CIL payment. This is welcomed as in cash-flow terms, which feed through to overall viability, this approach is particularly important for developments which involve significant upfront costs.

### **Site-Specific Examples**

6. Gerald Eve has undertaken an analysis of site-specific examples within the Borough based on details sourced from the recently permitted schemes on the Cadogan Estate from the RBKC's planning archives.
7. Four sites were identified which had been granted planning permission for comprehensive residential-led development within the last 3 years. These sites are located across the proposed CIL charging zones A and B. The combined total Section 106 contribution of the sample sites was £29,000.
8. We note that the combined BCIL liability for these four properties on the basis of payment of CIL over the whole development (i.e. no relief under the test for vacancy) equates to £1,972,480. This is a 6800% increase over the current level of Section 106 paid.
9. We have run development appraisals for each of the four schemes. These schemes are assumed to be viable (as they are being developed) at a reasonable return level of 20% profit on cost. The table below shows the impact of the proposed CIL level on the viability of these schemes.



**Table 2: Site-specific Impact of BCIL on viability**

Site	Pre-CIL		Post CIL		Difference	
	Profit (m)	% on cost	Profit (m)	% on cost	Profit (m)	Profit (%)
32 Sloane Gardens	£2.94	20%	£2.41	15.82%	£0.53	18%
39-41 Sloane Gardens	£5.50	20%	£4.48	15.70%	£1.02	19%
298 Kings Rd & 62 Old Church St	£3.16	20%	£2.80	17.33%	£0.36	11%
88 Sloane Street	£2.14	20%	£1.97	18.12%	£0.17	8%
<b>Total / Average</b>	<b>£13.74</b>		<b>£11.66</b>		<b>£2.08</b>	<b>15%</b>

10. As can be seen from the above table the introduction of BCIL reduces the profit on cost of the schemes from 20% to between 15.7% and 18.1%. This represents a reduction in total profit of the above schemes of £2,080,000 or 15%.

11. We have also the increase in financial payment of the proposed levels of CIL in comparison to RBKC's current Section 106 calculator for four hypothetical schemes. This is shown in the table below:

**Table 3: BCIL v S106 Calculator**

New Build Scheme	S106 Contribution	CIL Contribution	Difference	% Increase
2 Additional 2 bed unit (60 sq m) ZONE A	£2,766	£90,000	Increase of £87,234	3254%
4 Additional 2 bed units (each measuring 60 sq m) ZONE A	£5,033	£180,000	Increase of £174,967	3576%
2 Additional 2 bed unit (60 sq m) ZONE B	£2,766	£70,800	Increase of £68,034	2560%
4 Additional 2 bed units (each measuring 60 sq m) ZONE B	£5,033	£141,600	Increase of £136,567	2813%
<b>Average</b>				<b>3093%</b>

12. As can be seen this shows that the proposed level of BCIL is over 3000% higher for the above hypothetical schemes than the current level of Section 106.

13. The above analysis demonstrates that the introduction of a CIL Charging Schedule at the proposed levels will significantly impact upon the viability of development across the Borough.

14. Therefore unless a reduced charging schedule is adopted, the result of the CIL will be stalled general housing delivery across the Borough and, for those developments which do receive planning consent, a much reduced affordable housing delivery.

### **Discretionary Relief for Exceptional Circumstances**

15. Regulation 55 of the 2010 Community Infrastructure Regulations provides for relief in exceptional circumstances, where the cost of "scaled-back" residual Section 106 obligations will still exceed CIL.
16. We note in the DCS that RBKC does not intend to introduce an Exceptional Circumstances Relief Policy. Larger development schemes are likely to incur high site specific costs and high residual Section 106 costs to provide necessary site specific infrastructure and other requirements to make the development acceptable in planning permission. Therefore, the Council should make provision for exceptional circumstances relief. This would allow CIL payments to be reduced for the largest development proposals.

### **Conclusions**

17. The level of the CIL rates proposed in the DCS is extremely high compared with historic achieved Section 106 planning obligations. Representing a 3000% increase over the current Section 106 contribution.
18. Gerald Eve's analysis of recently consent schemes in RBKC shows that the introduction of CIL at the rates proposed in the DCS reduces the profit on cost of the schemes from 20% to between 15.7% and 18.1%. This represents a reduction in total profit of the above schemes of £2,080,000 or 15% and a significant impact on the viability of these schemes.
19. Gerald Eve therefore, does not believe that an appropriate balance has been struck as set out in the CIL Regulations (Amended) 2011.
20. Should RBKC's CIL be set at the rates proposed in the DCS, it will undermine viability and deliverability and severely impair the ability of RBKC to achieve its housing target of 600 new homes per annum between 2011 and 2028.

21. The high proposed CIL rate will also reduce the borough's ability to deliver affordable housing and severely impair the ability of RBKC to achieve its affordable housing target of 200 dwellings per annum between 2011 and 2028.
22. It follows that a reduction of CIL levels for residential development would have a commensurate effect on viability and the ability to produce affordable housing within the Borough.





Our ref: Cdl/boroughplanning/K&C/CIL/  
Draftchargingschedule

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21 February 2014

Dear Sir / Madam,

## **RB Kensington & Chelsea CIL – Draft Charging Schedule (DCS)**

Thank you for your invitation to comment on the borough's CIL draft charging schedule. The comments provided here are based on the Draft Charging Schedule Commentary document dated January 2014, and supplement those made in my letter of 22<sup>nd</sup> March in respect of the PDCS.

The Mayoral CIL will deliver £300m towards Crossrail, and we are pleased to note that in preparation of its DCS, the borough has taken the Mayoral CIL fully into account.

I note that the Council intends to 'draft a list of the types of the infrastructure projects or types of infrastructure it intends to fund through CIL, known as the Regulation 123 list'. TfL would encourage the early development of this work in order that it can be properly considered at the Examination.

TfL hopes to work with boroughs on their infrastructure planning, and ensure borough CILs are a means of funding transport infrastructure that is vital to support planned development. We will also be happy to work with you in formulating the draft regulation 123 list that the CIL guidance now requires to be produced at the CIL examination. It would be helpful to understand which transport projects will be prioritised in respect of the CIL generated and how the borough proposes to bring forward transport infrastructure. Appendix 3 of your DCS Commentary document does not seem to reflect the physical infrastructure requirements anticipated by the Core Strategy.

TfL will not generally support the case for funding strategic transport infrastructure from CIL which it does not regard as important or justified for the delivery of the objectives of the local plan or assist in funding such projects itself.



I am aware that the GLA will be responding to you separately on behalf of the Mayor of London following consideration of issues such as policy and CIL regulations compliance including viability analysis.

I would be grateful if you could note our request to be notified of submission of your draft charging schedule for examination, publication of the examiner's recommendation and approval of the charging schedule. We would also request that we be heard at any public examination that is held into your draft schedule in accordance with regulation 21 of the Community Infrastructure Levy Regulations 2010.

If you would find it helpful, I would be pleased to meet with you to discuss these matters.

Yours faithfully

Neil Lees

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**GREATER LONDON AUTHORITY**  
Development, Enterprise and Environment

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Our ref: RBKCCILDCS/PH  
Your ref:  
Date: 21<sup>st</sup> February 2014

Dear Sir/Madam,

**Planning Act 2008  
Royal Borough of Kensington and Chelsea Community Infrastructure Levy – Draft  
Charging Schedule**

I am writing on behalf of the Mayor with comments on the Royal Borough of Kensington and Chelsea's Community Infrastructure Levy (CIL) draft charging schedule.

We are pleased to note that the Mayor's CIL has been taken fully into account in bringing forward your Borough's proposals as required by regulation 14(3) of the Community Infrastructure Levy Regulations 2010 (as amended). In addition, we are content that your CIL proposals will not put at risk the objectives and detailed policies in the London Plan (which, as you know, forms part of the development plan across Greater London) part of the test set out in Regulation 14(1).

I would be grateful if you could note our request to be notified of submission of your draft charging schedule for examination, publication of the examiner's recommendation and approval of the charging schedule. We would also request that we be heard at any public examination that is held into your draft schedule in accordance with regulation 21 of the Community Infrastructure Levy Regulations 2010, in particular to address the question of compliance with regulation 14(3).

In respect of the above requests for notification, I would be grateful if you could contact Peter Heath, Senior Strategic Planner at the address below, and/or by email to [peter.heath@london.gov.uk](mailto:peter.heath@london.gov.uk).

Yours sincerely

A handwritten signature in black ink, reading "S. G. Murray". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Stewart Murray  
Assistant Director – Planning

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FAO: The Policy Team  
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The Town Hall  
Hornton Street  
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W8 7NX

24<sup>th</sup> February 2014

Dear Sir

**The Royal Borough of Kensington and Chelsea - Community Infrastructure Levy Draft Charging Schedule**

I am writing on behalf of London First in relation to the consultation on The Royal Borough of Kensington and Chelsea (referred to as the Charging Authority) Community Infrastructure Levy Draft Charging Schedule.

We welcome the opportunity to respond to the consultation on the Charging Authority's Draft Community Infrastructure Levy (CIL) Charging Schedule.

London First wishes to reserve the right to be heard by the CIL Examiner at the forthcoming Examination. We also wish to be notified by email ([fbaber@londonfirst.co.uk](mailto:fbaber@londonfirst.co.uk)) that the draft CIL charging schedule has been submitted to the CIL Examiner in accordance with section 212 of PA 2008.

**Overview**

London First is a business membership organisation with the mission to make London the best city in the world in which to do business. We represent the capital's leading employers in key sectors such as financial and business services, property, transport, ICT, creative industries, hospitality and retail. Our membership also includes higher education institutions and further education colleges.

We believe the draft charging schedule contains a number of elements that threaten development within the Charging Authority. These relate primarily to:-

- The rate the Charging Authority intends to charge, as well as the methodology employed in setting this rate.
- The evidence base underpinning charging proposals.
- The impact the proposed CIL rate will have on affordable housing.
- Issues regarding how the proposed charging schedule fits within the framework of existing planning policy and guidance.



## **Economic Viability**

London First is concerned the Charging Authority has not complied with its legal obligation to strike an 'appropriate balance' between helping to fund necessary infrastructure provision and the potential effects of the imposition of CIL on the economic viability of development across its area (as prescribed in Regulation 14(1)).

The main issue from the perspective of London First relates to rates proposed in the Draft Charging Schedule, particularly residential rates and underlying methodology in arriving at these. We consider these rates to be excessive. When combined with further obligations such as Mayoral CIL and affordable housing contributions, they will have significant detrimental impact on the overall viability of proposals in The Royal Borough. CIL Guidance (Dec 2012 & Apr 2013) highlights the responsibility of the Charging Authority to consider the combined impact of these planning conditions and any Community Infrastructure Levy charges that the development will be liable to. London First believes this has not been the case in this instance; as such the evidence base is flawed.

London First believes that, as a result of the proposed charging schedule, the development industry will be paying considerably more in cumulative planning obligations under CIL when compared against the previous s106 system. As a consequence of these increased charges, CIL will have a direct, detrimental impact on the viability and deliverability of development and as such, a consequential effect on the delivery of affordable housing in the charging authority.

## **Accordance with National, London-wide and Local Planning Policy**

The Government has made it clear in the National Planning Policy Framework (NPPF) as well as in CIL Guidance (Dec 2012 and Apr 2013) that charging authorities should develop and test their levy rates alongside their Local Plan. Paragraph 173 & 175 of the NPPF explicitly states that CIL should support and incentivise new development. It also requires local planning policy to pay careful attention to viability and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. Given the clear policy steer to ensure development is viable, London First is concerned that the draft charging schedule has not adequately addressed the NPPF policies as the levy rates proposed by the Charging Authority place a significant additional cost burden on development and in our view discourages development from coming forward. We are unclear how the Development Plan (including the London Plan) has been considered by the Charging Authority in preparing the Draft Charging Schedule.

### **Appropriate balance test**

London First's primary concern over the draft charging schedule is the Charging Authority's failure to apply the appropriate balance between the need to set the levy at rate(s) which promotes additional investment for infrastructure to support development and the potential economic effect of imposing the levy upon development across their area (as prescribed in paragraph 8 of the CIL Statutory Guidance paper, April 2013).

The Community Infrastructure Levy regulations (Regulation 14(1)) place the balance of these considerations at the centre of the charge-setting process. In our view the Charging Authority has not adequately demonstrated how their proposed levy rate(s) would contribute towards the implementation of their relevant Plan and support the development of their area.

Our concern stems from the fact that we believe the Charging Authority has not addressed the requirement to provide a robust evidence base on economic viability and infrastructure planning as prescribed in the April 2013 and December 2012 statutory guidance on CIL. Regulation 14 requires the balance to be drawn between the desirability of securing funding for infrastructure and the effect the levy will have on the viability of development as a whole.

In our view the viability study does not provide any analysis of how the different levy rates will impact on the delivery of different land uses. Also, the viability study does not indicate what the spatial planning consequences will be as a result of the proposed levy rates. Without a detailed assessment of the impacts on land uses and their spatial consequences, we seriously question whether the viability analysis has provided sufficient detail in meeting the requirement set out in Regulation 14.

As part of the test in reaching an appropriate balance, an understanding of the cost of the infrastructure that is required to support development is necessary. However, the infrastructure analysis provided does not separate out the 'required' infrastructure from the more broader infrastructure provisions the Charging Authority would like to see come forward. It is important that levy receipts are directly used to fund specific infrastructure projects and are not just left as a general funding pot for the charging authority to use.

The Charging Authority must be able to demonstrate from their evidence base that the proposed levy rates will be viable for the sufficient number and type of developments the Development Plan relies on over the duration of the Plan period. It is unclear how the Charging Authority has developed its proposed rates taking into account the London Plan 2011 and the Borough's Core Strategy 2010. Whilst the viability study makes a brief reference to the local policy context in relation to CIL, there is no detailed information on how the proposed rates will impact on the deliverability of the Development Plan particularly in relation to meeting the housing pipeline and borough wide/ area specific policy targets. It is vital the Charging Authority underpins their proposed rates with a clear understanding of the impact it will make to the Development Plan and the cumulative burdens it will consequently have on development.



## **Evidence Base**

The evidence base, including the recent BNP Paribas viability assessment, does not comply with the DCLG Community Infrastructure Levy guidance nor has it followed guidance set out in either the Local Housing Delivery Group (LHDG) Advice of July 2012 or the Royal Institution of Chartered Surveyors Guidance Note of August 2012. London First therefore considers the evidence base is fundamentally flawed.

The legislation (section 211 (7A)) requires a charging authority to use 'appropriate available evidence' to inform their draft charging schedule and that charging authorities need to demonstrate that their proposed levy rates are informed by 'appropriate available' evidence and consistent with that evidence across their area as a whole.

The legislation also requires a charging authority to use appropriate available evidence to 'inform the draft charging schedule'. A charging authority's proposed levy should be reasonable given the available evidence.

Given this legal requirement upon the Charging Authority, we wish to re-emphasise the point that no information has been made available on the amount of s.106 receipts it has received over recent years and how this contributed to the delivery of affordable housing and other targets. We question the underlying assumptions used to calculate land value and there is no evidence that the Charging Authority has undertaken a robust level of market/ sensitivity testing.

It is important the Charging Authority can clearly demonstrate that any proposed levy rates are based on clear evidence which reflects the current market conditions. This will necessitate the Charging Authority to undertake market testing of the proposed rates with a clear understanding of how developers and landowners bring forward development. Otherwise, it is clear that the right conclusions cannot be arrived at in setting rates. While there are different approaches used in the industry to assess development viability, the main issue is to comprehend the extent to which market value of land is taken into account. The market value of the land is the major determinant for developers to assess whether a scheme is viable to proceed or not to release land for development. When proposing levy rates, we believe all charging authorities must take in to account the effect it will have on market values on land and ensure this will not impede the ability for the policy objectives to be achieved which are set out in the Development Plan.

We do not believe the Charging Authority has sufficiently tested the proposed levy rates in current market conditions. As stated above, the viability study does not adhere to guidance and is inconsistent in its approach of what the price it assumes developers and landowners will release and buy land at, taking into account policy and appropriate CIL rates in the future. The assumptions made in the viability study is that existing use value plus a premium (EUV+) is a sufficient basis to determine the land value as a singular approach with no evidence to support the conclusions arrived at. No attempt has been made to market sense test the premium adopted and the overall level of land value applied in the viability study.

The singularity of approach in the absence of evidence simply does not reflect the market going forward. Furthermore, the charging authority has not undertaken any market or sensitivity testing between the values that have been assumed through EUV+ and the land values that are realistically achievable in the market today. The Charging Authority has not engaged in any market testing with the developers involved with the strategic and allocated sites identified in the Development Plan that has led to a set of proposed levy rates in the Draft Charging Schedule, which we believe are unviable.

London First does not believe the number of generic development appraisals relied upon is in any way sufficient in order to adequately test development schemes that would be coming forward in the Borough. Whilst they may reflect different types of development in various geographical areas, the very limited number of generic development appraisals is wholly inadequate when testing viability in order to set CIL rates in a complex urban area.

The evidence, as a result, does not provide a suitable basis for testing marginal sites or the implications on more strategic sites. This is in clear contradiction and does not comply with DCLG and other guidance.

## **Conclusion**

In light of the above, London First believes the Charging Authority needs to provide further evidence and justification for the proposed levy rates in the Draft Charging Schedule.

In our view, the CIL rates proposed should be set at the lowest possible level given the prolonged stagnation in economic and construction growth. By setting the rates at a low level, it will help to encourage the property market to respond rather than trying to set them at very high levels which, in some cases have never been achieved with conventional section 106 agreements.



If you have any queries regarding our response please contact me using the contact details below.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Faraz Baber'.

Faraz Baber  
Executive Director, Policy  
London First

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**For further information contact:**  
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## 1.0 Introduction

- 1.1 This representation has been prepared by Savills (UK) Ltd, as advisers, on behalf of a number of developers active in the Royal Borough of Kensington and Chelsea (RBKC). Hereafter known as ‘the Consortium’.
- 1.2 This representation has been submitted to influence the emerging Royal Borough of Kensington and Chelsea’s Draft Community Infrastructure Levy (CIL) Charging Schedule published for public consultation in the period 21<sup>st</sup> January 2014 to 23<sup>rd</sup> February 2014. Our clients’ particular comments relate to the proposed rates for residential development in the following areas:
- Holland Park
  - Notting Hill Gate
  - Kensington High Street
  - Chelsea
  - Knightsbridge
- 1.3 Savills (UK) Ltd has been actively engaging with various Local Planning Authorities (LPA’s) across the country. On this basis, the Consortium and Savills (UK) Ltd bring considerable experience and best practice from engaging with other LPA’s who have already undertaken CIL consultations and examinations.
- 1.4 The Consortium is strongly of the view that the proposed CIL rates are too high and without a full assessment of site characteristics and costs, the proposed CIL rate could render development unviable and affect the delivery of key sites and housing delivery overall.



- 1.5 In setting the rate of CIL, the Community Infrastructure Levy, England and Wales Regulations 2010 (as amended) ('the Regulations') state that ***"an appropriate balance"*** needs to be struck between ***"a) the desirability of funding from CIL (in whole or in part)"*** against ***"b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development"***<sup>1</sup>. The term 'taken as a whole' implies that it may be acceptable for some schemes to be rendered unviable by the level of CIL charge; however, there is a clear requirement to ensure that most developments are able to proceed. The Government provided advice on the meaning of 'an appropriate balance' in Paragraph 8 of the Community Infrastructure Levy Guidance Note ('the Guidance', published in April 2013)<sup>2</sup>. In part, this advises that ***"The Community Infrastructure Levy regulations place this balance of considerations at the centre of the charge-setting process"***.
- 1.6 The Consortium therefore considers that it is very important that, in order to satisfy these overarching requirements, the evidence supporting CIL is sound, so that the most appropriate balance is struck and justified.
- 1.7 The Consortium has come together owing to substantial concerns with the approach proposed by RBKC, notably with regard to reducing the viability cushion from 30% to 20%. The Consortium has significant land holdings and interests across the Borough, all of which will likely contribute to the maintenance and delivery of the housing land supply (to meet identified housing needs). The rate of CIL and proposed implementation/ operation is therefore of critical importance to our clients and the Council.
- 1.8 The ability for landowners and developers to absorb Community Infrastructure Levy within any scheme whilst remaining financially viable is interrelated to the provision of contributions paid through Section 106 agreements and to the provision of affordable housing. When a CIL charge is adopted, Councils are unable to negotiate the level of payment required; if set too high, CIL charging could significantly impact on the ability of affordable housing and other community benefits to be delivered through the Plan period.

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<sup>1</sup> Regulation 14(1)

<sup>2</sup> This document supersedes the previously published Community Infrastructure Levy Guidance – Charge Setting & Charging Schedule Procedures, 2010

- 1.9 In submitting this representation, due to the time and resource available to us at this stage, the Consortium is only commenting on particular key areas of the evidence base. The lack of reference to other parts of the evidence base cannot be taken as agreement with them and the Consortium reserves the right to make further comments upon the evidence base at Examination.
- 1.10 This submission focuses on our concerns in respect of the following areas:
- The appropriateness of inputs into and methodology of the viability appraisals, including an appropriate viability cushion, the marginal developments tested, build costs, professional fees, affordable housing, benchmark land values and site types tested.
  - The flexibility in the operation of CIL following adoption, including instalments and exceptional circumstances relief.
- 1.11 We will address these two areas in turn after we have considered the national planning policy guidance.

## 2.0 The Approach of National Policy

- 2.1 With regard to the preparation of Charging Schedules and supporting documentation it is important to have due regard to the available Government guidance and law, notably, the CLG Community Infrastructure Levy – an Overview (May 2011), CLG Community Infrastructure Levy Guidance (April 2013), CLG Community Infrastructure Levy Relief (May 2011), the Planning Act 2008 and the CIL Regulations 2010 (as amended). It is also important that the preparation of CIL is in the spirit of the National Planning Policy Framework (NPPF), notably that it is delivery focused and **‘positively prepared’**<sup>3</sup>.
- 2.1 The NPPF outlines 12 principles for both plan making and decision taking, notably that planning should **“proactively drive and support sustainable economic growth”**.<sup>4</sup> Furthermore, that plan making should **“take account of market signals such as land prices and housing affordability”** and that **“the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth”**.<sup>5</sup>
- 2.2 The NPPF refers to the **“cumulative impacts”**<sup>6</sup> of standards and policies relating to the economic impact of these policies (such as affordable housing) and that these should not put the implementation of the plan at serious risk. Existing policy requirements should therefore be considered when assessing the impact of CIL on development viability.
- 2.3 The steer from Central Government is very much angled towards facilitating development, which should have a major material bearing on the preparation of CIL and the balance applied when considering Regulation 14(1)<sup>7</sup>.
- 2.4 The Government has also confirmed through the CIL Guidance, guidance on the preparation of CIL, notably:
- The need for balance (as per Regulation 14)
  - The need for **‘appropriate available evidence to inform the draft Charging Schedule’** (as per Schedule 212(4)(b) of the 2008 Act).

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<sup>3</sup> Paragraph 182

<sup>4</sup> Criterion 3

<sup>5</sup> Paragraph 19

<sup>6</sup> Paragraph 174

<sup>7</sup> CIL Regulations 2010 (as amended)

- 2.5 The Guidance states that “***the levy is expected to have a positive economic effect on development across an area.***”<sup>8</sup> The Government also makes clear that it is up to Local Authorities to decide ‘how much’ potential development they are willing to put at risk through CIL. Clearly this judgement needs to consider the wider planning priorities.

### **Relationship with Section 106 Planning Obligations**

- 2.6 It is also imperative that due regard is had to CIL Regulation 122 which states that Section 106 planning obligations must be:

- ***‘necessary to make the development acceptable in planning terms;***
- ***directly related to the development; and***
- ***fairly and reasonably related in scale and kind to the development’***

- 2.7 The power to seek Section 106 contributions in addition to CIL remains, albeit substantially reduced in scope. However our clients are concerned about the scale of Section 106 contributions which will be sought alongside CIL, thereby further putting at risk the delivery of the identified housing sites.

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<sup>8</sup> Paragraph 8



### 3.0 Infrastructure & Planning

3.1 As set out in our introduction, the key purpose of CIL must be to positively fund the infrastructure required to enable growth. This is clearly outlined within the Regulations which state **“A charging authority must apply CIL to funding infrastructure to support the development of its area”<sup>9</sup>**. The Planning Act 2008 defines infrastructure<sup>10</sup> as:

- **“(a) roads and other transport facilities,**
- **(b) flood defences,**
- **(c) schools and other educational facilities,**
- **(d) medical facilities,**
- **(e) sporting and recreational facilities, and**
- **(f) open spaces.”**

3.2 There is a requirement within the CIL Regulations to provide a list of “relevant infrastructure” to be wholly or partly funded by CIL. The Infrastructure Funding Gap Analysis<sup>11</sup> which has been produced identifies the critical broad infrastructure requirements for the Borough. However, Savills believe this list is limited as it does not comprehensively list all infrastructure requirements or give detailed anticipated costs.

3.3 Ascertaining the level of CIL is essentially a development viability exercise and owing to this it is critical that the level of CIL is based on robust credible evidence. The ‘CIL – An Overview’ document explains that **“Charging Authorities wishing to introduce the levy should propose a rate which does not put at serious risk the overall development of their area”<sup>12</sup>**. It will therefore be important that the rate is based on realistic expectations about the level of funding required to underpin the planned provision of infrastructure needed to deliver the development plan.

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<sup>9</sup> Regulation 59(1)

<sup>10</sup> Section 216

<sup>11</sup> Infrastructure Funding Gap Analysis, dated November 2013

<sup>12</sup> Paragraph 23

## Infrastructure Delivery Plan & Funding Gap

- 3.4 The CIL Commentary January 2014 (paragraph 3.10) refers to the Infrastructure Delivery Plan (IDP) and the preliminary draft charging schedule documents at Appendix 3. Paragraphs 1.1. and 1.2, appendix 3, refer to the IDP and paragraph 2.1 notes that CIL may only be charged if there is an evidenced funding gap, stating that the IDP sets out the estimated costs and the available levels of funding for the infrastructure identified.
- 3.5 We have found the following documents available on the Councils Consultation Website;
- *Scot Wilson URS Central London Infrastructure Study 2009 – Draft Report Final*. This sets out infrastructure relevant to Central London. It includes the following requirement for RBKC; Flood defence, Fire and Police Services, Imperial College, Further Education & Adult Learning and Secondary Health Care, but no specific costs are summarised.
  - *RBKC Core Strategy 2010 - Infrastructure Table by Area* – this includes approximately £104m of identifiable area specific costs as well as other, non identifiable or not provided requirements. Sources of funding vary.
  - *RBKC Core Strategy 2010 - Infrastructure Table by Provider* – this identifies infrastructure requirements by provider and includes for education and health with some figures (totalling approximately £28m where headlined).
  - *Community Infrastructure Levy – PDCS January 2013* – IDP referenced at paragraphs 1.6, 1.7 and 1.9 of Appendix 3. Paragraphs 1.13, 1.15 and 1.17 refer to funding gaps of £83m for Social Infrastructure, £94m for Physical Infrastructure and £2.25m for flood mitigation. A total of £179,250,000, we assume this has been rounded up to form the ‘£180m funding gap’ referred to in other documents, however nowhere is this made clear.
  - *Commentary – Community Infrastructure Levy* – Publication of the Draft Charging Schedule (PDCS) January 2014 including Appendix 3 (‘The Infrastructure Funding Gap’). Appendix 3 provides a summary table of infrastructure requirements by provider. These costs are a mix of area specific and Borough wide and it is difficult to ascertain a total because the sources of funding vary and amounts switch between a capital sum or an annual cost. An initial analysis, excluding national grid capital funded schemes and privately funded Ofwat schemes, give an approximate total of £43m where identifiable.
- 3.6 As is evident from the above it is unclear exactly how the £180m funding gap has been calculated. Greater clarity and transparency is thus needed with regard to how this list of

infrastructure is to be distilled into a Regulation 123 List of infrastructure which is to be funded through CIL. As part of this process there needs to be greater clarification on how the costs have been calculated for the infrastructure projects identified. Currently the Infrastructure Funding Gap Analysis does not explicitly state the infrastructure required by S106, CIL or funded through an alternative mechanism. Additionally the analysis within the latest Draft Charging Schedule includes area specific measures but does not identify whether these services have been included as costs associated with part of the wider funding gap or not.

- 3.7 Accordingly, this document does not provide a sufficiently robust platform upon which to base the soundness of the proposed charging regime and levels. This information may already have been collated by the Borough but it does not appear to be in the public domain and has not been clearly referenced in the consultation documents and we would request that this information is made available in order to inform the charging schedule properly.

## 4.0 Viability Appraisal & Proposed Methodology

- 4.1 The requirement to justify the Charging Schedule with evidence of viability is outlined by CIL – An Overview<sup>13</sup>, which notably also makes reference to setting differential rates. The CIL Guidance outlines ***“charging authorities should avoid setting a charge right up to the margin of economic viability across the vast majority of sites in their area”***<sup>14</sup>. It will therefore be an important consideration to ensure that the evidence of viability adequately tests scenarios that reflect the key sites required to deliver the planned growth.
- 4.2 The fundamental premise is that to enable delivery, sites must achieve a credible land value and developers the required return on investment, otherwise development will be stifled. This is recognised by the NPPF<sup>15</sup> and is certainly ‘in-built’ within the CIL Regulations. It is also the basis of the definition of viability with the Local Housing Delivery Group report, Viability Testing of Local Plans.<sup>16</sup>
- 4.3 Owing to the key test of Regulation 14(1)<sup>17</sup> it is important that the viability appraisals prepared are fit for purpose. It is clear that at Examination the Charging Schedule will need to be supported by “relevant evidence”<sup>18</sup>. Within the draft amendments to the CIL Regulations, LPAs must strike an appropriate balance and to justify that balance with evidence at the examination, showing and explaining how the rates will contribute towards the implementation of their relevant Plan.<sup>19</sup>
- 4.4 At this stage no alternative viability evidence has been prepared by Savills (UK) Ltd or our clients, although we may do so at the Examination stage if it is felt this is required. We offer below some initial thoughts on the assumptions that ought to be made in this regard and outline our concern about the interpretation of the viability evidence when setting the proposed CIL rates.

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<sup>13</sup> Paragraphs 25 and 26

<sup>14</sup> Paragraph 30

<sup>15</sup> Paragraph 174

<sup>16</sup> Section One

<sup>17</sup> CIL Regulations 2010 (as amended)

<sup>18</sup> Ibid. Regulation 11(1) (f) / 19(1) (e)

<sup>19</sup> Draft CIL Regulations (2014) 5(3)

## Assumptions

### *Viability Cushion*

- 4.5 We note that in BNP's original Viability Assessment dated October 2012 the viability cushion was recommended at 30%, which we believe is the minimum that should be applied to all typologies and is inline with recent CIL Examinations, and is significantly below the viability cushion adopted for Bristol City Council at 50%.
- 4.6 We note that BNP have also provided commentary relating to reducing the viability to cushion to 20%, in a letter dated January 2014, and this has been reflected in the Draft Charging Schedule.
- 4.7 The CIL Guidance clearly states that authorities should avoid setting ***"a rate up to the margin of viability"***. A point recognised and confirmed in the Viability Testing in Local Plans<sup>20</sup> publication, which highlights the importance of including a 'viability cushion' to reduce the risk to delivery associated with setting CIL rates at the margin of viability.
- 4.8 This sentiment is further echoed in the recent Plymouth City Council CIL Examination in Public (EIP). The Inspector recognised the importance of such a buffer and commented:
- "The 40% or greater discount and the inclusion of contingency costs within the viability appraisals provide a buffer against any changes in the costs of meeting new or emerging policy requirements such as higher environmental standards. This buffer also provides for any actual variations in costs over and above those used in other assumptions adopted in the appraisals, such as sales rates and developer's margin."***
- 4.9 We would therefore reiterate that, in reality, site specific circumstances will mean that the economics of the development pipeline will vary from the typical levels identified via analysis of the theoretical site typologies. This is inevitable given the varied nature of housing land supply and costs associated with bringing forward development.

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<sup>20</sup> Harman – June 2012



- 4.10 The Examiner's Report for the Greater Norwich Development Partnership (GNDP) references the importance of not setting the CIL rates up to the margin of viability and therefore recommends the application of a 'viability cushion'.<sup>21</sup> This notes that there must be allowance within the CIL rates to account for the variation in landowner aspiration, as well as the potential differences in costs and values of individual sites. This has also been confirmed in respect of Trafford Council's CIL which included a buffer between 32% and 49% and Hertsmere Borough Council's CIL which was reduced to allow a minimum buffer of 23%, with the buffer for other parts of the Borough up to 43%.
- 4.11 The viability cushion should take account of the risks to delivery flowing from the potential for some sites to achieve a lower sales value than others. They should therefore be taken into account when setting the CIL rate through the reduction of the proposed CIL rate below the maximum.
- 4.12 RBKC's 'Draft Charging Schedule Commentary' dated January 2014 states the reason for amending the viability buffer is as follows:
- 4.13 *'...to facilitate a greater collection of CIL funds in this Borough.'*<sup>22</sup>
- 4.14 Although further reasoning from BNP is provided, which is discussed in more detail below, amending the CIL rates to provide additional funds from CIL is contrary to CIL Regulations is not valid reasoning for amending the viability cushion.

### ***Development Profit***

- 4.15 The Consortium notes the adoption of a development profit of 20% on Gross Development Value (GDV) on the private housing and this approach is welcomed by the consortium as it reflects current market conditions.
- 4.16 We would note that BNP's letter dated January 2014 refers to the following with regards to development profit as reasoning for reducing the viability cushion:

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<sup>21</sup> Paragraph 25,

<sup>22</sup>

- 4.17 ***‘Development profit: some advisors have started to argue in the last 6 months that lower development risk should result in reductions in developer’s profit. Our appraisals assume a 20% profit, and if the other advisors’ position is adopted, this already provides a degree of viability cushion. Arguably, therefore, the Council could probably reduce the buffer below the maximum rate without adversely impact on delivery.’***
- 4.18 As stated above 20% profit on GDV reflects current market conditions and is the **minimum** required return for banks to lend against development opportunities, which is reiterated in BNP’s Viability Assessment dated October 2012. This is also inline with other Viability Assessments prepared to advise Local Authorities in producing their charging schedules. As above we do not believe therefore this is a suitable reason to reduce the viability cushion.

### ***Marginal Developments***

- 4.19 We note that in BNP’s letter dated January 2014 12 sites were provided by RBKC so that they can consider the proposed rates of CIL on their viability. Whilst we agree that this is a useful exercise we note that BNP have only compared the impact on the Residual Land Value of the site with and without CIL and reducing the buffer from 30% to 20%. The residual land value has not been tested against the Benchmark Land Values identified in BNP’s Viability Assessment, in line with the methodology adopted in their report. We do not therefore believe this truly tests the viability of the proposed CIL against the marginal sites.

### ***Build Costs***

- 4.20 BNP have assumed the following costs in their Viability Assessment:

**Table 1 BNP Cost Assumptions (October 2012, p.19)**

Site Type	BCIS base – quarter 2 2012	Base Cost	Height adjust	Quality adjust	Adjusted Cost	External Works	All-in Cost
1	One off housing Upper Quartile	£1,149	0	30%	£1,494	15%	£1,718
2	Flats 6+ storeys Upper Quartile	£1,619	0	30%	£2,105	15%	£2,420
3	Flats 6+ storeys Upper Quartile	£1,619	15%	30%	£2,348	15%	£2,700
4	Flats 6+ storeys Upper Quartile	£1,619	30%	30%	£2,590	15%	£2,979
5	Flats 6+ storeys Upper Quartile	£1,619	30%	30%	£2,914	15%	£3,351

- 4.21 We are of the opinion that the proposed build costs do not reflect the specification required when developing in the higher value areas of the Borough, particularly for smaller schemes and conversions, where cost savings are not able to be made from constructing multiple units.
- 4.22 Savills have provided Viability Assessments for a number of schemes in the Borough on behalf of the Consortium where Build Costs have been agreed with the Borough and their Assessor significantly in excess of the above figures. Given the Private and Confidential nature of the Viability Assessments we are not able to provide details of build costs for particular schemes within this representation however we would recommend that RBKC provide BNP with details of these schemes and the agreed build costs.

### ***Professional Fees***

- 4.23 BNP have assumed Professional Fees at 10% of build costs. As above Savills have agreed professional fees with the Borough and their Assessor significantly in excess of this figure for a number of schemes. These range from 12% to 15% and reflect the significant costs for small, high end schemes including conversions.

### ***Affordable Housing***

- 4.24 We note that BNP appraisals have tested affordable housing at 50%, 40%, 30% and 20%. BNP have therefore tested CIL rates at below RBKC's policy target of 50%.
- 4.25 We have seen through various CIL examinations around the country that Inspectors are recognising the importance of delivering affordable housing at policy levels. In particular, we would like to draw your attention to the recent Mid Devon Council CIL Charging schedule (February 2013) where the Examiner concluded that the CIL Charing Schedule as submitted did not provide an appropriate basis for the collection of the levy.

***“The rate proposed for residential development does not reflect the Council’s target for the provision of affordable housing (as set out in the development Plan) and because that rate is set too high, there is a serious risk to affordable housing provision and thus to the overall development of the area.”***

- 4.26 The Inspector proposed a modification to the CIL charge that it should be reduced from £90 per sq m to £40 per sq m. This is particularly important because it demonstrates the need to ensure the effect of CIL does not render the development unviable if the affordable is tested at a policy level.
- 4.27 We also note that BNP have tested Affordable Rent levels that differ from rent levels stated in RBKC's 'Key Decision Report 18 November 2011 – Adoption of the Affordable Rent Interim Housing Policy for Section 106 Agreements' as **'the Council may be forced to modify its position and remove the affordability criteria for Affordable Rent'**<sup>23</sup>. We do not believe this is appropriate and as with the level of Affordable Housing this should be tested having regard to current policy.
- 4.28 We have not been provided with the values applied to the affordable housing in BNP's appraisals and we would request that BNP provide so that we can comment further and ensure that the shared ownership units take into account the affordability criteria set by RBKC. We would also recommend that the Local Authority seeks confirmation from their preferred Registered Providers to confirm the likely values are in line with BNP's.
- 4.29 We would also note that it is not clear what figure has been included in BNP's appraisals for the smaller schemes which include a payment in lieu of Affordable Housing.
- 4.30 Finally we note that RBKC are currently reviewing part of the Core Strategy with regards to Housing with public consultation running from 9th July to 3rd September 2013. Following this consultation period the draft planning policies relating to housing were not submitted for examination to the Planning Inspectorate as originally intended. The Borough are reviewing their evidence base in respect of these proposed policy changes. We reserve the right to comment on these documents and any changes at Examination, due to the potential affect on CIL.

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<sup>23</sup> P16 BNP Viability Assessment (October 2012)

### Benchmark Land Values

4.31 BNP have assumed the following Benchmark Land Values:

Table 2 BNP Benchmark Land Values (October 2012, pp 22 - 23)

	Rent (£/sqft)	Yield	Description	Rent free/void	Refurb cost	BLV
High value secondary office	£24	7%	1 hectare site assuming 60% coverage over 4 stories	2.5 years	£50 psf	£73.78m
Low value secondary office	£21	7.25%	1 hectare site assuming 40% coverage over 4 stories	2.5 years	£50 psf	£39.92m
Industrial	£14	Unknown	1 hectare site assuming 60% coverage over 1.5 stories	2.5 years	None	£15.65m
Community	£10	Unknown	1 hectare site assuming 50% coverage over 1 stories	1 year	None	£6.23m

4.32 We do not believe the above Benchmark Land Values reflect the majority of development sites coming forward in the Borough. We have reviewed recent planning decisions in the Borough and below is a list of planning applications granted in the last 6 months:

Table 3 RBKC Granted Permissions in the last 6 months

Scheme	Units	Date	Existing use
Top of Form 49 Lennox Gardens Bottom of Form	1	Feb-14	Residential
Top of Form 41-42 Cadogan Place Bottom of Form	1	Feb-14	Residential
3 Astwood Mews	1	Feb-14	Residential
Top of Form 105 Kensington Church Street Bottom of Form	1	Feb-14	Retail
Top of Form 42 Tregunter Road Bottom of Form	1	Feb-14	Residential
Top of Form 12 Pembroke Square Bottom of Form	1	Feb-14	Residential
Top of Form 1 Kensington Church Walk Bottom of Form	1	Feb-14 Top of Form Bottom of Form	Residential
The Chapel	3	Feb-14	Former Chapel
The Order Of The Cross	2	Jan-14	Private Members Club
220A-224 Westbourne Grove	3	Jan-14	Postoffice
Top of Form 12 North Pole Road Bottom of Form	6	Jan-14	Residential
77 Southern Row	10	Jan-14	Residential
120 Campden Hill Road	11	Jan-14	Residential
Land South of Carlyle Building	31	Jan-14	Cleared Site
Worlington Green Estate	Up to 1000	Jan-14	Mixed use (Office and residential)
Top of Form	1	Dec-13	Retail

Scheme	Units	Date	Existing use
6 Hillgate Street Bottom of Form			
Top of Form 90 Lexham Gardens, London Bottom of Form	1	Dec-13	Residential
Top of Form 321 Portobello Road Bottom of Form	2	Dec-13	Community Use
Top of Form 15 Queen's Gate Terrace Bottom of Form	2	Dec-13	Nil use
Top of Form Hereford House, 24-26 Hereford Square Bottom of Form	3	Dec-13	Residential
11 Redcliffe Gardens	4	Dec-13	Mixed use (Office and residential)
5 Kensington High Street	4	Dec-13 Top of Form Bottom of Form	Residential
Top of Form Flat 1, 4 Courtfield Gardens Bottom of Form	4	Dec-13	Residential
205 Holland Park	50	Dec-13	Vacant
Clearings 1 & 2, Draycott Avenue	69	Dec-13	Office
Silchester Garages Site & Latymer Nursery	112	Dec-13	Community Use
Top of Form Flats 1 and 2, 71 Onslow Gardens Bottom of Form	1	Nov-13	Residential
Top of Form 69-71 Harcourt Terrace Bottom of Form	1	Nov-13	Residential
Top of Form Flat 1, 73 Linden Gardens Bottom of Form	1	Nov-13	Community Use
9 Vicarage Gate	4	Nov-13	Residential
145-149 Kensington High Street	4	Nov-13	Residential
12 Avondale Park Road	6	Nov-13	Residential
Top of Form 50 Bosworth Road Bottom of Form	8	Nov-13	Public House
1 Freston Road	14	Nov-13	Open Space used for parking
Top of Form Land Bounded by West Cromwell Road Bottom of Form	994	Nov-13	Part of Earls Court Masterplan, existing uses are the Exhibition centre and light industrial and residential
Top of Form 57 St Helen's Gardens Bottom of Form	1	Oct-13	Retail
2 Pembridge Villas	2	Oct-13	Residential
Top of Form 277 Kensal Road Bottom of Form	2	Oct-13	Residential
Top of Form 213-215 Warwick Road Bottom of Form	5	Oct-13	Office
Jamahiriya School	7	Oct-13	Former School
355 Ladbrooke Grove	9	Oct-13	Residential
8-10 Basing Street	9	Oct-13	Former Chapel
Grand Union Centre, West Row	145	Oct-13	Public House
Top of Form 6 & 7 Carmel Court and garden to 18 Holland Street Bottom of Form	1	Sep-13	Residential
Top of Form 341 Latimer Road Bottom of Form	1	Sep-13	Residential
Top of Form 28 & 30 Roland Way Bottom of Form	1	Sep-13	Residential
27-31 Basil Street	2	Sep-13	Ancillary Use
28 & 30 Roland Way,	2	Sep-13	Residential
Top of Form 140-142 Pavilion Road Bottom of Form	2	Sep-13	Residential
2 St Lawrence Terrace	3	Sep-13	Residential
Top of Form 136 Ifield Road Bottom of Form	3	Sep-13	Residential
181 - 183 King's Road	7	Sep-13	Office

Scheme	Units	Date	Existing use
201-207 Kensington High Street	8	Sep-13	Residential
Land at Lancaster Green	32	Sep-13	Community Use
Chelsea College Of Art	17	Aug-13	Community Use

4.33 We have reviewed the existing uses for these applications and approximately 25% are currently in residential use and we therefore request that BNP include a Residential Value as a Benchmark Land Value.

4.34 With regards to the Office Benchmark Land Values we have undertaken a review of office rents achieved in the areas stated in Paragraph 1.2. We have also obtained the time on the market and the rent free periods provided A summary is provided below:

**Table 4 Achieved Rents and Void Periods in RBKC**

	No. Units	Average £/sqft	Average £/sqft	Average Rent Free	Average Days on Market	Average 'no income' period
Chelsea	32	1,525	37	4	160	9
Earls Court	6	2,789	29	11	372	23
High Street Ken	11	985	37	4	277	13
Knightsbridge	10	3,511	44	3	252	11
Notting Hill Gate	12	2,464	32	-	196	7
Holland Park	2	1,800	25		159	5
ALL	73	1,981	36	4	212	12

4.35 Based on the above we are of the opinion that the assumed rents for the office are significantly below market levels. Also the void and rent free periods are not reflective of the current market.

4.36 As above we have also undertaken a review of office yields achieved in the areas relevant to our clients which are considerably lower than BNP's assumed yields. A summary is provided below:

**Table 5 Recent Achieved Office Yields**

Area	Address	Date	Achieved Sale Value	Size (sqft)	£/sqft	Net Yield
Chelsea	Colonnade Walk	Mar-13	£205,000,000	549,860	373	6.58%
Chelsea	52 Grosvenor Gardens	Jul-13	£46,000,000	97,478	472	5.49
Notting Hill Gate	88 - 94 Westbourne Grove	Feb-13	£7,500,000	11,615	646	4.3
High Street Kensington	Warwick Build, Avonmore House	Sep-13	£40,100,000	81,091	495	5.26%
Earls Court	Empress State Building	May-13	£117,000,000	431,700	271	6.20%

## Site Testing

BNP have tested the following Sites:

**Table 6 BNP "Development Typologies" (October 2012, p18)**



	Number of units	Housing Type	Development density units per ha	Net developable area (ha)
1	4	Houses	60	0.067
2	5	Flats	100	0.05
3	50	Flats	150	0.33
4	100	Flats	200	0.50
5	200	Flats	300	0.67

- 4.37 We do not believe that the above Sites reflect the developments coming forward in the Borough, particularly the higher value areas of the Borough where the Consortium are active. Paragraph 3.3 provides all planning applications permitted in RBKC in the last 6 months and we provide a summary of the no. units below:

**Table 7 Granted Applications and Unit numbers**

Total Applications	55	%Top of Form Bottom of Form
< 5 Units	35	64%
6 - 10 Units	9	16%
11 - 15 Units	2	4%
16 - 20 Units	1	2%
20 - 50 Units	3	5%Top of Form Bottom of Form
50+ Units	5	9%

- 4.38 We would note that the no. units per scheme will be further reduced when assuming only the areas identified in paragraph 1.2 where the Consortium are currently active.

- 4.39 BNP have assumed the following unit sizes for the Sites tested:

**Table 8 BNP Assumed Unit sizes (October 2012, p.17)**

Site type	1 Bed flat	2 bed flat	3 bed flat	4 bed flat	3 bed house	4 bed house	5 bed house
Unit size	54	82	135	189	135	189	329

- 4.40 As with the Sites tested we do not believe that the above sizes reflect the developments coming forward. Below is a summary of a number of the most recent schemes the Consortium have had approved in the Borough:

### **13 x flats in Knightsbridge**

4 bedroom flats: Maximum of 483 sq.m

### **5 x flats in South Kensington**

1 bedroom flats: 55 – 62 sq.m

2 bedroom flats: 85 – 105 sq.m

3 bedroom flats: 200 sq.m

### **3 x Houses in South Kensington**

3 bedroom houses: 353 sq.m – 402 sq.m

### **3 x Houses in SW10**

3 bedroom houses: 272 sq.m

5 bedroom houses: 521 – 616 sq.m

### **3 x houses in Chelsea**

3 bedroom houses: 103 – 128 sq.m

### **18 x flats in SW10 (Not yet determined)**

2 bedroom flats: 121 – 144 sq.m

3 bedroom flats: 161 – 249 sq.m

4 bedroom flats: 417 – 83 sq.m

- 4.41 Based on the above evidence, we do not believe an “*appropriate balance*” has been struck and would ask BNP to remodel their viability work.

## **5.0 Effective Operation of CIL**

### Payment of CIL – Instalments

- 5.1 With regard to the payment of CIL, the Regulations (69B(1)) and CIL – An Overview (paragraphs 45 – 48) are clear that the charging authority has the flexibility to request the timing of the charge and hence to outline the payment procedure. This flexibility extends to:
- Levy payment deadlines
  - Instalments policy

- 5.2 With regard to the phasing of CIL payments, section 11 of the Draft Charging Schedule sets out the Council's proposed instalments policy. For CIL payments lower than £500,000, a single payment must be made not more than 60 days after the commencement of development. Where the CIL liability is greater than £500,000, the first payment of either £500,000 or half of the total sum payable must be made 60 days after the commencement of development, and the remainder 240 days after commencement. Savills does not consider that the current approach is suitable in that it is not related to how much of the actual development is built. Developers only have access to certain levels of funding throughout the construction process and this is often dependent on sale volumes and market conditions. Payments of £500,000 so soon after the commencement of development could cause a severe constraint in terms of the ability to pay such levels and even render schemes unviable. For example, Section 106 costs are normally paid in relation to housing triggers rather than at set timescales exactly for this reason.
- 5.3 In addition it will be larger schemes which generate the greatest CIL payments and as such phasing of payments should be tailored to recognise funding constraints and cash flow of such schemes. The short timescale approach would only be suitable for very small developments in which there was certainty that development would be built very quickly and the funding would be available to pay the CIL charge. Large scale development normally requires significant upfront infrastructure costs to unlock development and the additional early burden of CIL as per the existing payment formula would therefore be very prohibitive.
- 5.4 The timing of CIL payments is therefore of critical importance, particularly as the definition of chargeable development (Regulation 9) makes it clear that in instances of full planning approval the chargeable development is that entirely consented. Whilst Regulation 9(4) effectively permits a staged payment approach to outline consents (where phasing is proposed), it is normally the practice to only pursue outline (or hybrid) applications for the largest and most complex sites.
- 5.5 It is therefore advised that any phasing of CIL payments should accord with the longer build rates expected and on this basis longer timescales for the payment of CIL should be proposed. Larger applications are in any case required to submit phasing plans with planning applications showing build rate and approximate timescales, and as such this will give the Borough a level of certainty on when CIL payments can be expected without tying developers to timescales which are too immediate.

5.6 Savills considers that it is imperative that a revised installments policy is outlined at the earliest opportunity. This should cover:

- The commencement of the instalments policy on adoption of CIL
- The number of instalments that can be made by development size (£ amount and square meter amount)
- The timing of payments post commencement – based on a consideration for build out rates (i.e. longer time periods)

### Relief

2.1 The Community Infrastructure Levy Relief – Information Document (CLG, May 2011) outlines the Government's position on ***“exceptional circumstances”*** which could warrant exception from CIL (paragraph 66 onward). The first matter to note from the Regulations is that the offer of relief is discretionary on the charging authority (Regulation 55(3) (a)). The CIL Guidance states at paragraph 31 that ***“use of an exceptions policy enables the charging authority to avoid rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arise.”***

RBKC do not intend to introduce an Exceptional Circumstances Relief Policy and Savills urge the Council to reconsider this approach. Whilst we acknowledge that the Mayor of London chose not to implement an Exceptional Circumstances Relief policy, given the scale of the rates proposed and the potential impact on the supply of housing land in the Borough if CIL were set too high for developments to remain viable, we believe it is imperative that RBKC implement such a policy. Given the conditions that must be satisfied to secure such relief, it is only likely to be called upon by the most desperate of cases.

### Administration Costs

2.2 With regard to administration costs, the CIL Regulations and CIL – An Overview (paragraph 11) outlines that ***“up to 5%”*** of CIL receipts can be used to administer the process. This is potentially a considerable element of funding and likely in excess of what is required.

2.3 RBKC will also be in receipt of pre-application fees, planning application fees and the New Homes Bonus which also needs to be factored with resourcing of planning administration. RBKC should be efficient in the collection of CIL in order that the majority of funding be spent on Infrastructure.

## 6.0 Conclusions

- 6.1 This representation has been prepared by Savills (UK) Ltd, as advisers, on behalf of a number of developers active in the Royal Borough of Kensington and Chelsea (RBKC). Hereafter known as 'the Consortium'.
- 6.2 The Consortium recognises the strategic importance of the Community Infrastructure Levy and its positive impact on funding infrastructure projects to the benefit of the wider community. However the Consortium is concerned with some aspects of the approach adopted by RBKC towards CIL relating to the rates for residential development.
- 6.3 The Consortium has concerns relating to the assumptions used in the viability models and the interpretation of the evidence base when setting the proposed CIL rates. Bearing in mind the evidence provided, we have concerns regarding the following:
- Viability Cushion
  - Marginal Developments
  - Development Profit

- Build Costs
- Professional Fees
- Affordable Housing
- Benchmark Land Values
- Site Testing

6.4 From the evidence presented, we do not believe an “*appropriate balance*” has been struck and would ask BNP to remodel their viability work.

6.5 The Consortium would welcome a meeting with RBKC and its advisors to discuss amendments we have suggested.



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Our ref: SGB/FD

21 February 2014

Royal Borough of Kensington and Chelsea  
Community Infrastructure Levy  
Planning Policy Team  
Town Hall  
Hornton Street  
London  
W8 7NX

**For the attention of Claire Sheering**

Dear Sirs

## **REPRESENTATIONS ON THE DRAFT CIL CHARGING SCHEDULE**

Thank you for providing us with the opportunity to comment on the Draft CIL Charging Schedule. We respond on behalf of our client, Notting Hill Gate KCS Limited, who owns the properties at Newcombe House, 45 Notting Hill Gate and 161-237 Kensington Church Street. As the Council is aware, our client is currently in pre-application discussions with regard to an application for the site, to include the provision of new public realm, office, residential, retail, and cultural uses.

In preparing plans for the site, our client has chosen to incorporate the provision of a significant area of new public realm. Whilst this will be of great public benefit, it comes at a considerable development cost. The Council have also guided our client towards the potential provision of a cultural facility or health centre on the site in order to facilitate the regeneration of Notting Hill Gate. In addition to the provision of these new facilities, we are aware of the likely requirement for further financial contributions to the Council as set out in policy. However, as set out below, given the importance of regenerating this site, we consider that the level of financial contribution required by the Council should be carefully calculated to ensure that it does not adversely impact on scheme viability and the ability of our client to deliver significant public benefits on-site.

We have previously made representations on behalf of our client towards the consultation on the Preliminary Draft Charging Schedule, however we note that the majority of our comments have not been addressed and therefore we submit this further representation in response to the Draft Charging Schedule. We also reserve the right to appear at the Examination in Public at a later date.

### **Context**

We note that the intention of CIL is to provide developers with more certainty about the costs associated with a development. It is acknowledged that the monies collected through CIL will be used to fund the local infrastructure that is required to support new development and growth in the Borough and this is welcomed.

However, it is considered that CIL at the rate currently proposed in the Draft CIL Charging Schedule will have an adverse impact on scheme viability if it is not considered in the context of



the site specific obligations set by the Council for the Notting Hill Gate area. Without full consideration of these local obligations, the Council will be unable to create the conditions that support local economic growth, which is a primary objective of the Government's growth agenda (Written Ministerial Statement by Rt Hon Eric Pickles MP, 6 October 2012) and the National Planning Policy Framework (NPPF) (2012).

As stated in the NPPF, development should not be "subject to such a scale of obligations and policy burdens that its ability to be developed viably is threatened". To ensure viability, it is stated in the NPPF, that the costs of any requirements likely to be applied to development, such as requirements for affordable housing and infrastructure contributions, should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. Specifically, the NPPF states that CIL should "support and incentivise new development".

The rates currently proposed in the Draft CIL Charging Schedule are some of the highest in the Country, with the top rate of £750 far exceeding other central London boroughs (Hammersmith and Fulham - £400; Camden - £500; Islington - £400; Wandsworth - £575). When combined with the other costs of development, the proposed rates are unlikely to provide competitive returns to a willing land owner and willing developer. This is likely to threaten the deliverability of development and consequently restrict the ability of the Borough to meet its targets for growth and regeneration.

#### **Relationship with the Notting Hill Gate SPD**

The site at Newcombe House, owned by our client, falls within the Notting Hill Gate area, for which the Council is currently preparing a Supplementary Planning Document (Notting Hill Gate SPD) [NHG SPD]. Preparation of the NHG SPD began in May 2012, with the Council expecting to adopt the SPD before Spring 2014. On this basis, the Council assumed that a proportion of development in the area would come forward in advance of the adoption of a Borough CIL charging schedule and consequently the SPD was prepared using viability assessments based on contributions being secured through s.106 rather than through CIL.

However, following consultation on the draft NHG SPD in January 2014, the adoption timeframe remains unclear. Whilst not verified by the Council, we consider it reasonable to assume that the NHG SPD will come forward at a similar time to the Borough's charging schedule, or indeed after, and therefore the majority of development will be delivered during a CIL charging period. On this basis we challenge the Council's assumptions in the SPD and seek to highlight that there has been insufficient consideration given to the relationship between the two documents.

Whilst our client recognises the need to mitigate the impact of the redevelopment of Newcombe House on the Borough, and is prepared to make contributions that facilitate the regeneration of the local area, the proposed CIL charging rate is expected to render redevelopment unviable when considered as an additional cost to the Developer Contributions set out within the NHG SPD (see page 55 of the November 2013 draft – the listed contributions include public realm improvements, site specific public realm improvements, a cultural institution, affordable housing, a town centre manager, a primary health care centre, and step free access to the Circle and District Lines).

This is demonstrated by GL Hearn's assessment of viability at Newcombe House, which concluded that the redevelopment of the site with 25% affordable housing and no CIL payment would be viable, however "the surplus is only at such a level that relatively small increases in build cost or

decreases in rental / sales values could reduce the viability beyond breakeven, and given the high level nature of the financial modelling, this scenario should be considered relatively marginal". On the basis that redevelopment of this site, which is at the margins of viability, is likely to come forward following adoption of the Borough CIL, yet the viability testing has been undertaken assuming no CIL contribution, we consider it very apparent that the Council has not fully considered the impact of the proposed CIL rate on the delivery of sites, or the provision of new infrastructure at Notting Hill Gate.

On this basis, we request that the Council reconsiders how the infrastructure required at Notting Hill Gate can best be delivered. If the CIL charging level remains at the proposed level, we note that this will significantly reduce the monies available for site specific contributions. The Borough CIL, as well as the Mayoral CIL, is treated as the top 'slice' of the costs that a development can viably afford. Therefore, where a development is subject to a full CIL payment, then the other charges applied to a development, including Section 106 obligations and, specifically, affordable housing requirements in the case of residential development, would need to be reduced to ensure that development remains viable and is capable of being delivered.

Having regard to the prioritisation of CIL collection and how this will erode the funds available through s.106 for new local infrastructure, we consider that it would be prudent for the Council to include a number of items from the Developer Contributions List set out in the NHG SPD, on the Regulation 123 List. In doing so the Council can maintain the use of a CIL charging schedule to collect monies from development in the Notting Hill Gate area, alongside the use of Section 106 obligations, to deliver much needed new infrastructure. Specifically, items on the Developers Contribution List which require a financial contribution such as the 'public realm improvements to Notting Hill Gate', could be included on the Regulation 123 List and consequently removed from the Developer Contributions List to avoid double counting. This approach recognises the importance of delivering these items to the regeneration of Notting Hill Gate and increases the likelihood of this long list of requirements being secured by the Council and development remaining viable. If this infrastructure is subsequently provided on site by the developer, the proposed amendments to the CIL regulations (laid before Parliament in January 2014) are will allow for 'payment in kind relief' (this is expected to become legislation prior to adoption of the Borough's CIL charging schedule).

This approach appropriately balances CIL collection with the use of Section 106 Agreements to deliver the new infrastructure that is listed in the NHG SPD. However, we note that delivery of this infrastructure could also be secured through the use of a nil charging rate for the Notting Hill Gate area, or the use of exceptional circumstance relief in association with the delivery of strategic sites in the area. By removing CIL payments for these sites, the Council is able to focus on the use of Section 106 Agreements to secure the required infrastructure associated with the area's regeneration. This approach also offers the Council flexibility to prioritise which obligations are delivered in association with each site.

The proposed amendments above would deliver benefits to the Notting Hill Gate area and can better ensure that redevelopment opportunities within the area remain viable. Consequently, the regeneration of Notting Hill Gate, which is a key objective of the Council's, can be achieved. Given that insufficient consideration has been given the relationship between an adopted CIL charging schedule and the NHG SPD thus far, we request that the Council further reconsiders its approach.

Whilst the relationship of these two documents remains our key concern, we set out below further comments on the Draft Charging Schedule.

## **Discount Setting to Residential Rates**

It is noted that the Preliminary Draft Charging Schedule set a 30% discount to the maximum assessed levels of CIL to address an appropriate balance between the desirability of funding from CIL and the potential effects upon economic viability of development across the Borough. However, this discount has now been reduced to 20% in the Draft Charging Schedule, which we consider is premature and potentially harmful to development. Whilst the Council consider that market conditions in the Borough appear to have strengthened over the last 6 to 12 months, we note that leading economic advisors, including the Governor of the Bank of England (evidence to the Treasury Select Committee, 12/02/2014), are cautious about the recent growth and consider that it is not yet balanced or sustainable, which may result in a 'false dawn' to economic recovery.

The Council reasons that this increased rate is necessary due to limited projections for CIL collection, however we contend that the Borough should in such a circumstance, be encouraging growth through the use of a lower rate, rather than stifling growth through a more burdensome rate. By proactively encouraging development to come forward, the Borough will increase the number of sites from which CIL monies can be collected thereby increasing the collection pot. It should be noted that the proposed rates are currently some of the highest in the country and far exceed those in other central London Boroughs. Given the Mayor's intention to raise the Borough's housing targets in the Further Alterations to the London Plan, we consider that the Borough will need to proactively encourage growth through its CIL rate setting and not stifle new development through a rate that results in schemes at the margins of viability.

Furthermore, whilst BNP Paribas justify this reduction in discount through recent growth in sales values, we note that baseline values will also be rising, making the total cost of development greater [we note that it is not clear whether BNP have re-adjusted baseline values as well as sales values in the January 2014 update (see para 1, page 3)]. A higher total cost of development will make funding more difficult to obtain and more expensive, hence resulting in an increased risk for developers. On this basis we consider BNP's reasoning unsound and request that a 30% buffer remains in place.

## **Residential Rates and the Use of Notional Development Appraisals**

As stated previously, the majority of developments within the Borough are already at the 'margins of viability', with the level of Section 106 contributions and other obligations, such as affordable housing, secured. This is evidenced by the number of residential schemes, for example, where the maximum amount of affordable housing that can be provided falls below the Council's targets. At a time when the Borough is under pressure to deliver its target growth levels, including increased housing supply, it is unreasonable to add an additional financial burden to developments that are already at their limits by increasing the rates previously proposed.

For example, a number of residential developments that have been given planning permission in the Borough have settled at viability tested levels of s106 contribution significantly below the level of CIL proposed. As stated in our previous representation, these schemes are already at their limits and are often unable to viably provide the Borough's target level of affordable housing. We highlight some examples below:

- 205 Holland Park Avenue (PP/10/03130) - residential GIA of approximately 5,800 sqm with a planning obligation contribution of £1m which is the equivalent of £172 per sqm GIA. The proposed CIL in this area = £590 per sqm GIA.

- Land South of Carlyle Building (PP/13/04728) – residential GIA of 3,000 sqm with a planning obligation contribution of circa £270,000, which is the equivalent of £90 per sqm. The proposed CIL in this area = £270 per sqm
- 19-27 Young Street (PP/13/04726) – residential GIA of approximately 6,200 sqm with a planning obligation contribution of £190,000, which is the equivalent of £35 per sqm GIA. The proposed CIL in this area = £430 per sqm

We acknowledge that the above schemes delivered other planning benefits that were used in the overall viability assessment e.g. affordable housing. However these were below Council targets. Notwithstanding this, there remains a clear gap between the negotiated s106 contributions based upon scheme viability and the proposed CIL. Furthermore, this does not take account of other use floorspace that would have generated a s106 contribution included in the overall planning obligation contributions for each scheme and as such it is a worst case scenario.

In another case at Clearings 1 & 2, Draycott Avenue (PP/13/02659), the Council was able to secure the delivery of a new school (valued at £26,500,000), a contribution towards affordable housing (£4,700,000) and other site specific contributions through the use of a S106 Agreement (total contributions of £33,500,000). When considered in the context of the proposed CIL rate in this location (£590 per sqm), we note that the provision of a school would not have been achievable through S106 obligations as the deduction of CIL monies (£15,000,000) would have reduced the available pot below what is required for the school. As is expected at Newcombe House, this scheme delivered a significant piece of new infrastructure on-site, which should not be discouraged. In circumstances such as this, the use of the Exceptional Circumstances Relief or 'payment in kind relief' is considered wholly appropriate to ensure such important infrastructure can be delivered.

As demonstrated by this example and the above bullet points, the proposed CIL rates are significantly above the level of viability assessed financial obligations that are currently being achieved in the Borough. We therefore consider it vital that BNP Paribas undertake a full assessment of the proposed rates against a number of recently approved schemes to provide direct comparables. We expect that this will provide clear evidence that the proposed rates cannot be achieved in the context of the Borough's continued desire for site specific requirements.

### **Use of Existing Use Value Plus**

We note that BNP Paribas, when assessing the viability of the 12 marginal sites, have used the Existing Use Value of the site plus a premium to determine the benchmark land value. Whilst we note this method has been supported in some instances, in the case of Newcombe House and many other sites in the Borough, we consider that the use of Open Market Values would be more appropriate to reflect the clear redevelopment potential, which has been set out in adopted policy. The benchmark land values assumed in the viability study by BNP Paribas are likely to be lower than the values that sites would exchange on the open market, as no account has been taken for alternative use value. Given the clear redevelopment potential of sites in the Notting Hill Gate area, this is considered inappropriate.

### **Phasing**

We note that the Borough proposes the use of a phasing plan to allow contributions to be split across two instalments. However, we do not consider that two instalments are sufficient, given the size of some contributions that may result from such high rates. As such, there should be an

increased number of instalments available, as is the case in Camden, Wandsworth and Islington (four, four and five instalments allowed respectively), where similarly high rates are proposed/adopted.

## Summary

In summary, we consider that the key points for reconsideration are as follows:

- There are circumstances where it is appropriate for Exceptional Circumstances Relief to be claimed (and 'payment in kind relief' following amendments to the CIL regulations) and it is therefore critical that this is made available where appropriate;
- The relationship between the collection of CIL monies and the delivery of the numerous 'Developer Contributions' at Notting Hill Gate has not been fully considered – as stated above, we recommend that this could be addressed through the use of Exceptional Circumstances Relief, Payment in Kind relief, and the inclusion of a number of developer contributions on the Regulation 123 list;
- The use of a 20% discount is premature and unjustified;
- The proposed rates have not been tested against viability assessed schemes and therefore do not reflect the existing situation in the Borough;
- The use of 'existing use value plus' as the benchmark land value rates does not reflect the clear redevelopment potential of a number of key sites – we consider that Open Market Value is a more appropriate benchmark; and
- The limited phasing plan does not reflect the substantial payments that may result from such high rates.

We look forward to receiving confirmation that these representations have been received and we request to be notified at the above address of all of the following:

- a) that the Draft Charging Schedule has been submitted to the examiner in accordance with section 212 of the Planning Act 2008;
- b) the publication of the recommendations of the examiner and the reasons for those recommendations, and;
- c) the approval of the charging schedule by the charging authority.

As stated above, we also reserve the right to attend the Examination in Public, as necessary.

Should you have any queries in the meantime, please contact Fred Drabble (020 7911 2216) or Georgina Church (020 7911 2692) at this Office.

Yours faithfully



**GVA**

For and On Behalf of Notting Hill Gate (KCS) Ltd



London Borough of Kensington &  
Chelsea  
Policy Team

**Our ref:** NE/2006/000064/OR-  
03/IS1-L01

By email: [planningpolicy@rbkc.gov.uk](mailto:planningpolicy@rbkc.gov.uk)

**Date:** 28 January 2014

Dear Sir/Madam

### **Community Infrastructure Levy (CIL) Draft Charging Schedule**

Thank you for consulting the Environment Agency on your Draft Charging Schedule.

We welcome this opportunity to work with you to provide information and advice that will feed into the CIL process as it progresses.

Having reviewed the submitted Draft Charging Schedule, we have no comments to make with regards to the proposed charging zones or rates we also do not have any specific infrastructure requirements to add at this time.

It is understood that the SFRA and Surface Water Management Plan (SWMP), are currently being updated. The findings of these amended documents should be assessed when identifying the requirements of flooding from other sources and any infrastructure requirements.

Please contact me if you have any further queries.

Yours faithfully

**Mrs Wioleta Osior**  
**Planning Advisor**

Direct dial 0203 263 8053

Direct e-mail [northlondonplanning@environment-agency.gov.uk](mailto:northlondonplanning@environment-agency.gov.uk)





## ENGLISH HERITAGE

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By email to : [PlanningPolicy@rbkc.gov.uk](mailto:PlanningPolicy@rbkc.gov.uk)

03 February 2014

Dear Mr Bore

### **Community Infrastructure Levy: Consultation of Draft Charging Schedule**

#### **REVISED DRAFT COMMUNITY INFRASTRUCTURE LEVY (CIL) CHARGING SCHEDULE**

Thank you for consulting English Heritage on the Royal Borough of Kensington and Chelsea's Community Infrastructure Levy (CIL) Draft Charging Schedule. As the Government's Statutory Advisor on the Historic Environment, English Heritage is pleased to comment on these documents.

Accordingly, we have reviewed your consultation in light of the *National Planning Policy Framework* (NPPF) which requires, as one of its core principles, that heritage assets be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.

English Heritage commented on the previous draft CIL Charging Schedules on 12 February 2013 (letter from Claire Craig by email to [CIL@rbkc.gov.uk](mailto:CIL@rbkc.gov.uk)). Our letters set out the desirability of making the historic environment a recipient of CIL, and of ensuring that charges do not impact negatively upon the significance and sustainability of heritage assets, or within the context of the level of enabling development required to make schemes viable.

We recognise that the current nature of land values and proposed CIL levels within the borough mean that viability issues for "at risk" heritage assets should be exceptional and are only likely to occur where larger sites incorporate "heritage at risk". In general positive reuse would be best addressed through S106 agreements.

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Please note that English Heritage operates an access to information policy.  
Correspondence or information which you send us may therefore become publicly available



However, we note that the Schedule recognises the need for exemptions based on use and as analysed by BNP Paras Study for the Borough. In light of the proposed Charging Schedule we would recommend that the Council continues to monitor the efficacy of these mechanisms in respect of impact on development which affects the historic environment.

We would advise that the local authority's conservation staff are involved throughout the preparation and implementation of the CIL Charging Schedule, as they are often best placed to advise on local historic environment issues and priorities, data sources, and options relating to the historic environment.

Finally it must be noted that this advice is based on the information provided by you and for the avoidance of doubt does not affect our obligation to advise you on, and potentially object to any specific development which may arise from the Charging Schedule or SPD, and which may have adverse effects on the historic environment.

Yours sincerely

Richard Parish  
Historic Places Adviser  
E-mail: [richard.parish@english-heritage.org.uk](mailto:richard.parish@english-heritage.org.uk)

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available*



From: [Michael Bach](#)  
To: [Shearing, Claire: PC-Plan](#)  
Cc: [Kensington Society \(The\)](#); [Anthony Walker](#); [Henry Peterson](#); [Wade, Jonathan: PC-Plan](#)  
Subject: Consultation on the CIL Charging Schedule  
Date: 23 February 2014 21:41:15  
Attachments: [KS Comments on Draft Proposed RBKC CIL.docx](#)

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Dear Ms Shearing,

## Consultation on the CIL Charging Schedule

Thank you for meeting the Kensington Society to discuss the Council's draft CIL Charging Schedule

The Society commented on the previous consultation in January 2013 – attached – and remain the same.

We were disappointed that since the charges will only apply to net additional floorspace over 100 sqm and that the charges only cover residential, hotels and student accommodation, the likely contribution to social infrastructure let alone affordable housing will be small and, in some cases, considerably less than currently paid through the S106 schedule. In addition, most of the major schemes, such as Warwick Road sites and Earl's Court, are excluded, and that schemes like the Tesco site might even find it advantageous to resubmit the scheme to avoid paying for social and community facilities but especially the affordable housing.

Our comments are that:

- **the charging zones do not reflect the value contours for new residential development:**

<http://www.c-r-l.com/wp-content/uploads/2013/09/Savill-report-Spotlight-on-Prime-London-Residential-Market.pdf>

This shows that:

- Notting Hill/Holland Park, covering most of northern Zone B, has lower values than
- Kensington, covering much C and E, whilst
- South Kensington, covering Kensington High Street down to Old Brompton Road and east to Queen's Gate being between the two, and
- Chelsea being slightly below Knightsbridge

This seems more in line with a north to south gradient.

- **the charging zones are slavishly based on postcodes which produces some strange boundaries and oddities**

These look like “precision” whereas a more robust approach might be to use the main roads, such as Cromwell Road and Holland Park Avenue might be better, eg Holland Park might be more appropriate in zone C

There are a number of outliers that make no sense: such as Chesterton House in Zone C when it is more like Zone E in which it is embedded and the Royal Marsden and the South Building of the Brompton Hospital – it is probably in Zone B, although the value may be lower because of the uses?

- **there should be a charge for large out-of-centre retail and office developments**

There should be charges for retail developments over 1,000 sqm, such as Tesco in Warwick Road and Sainsburys at Kensal.

- **there is a need for greater transparency on how the CIL income will be allocated and in the case of neighbourhoods, how the public will be consulted on the allocation of the funds.**

The Society recognises that the amounts of CIL money will not be large, but suggests that areas who have produced or are producing neighbourhood plans should be able to use the funds to help deliver their local strategy. We support the St Helen's Association's proposal for greater clarity and transparency for the process of allocating resources and greater engagement.

Michael Bach  
Chairman: Planning Committee  
Kensington Society



## **COMMUNITY INFRASTRUCTURE LEVY: PRELIMINARY DRAFT CHARGING SCHEDULE**

### **COMMENTS BY THE KENSINGTON SOCIETY**

The Society welcomes this document, but, despite its plain English, it is not sufficiently clear as to what the money can be spent on, how it will be held and how much of it will be ring-fenced for the local community in which the development will take place.

#### **Content**

The first eight pages of the document have been written especially for this consultation – in effect a foreword - to enable people to understand the Community Infrastructure Levy (CIL), what it is, how it will be raised and what it can be spent on.

Can you clarify whether, following consultation, only Appendix 1 - the table - will be approved or will it include all the appendices? This information is essential so that all stakeholders, but particularly residents, can understand how this new system will work. Will this be incorporated in the Local Plan or will it be a free-standing document?

#### **Comments on the Introduction**

##### **What can the money be used for?**

The first sentence says that CIL is “a way of raising money for new community facilities”. Other references seem to expand this definition, for example:

- Para 1.2: This talks about “new community resources and facilities” but also “to support existing facilities, such as parks and public transport”
- Para 3.1: This talks about “schools, health facilities, transport or any other resource. .... The purpose is to help improve and expand these services.”
- Para 5.1: This says “It can be spent on building or improving a wide range of facilities – from surgeries to swimming pools and from parks too pavements.”
- Para 5.3: This says that CIL can be spent on “new or improved facilities” and “on a range of items, including the revenue support costs”.

This suggests that a single, clear statement of what the money can be used for is needed – new facilities, improvements to existing facilities/services(?), contributions to capital costs and to revenue costs – as well as examples.

It also needs to be clear what will be covered by S106 agreements beyond this, such as site-specific contributions to public art, tree planting, new pavements around a site, reinstating Victorian lighting, pedestrian crossings, etc. However, para 2 of Appendix 1 suggests that “site-specific works” are covered by CIL payments. Is this correct?

This needs to be covered in a new Introduction to the Charging Schedule and covered in more detail in Appendix 3.

Overall, there is a need to review whether there is vital or even just useful information in the Introduction that needs to be covered in the final document itself.

#### **Appendix 1: What are the proposed CIL rates for RBKC?**

- Para 2: This says that “certain B Class uses” may not be viable. What about large-scale offices in low PTAL locations and large retail developments in out-of-centre locations? The expansion of the Tesco on West Cromwell Road would have been a good candidate.
- Para 4: This emphasises the viability issues in the current economic climate - a review date needs to be set or trigger points identified for a review of the charging schedule.
- Para 5: The Society questions why, if differential charging rates are appropriate for residential CIL charges, there cannot be charging rates for selected non-residential uses in selected areas which help reinforce the policy of focusing these uses in town centres rather than developers seek “cheaper” sites that do not comply with the Plan.

#### **Preliminary Draft Charging Schedule**

The Society considers that the areas chosen based on postal districts do not relate to property values. Indeed, Zone B and C seem to have been transposed – especially if adjustments were made to the boundaries, as suggested below.

A good example are the boundaries for W11, W8 and W14. These embrace very different areas with very different values. The values in W11 vary considerably – with those south of Holland Park Avenue being more like those in W8 and those north of the Norland Conservation Area boundary having values closer to the CIL

Zone F to the north – the value gradient from £100 to £500 is plainly unrelated to reality.

Similarly the inclusion of many of the streets in W14 between Holland Park and Holland Villas Road are very different to Holland Road and the area west to the Borough boundary.

W8 on the other hand – based on the evidence of schemes such as the housing associated with Holland Park School and De Vere Gardens – would be more likely to justify being in Zone B than Zone C.

The Society proposes:

- **modify/simplify postal code boundaries in line with main “barriers”** such as Holland Park Avenue and abrupt changes in values such as north of St James’ Gardens and west of Holland Villas Road
- **revise the charging bands to reflect real-world values in line with values in Appendix 3 and Crayson: Market Intelligence: Winter 2012-2013:**
  - **a modified W8 should be in Zone B**
  - **a modified W11 should be split into Zone C and Zone F**
  - **a modified W14 should be in Zone E**

### **Non-residential charging zones**

The Society proposes charging for major (over 1,000sqm) B1(a) offices and A1 retail uses in areas outside town centres and, especially, in employment zones.

### **Appendix 2: Where can I get further information?**

The CIL Regulations have been amended to cover the proposal in para 175 of the NPPF –

“175. The Community Infrastructure Levy should support and incentivise new development, particularly by placing control over a meaningful proportion of the funds raised with the neighbourhoods where development takes place.”

For non-parished areas, whilst the local authority will remain the accountable body, the “meaningful proportion of the funds raised” should remain “with the neighbourhoods where development takes place”. This could be done by earmarking these funds – 15% where there is no neighbourhood plan but 25% where there is a neighbourhood plan – for the local community.

## **Appendix 3: Evidence Base**

### **Social Infrastructure:**

Para 1.12: This lists various types of social infrastructure, such as education and health care, including new and extensions to existing schools and meeting “future health needs”. The Society is concerned that this should cover cases such as new GP surgeries needed to replace closures to help create a better distribution of accessible surgeries in town centres (eg in Notting Hill Gate).

### **Physical Infrastructure:**

Para 1.15: Whilst really large items are rightly excluded, providing step-free access to stations should be secured through S106 agreements for developments involving stations (eg South Kensington) but also through CIL payments from nearby developments (eg close to Latimer Road and Ladbroke Grove).

### **Green Infrastructure**

Para 1.17: On-site flood mitigation measures can be achieved through S106 agreements, whereas off-site measures could be dealt with by CIL. Examples of appropriate projects should be itemised.

### **Mayor of London’s CIL**

Para 1.21: This should include Crossrail 2 in due course.

# ST HELENS RESIDENTS ASSOCIATION

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[www.sthelensresidents.org.uk](http://www.sthelensresidents.org.uk)

0207 460 1743



Planning Department  
RB Kensington & Chelsea  
Town Hall  
Hornton Street  
London W8 7 NX

February 22<sup>nd</sup> 2014

Dear Ms Shearing.

## **Consultation on CIL charging schedule**

Thank you for the opportunity to discuss the council's draft charging schedule.

We will leave the Kensington Society to comment on the appropriateness of the zones selected for each charging level. The one comment that we would like to make relates to the relationship of CIL to neighbourhood plans.

Assuming that a document similar to the Commentary on the charging schedule is to be published in final form, we think it would be helpful if this included a brief reference to the arrangements on neighbourhood planning set out in Government guidance. CIL is new to all of us, and it would seem sensible to provide information on all the main aspects of how it will this regime will be applied.

You explained why CIL proceeds in RBKC will be less than in other boroughs where new floorspace is being developed at a greater rate. We also acknowledged when we met that there are few development sites in the two neighbourhood areas designated to date within the Royal Borough (Norland and St Quintin and Woodland). But there may be more neighbourhood areas and plans to follow.

Paragraph 7.9 of the Explanatory Memorandum on the 2013 CIL Regulations explains the position as follows:

*7.9 In England, in areas with a Neighbourhood Development Plan (as introduced in the Localism Act) in place charging authorities must pass on twenty five per cent of the Community Infrastructure Levy receipts related to the proportion of the development that is in that part of the parish or community council's area. We are requiring a larger, and uncapped, amount to be passed to areas with a Neighbourhood Development Plan in place because they have embraced positive planning for future development in their local area. In areas without a Neighbourhood Development Plan, this also applies where a development was granted permission by a Neighbourhood*

*Development Order (including a Community Right to Build Order). This both rewards and incentivises neighbourhood planning. Neighbourhoods that have organised themselves to bring forward a plan or order are already positively engaged with the planning process, so it is right they are given more control over this aspect of planning for development.*

We would suggest that all that is needed in the final version of the RBKC CIL Schedule and Commentary is a statement confirming that the council will act in accordance with this guidance, and will consult the relevant neighbourhood forum in an open and transparent manner on the allocation of CIL within any area for which a neighbourhood plan has been adopted. It should also be made clear that such consultation should be with a view to seeking agreement, and that the views of the neighbourhood forum should prevail unless there was good reason why not.

We appreciate that unlike the position with a parish council, the 25% of CIL proceeds remain with the local authority rather than being transferred directly to a neighbourhood forum. But the Government's intentions seem clear that it should be local people who have the opportunity to decide how these proceeds are disbursed in an area which has been through the process of putting together and successfully seeking support, via a referendum, for a neighbourhood plan.

I hope that the council will feel able to take this comment on board.

Yours sincerely,

Henry Peterson  
Chair St Helens Residents Association

cc Michael Bach, Kensington Society



The Executive Director of Planning and Borough Development  
FAO: The Policy Team  
The Royal Borough of Kensington and Chelsea  
The Town Hall  
Hornton Street  
London  
W8 7NX

Email: CIL@rbkc.gov.uk

21 February 2014

100 Pall Mall  
London SW1Y 5NQ  
telephone 020 7004 1700  
facsimile 020 7004 1790  
www.dp9.co.uk

Dear Sir/Madam

## COMMUNITY INFRASTRUCTURE LEVY (CIL) – PUBLICATION OF DRAFT CHARGING SCHEDULE

We write on behalf of our client, Carraig Investments Sarl, in relation to the above consultation document.

Our client owns The Knightsbridge Estate which is bounded by Brompton Road to the north, Sloane Street to the east, Basil Street to the South and Hans Crescent to the west. The Estate includes a number of uses including retail, office, residential and hotel.

In relation to the Draft Charging Schedule, we would note that the map identifying the CIL Residential Charge Zone areas is less than clear for the area comprising The Knightsbridge Estate. Much of the area is covered over by the designation letter. Although, most Charging Zones are aligned with postcode boundaries, we note that this is not always the case. We would kindly request this matter is addressed for the avoidance of doubt as the document progresses.

Having discussed the matter with policy officers, we understand that almost the entirety of The Knightsbridge Estate is designated as Residential Charge Zone B as it is outside the SW1X postcode. However, there are a few properties at the periphery of the Estate at either end which have a SW1X postcode and, therefore, are designated within Zone A. The affected properties are nos. 1-5 Sloane Street (which incorporates 1-3 Brompton Road) and nos. 32-54 Hans Crescent (which incorporates 79-85 Brompton Road). We have enclosed a plan for ease of reference.

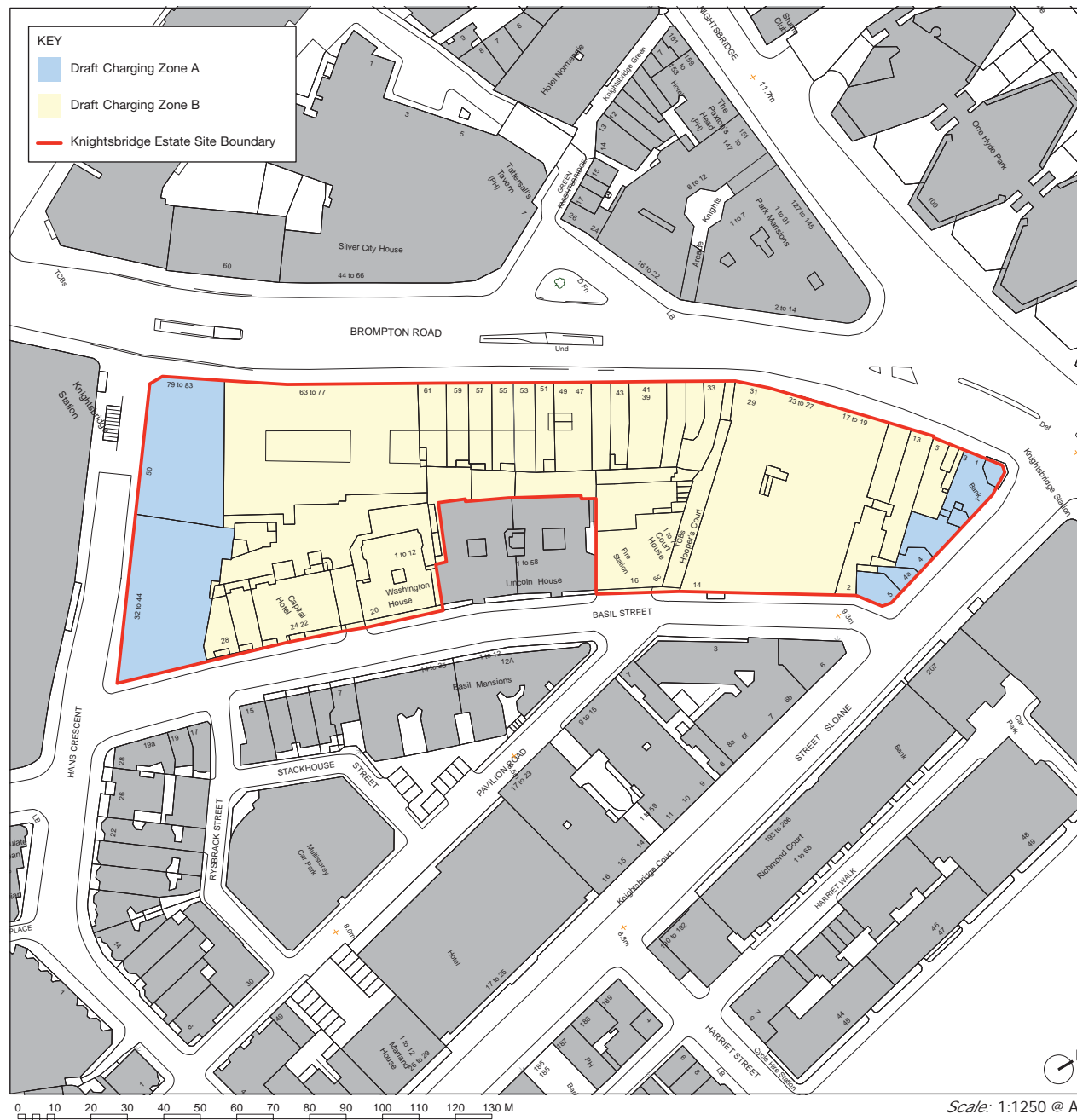
While we note that Charging Zones have been adjusted to more closely follow postcode boundaries to help easily identify the Charging Zones, and that should any development lie across a postcode boundary then the lower rate would be adopted for that particular development, we consider in this case that it would be sensible for the entire Estate to be brought within Residential Charge Zone B. We would note that given its compact nature, easily defined street boundaries and masterplan approach to development within The Estate, a single Residential Charge Zone B across The Estate would simplify matters and facilitate easier administration by the collecting authority.

We would also take this opportunity to welcome the Council's Nil Charge approach to Retail Uses and Offices (B1).

Should you wish to discuss this matter further, please do not hesitate to contact Jeff Wilson or Tom Hawkley at this office.

Yours sincerely

DP9  
Encl.



**K**  
The  
Knightsbridge  
Estate

**Stephen Marshall  
Architects LLP**  
North Building, Gainsborough Studios  
1 Poole Street, London N1 5EB  
T: 020 7033 3130 F: 020 7739 0607

## SITE LOCATION PLAN

**Knightsbridge Estate**  
London  
*Title:* Location Plan  
*Date:* February 2014  
*Scale:* 1:1250 @ A3

CDT/jr/DP2077

20 February 2014



The Executive Director of Planning and  
Borough Development  
FAO: The Policy Team  
The Royal Borough of Kensington and Chelsea  
The Town Hall  
Hornton Street  
London  
W8 7NX

100 Pall Mall  
London SW1Y 5NQ

Registered No. 05092507

telephone 020 7004 1700  
facsimile 020 7004 1790

[www.dp9.co.uk](http://www.dp9.co.uk)

Dear Sirs,

**ROYAL BOROUGH OF KENSINGTON & CHELSEA COMMUNITY  
INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE**

**REPRESENTATIONS OF CAPITAL & COUNTIES**

I write on behalf of Capital & Counties ('Capco') in relation to the above and further to representations submitted at the Preliminary Draft Charging Schedule stage.

You will already be aware that Capco is progressing comprehensive plans for the redevelopment and regeneration of the Earls Court site – an allocated strategic development and designated Opportunity Area. The site is located within the Royal Borough and the London Borough of Hammersmith and Fulham. It has the potential to contribute substantially to both local and regional targets for new homes and jobs. This potential has been further enhanced through the recently published draft Further Alterations to the London Plan: the minimum housing target for the Earls Court and West Kensington Opportunity Area has increased from 4,000 to 8,000 new homes.

Representations submitted in respect of the Preliminary Draft Charging Schedule set out Capco's serious concerns – in the context of the National Planning Policy Framework, CIL Regulations and Guidance – about the potential impact of proposed draft CIL rates on the future viability and deliverability of the Earls Court site. The evidence base was considered inappropriate and further, more thorough / specific, work was advised. Overall the representations concluded that a differential rate for Earls Court is the only robust evidence based approach. There is no compelling justification for treating Earls Court as being the same, in viability terms, as other development sites within the Royal Borough.

We have reviewed the Council's Draft Charging Schedule. This now proposes a nil charge for the Earls Court site. This is justified and supported by additional viability evidence that has been prepared by BNP Paribas. Overall, the viability evidence concludes that a nil rate is appropriate in order to ensure the future development of Earls Court as a strategic site. Capco welcomes and strongly supports this change. It is consistent with the intentions of Government in protecting



the viability of strategic development projects. Earls Court is especially important in this respect for, not only, the Royal Borough, but also the London Borough of Hammersmith and Fulham as well as the Greater London Authority.

Yours faithfully,

**DP9**

From: [Shearing, Claire: PC-Plan](#)  
To: [Community Infrastructure Levy: PC-Plan](#)  
Subject: FW: Community Infrastructure Levy (CIL) Consultation on the Draft Charging Schedule  
Date: 28 January 2014 15:42:03

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From: Planning Policy  
Sent: 28 January 2014 15:41  
To: Shearing, Claire: PC-Plan  
Subject: FW: Community Infrastructure Levy (CIL) Consultation on the Draft Charging Schedule

Hi Claire,

A no comment from the Highways Agency

Thanks

Ahmed

---

From: Whiting, Sarah (non CS) [mailto:[Sarah.Whiting@highways.gsi.gov.uk](mailto:Sarah.Whiting@highways.gsi.gov.uk)]  
Sent: 22 January 2014 16:35  
To: Planning Policy  
Cc: M25 Planning  
Subject: Community Infrastructure Levy (CIL) Consultation on the Draft Charging Schedule

Dear Sir / Madam,

Thank you for your communication of 21st January 2014 inviting the Highways Agency (HA) to comment on the:

**Community Infrastructure Levy (CIL) Consultation on the Draft Charging Schedule**

The HA is an executive agency of the Department for Transport (DfT). We are responsible for operating, maintaining and improving England's strategic road network (SRN) on behalf of the Secretary of State for Transport.

The HA will be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN.

We have reviewed the documents and do not have any comment at this time.

Kind regards,

Sarah

**Sarah Whiting- Team Administrator**

Highways Agency | Federated House | London Road | Dorking | RH4 1SZ

Tel: +44 (0) 1306 878373

Web: <http://www.highways.gov.uk>

GTN: 3904 8373

Safe roads, reliable journeys, informed travellers

Highways Agency, an executive agency of the Department for Transport.

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**From:** [Planning Policy](#)  
**To:** [Shearing, Claire: PC-Plan](#)  
**Subject:** FW: Public Consultation - Community Infrastructure Levy (CIL) Draft Charging Schedule  
**Date:** 30 January 2014 12:15:44

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**From:** Owen, Lucy [mailto:lucy.owen@pla.co.uk]  
**Sent:** 30 January 2014 11:59  
**To:** Planning Policy  
**Subject:** RE: Public Consultation - Community Infrastructure Levy (CIL) Draft Charging Schedule

Thank you for consulting the PLA about the CIL Draft Charging Schedule. Having reviewed the document I would like to comment as follows:

- It is questioned why, since the last consultation, the charging area has been extended out to the mid point of the river. No justification or explanation has been provided for this change.
- Charging zone D includes the safeguarded Cremorne Wharf. This wharf is safeguarded by Ministerial Direction and policy 7.26 of the London Plan protects it for cargo handling uses. As such it should be removed from zone d as it would be contrary to policy for residential development to take place on the wharf.

Regards

Lucy Owen  
Planning Officer  
Port of London Authority

London River House, Royal Pier Road  
Gravesend, Kent, DA12 2BG  
01474 562384  
07738 028540  
[www.pla.co.uk](http://www.pla.co.uk)

---

**From:** PlanningPolicy@rbkc.gov.uk [mailto:PlanningPolicy@rbkc.gov.uk]  
**Sent:** 21 January 2014 15:28  
**Subject:** Public Consultation - Community Infrastructure Levy (CIL) Draft Charging Schedule

Dear Sir/Madam

## **Community Infrastructure Levy (CIL)**

### **Consultation on the Draft Charging Schedule**

The Community Infrastructure Levy (CIL) allows local authorities to raise funds from developers undertaking new building projects in their area to help fund infrastructure projects.

The Council has prepared a draft charging schedule for consultation. This details the amount of CIL which will be collected from developers as a rate per square metre. This consultation seeks your views in respect of the draft charging schedule and the rates that are proposed in this Borough.

The Council is consulting residents and other interested stakeholders on the draft charging schedule between Tuesday 21<sup>st</sup> January 2014 and Sunday 23<sup>rd</sup> February 2014.

The simplest way to respond is online through our consultation portal. This method will save time, paper and the cost of postage. It allows you to log in through the Council's planning web page to read the documents and comment on them online. This enables you to save comments, keep track of the comments you have made and see when the Council has responded to them.

To respond to the consultations on-line, please go to:

<https://planningconsult.rbkc.gov.uk>

Alternatively, these documents are available for viewing on the Council's website at:

<http://www.rbkc.gov.uk/planningandconservation/planningpolicy/consultations.aspx>

Copies of the documents are available at all Council libraries and in the Customer Service Centre at the Town Hall, Hornton Street.

You may also send your comments in writing to:

The Executive Director, Planning and Borough Development  
f.a.o The Policy Team  
The Royal Borough of Kensington and Chelsea  
The Town Hall, Hornton Street,  
London  
W8 7NX  
or by email to: [planningpolicy@rbkc.gov.uk](mailto:planningpolicy@rbkc.gov.uk)

I look forward to hearing from you.

Yours sincerely

Jonathan Bore  
**Executive Director Planning and Borough Development**

\*\*\*\*\*

The Royal Borough of Kensington and Chelsea.  
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website: [www.pla.co.uk](http://www.pla.co.uk)

\*\*\*\*\*

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\*\*\*\*\*

From: [Planning Policy](#)  
To: [Shearing, Claire: PC-Plan](#)  
Subject: FW: CIL Draft  
Date: 03 March 2014 12:16:33

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From: Rose Freeman [mailto:[rose.freeman@theatrestrust.org.uk](mailto:rose.freeman@theatrestrust.org.uk)]  
Sent: 19 February 2014 16:59  
To: Planning Policy  
Subject: CIL Draft

Our Ref.: A/5631

### **CIL Draft**

Thank you for your letter of 21 January consulting The Theatres Trust on the Draft Charging Schedule for the Community Infrastructure Levy.

We note no clarification has been included in this 2 page document and assume the explanatory text contained in the previous Preliminary document is applicable.

We support the nil rate for 'All Other Uses' which will include the sui generis category (theatres), and for Zone G (Earl's Court).

Rose Freeman  
Planning Policy Officer  
The Theatres Trust  
22 Charing Cross Road  
London WC2H 0QL  
Tel: 020 7836 8591  
Fax: 020 7836 3302

[planning@theatrestrust.org.uk](mailto:planning@theatrestrust.org.uk)



## **Workshop Programme**

New in 2014, we offer a series of practical and informative workshops on the capital development of theatre buildings. A few places still remain for the next workshop:

### **Planning a capital project: 6 March 2014**

\*\*\*\*\*

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Check out your local theatre on The Theatres Trust '[Theatres database](#)'

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\*\*\*\*\*



Save energy and paper.

Wednesday 19<sup>th</sup> February 2014

The Executive Director of Planning and Borough Development  
FAO: The Policy Team  
The Royal Borough of Kensington and Chelsea  
The Town Hall  
Hornton Street  
London  
W8 7NX

## **Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS)**

Dear Jonathan Bore

Thank you for your letter dated 21<sup>st</sup> January 2014 regarding consultation on the Royal Borough of Kensington and Chelsea (RBKC)'s Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS).

The council would like to make a representation in accordance with Regulation 17 of the CIL Regulations 2010 (as amended).

After considering the DCS and the associated evidence base documents which have been published for consultation, the council would like to raise **no objection** to the DCS.

The council would also like to request to be formally notified:

- when the Draft Charging Schedule has been submitted to the examiner in accordance with section 212 of the Planning Act 2008;
- of the publication of the recommendations of the examiner and the reasons for those recommendations, and;
- upon the approval of the charging schedule by the charging authority.

I trust this is self-explanatory but please do not hesitate to contact me should you require further information or clarification.

Yours sincerely

**Rob Krzyszowski MRTPI**  
**Deputy Team Leader, Development Plans**



## CIL Draft Charging Schedule

[View Comment](#)

### Comment Information

<b>Document Section</b>	<a href="#">CIL Draft Charging Schedule</a> <a href="#">Please enter your comments here</a> <a href="#">Comments</a>
<b>Comment ID</b>	8
<b>Respondent</b>	<b>Martyn Baker</b>
<b>Response Date</b>	16 Feb 2014
<b>Comment</b>	<p>There should be no element of retrospection ie the implementation of of previously signed S106 Agreements should not in any way be made subject to the new CIL regime, even though existing S106 Agreements naturally need adjustments during their period of implementation because of changes of circumstances locally especially during long periods of development eg the Lots Road Power Station Redevelopment programme.</p> <p>Developers of significant schemes have in the past typically wanted tangible community gains to be seen to happen through S106 monies being deployed near to the vicinity of their developments to compensate to the greatest extent possible in a neighbourhood where the is likely to be the biggest impacts from their developments on the local infrastructure and amenities. Local communities reasonably expect such compensating S106 expenditure to seek to tackle particular negative impacts of large scale developments granted significant change of use planning permissions much increasing the value of a development site. It therefore appears retrograde for it to be proposed now that only 15% of CIL charges should go back to the local neighbourhood facing the greatest impact on its physical and social infrastructure from a significant residential development. The percentage should be much higher</p>

than now proposed and certainly not be a minority of the CIL funds generated.

When localism and decentralization are watchwords of central government thinking it appears strangely perverse to be proposing that most of the CIL charges should go into a borough-wide pot without lead departments being given local allocations for improving neighbourhood educational and healthcare facilities, and other forms of local social amenities and physical infrastructure.

Since the draft charging schedule and the rates proposed must be driven by the advice of viability consultants it is difficult to take issue with the levels of charges proposed for residential uses of land but changes in use of land from any form of educational or employment space to residential use should surely attract considerable premiums.

#### **Supporting Documents**

**Officers response**

**Officer's Recommendation**

**Submission Method** Web

**Processed?** No

**Agreed?** Undecided

**Officer's Recommendation**

**Notes**

## CIL Draft Charging Schedule

[View Comment](#)

### Comment Information

<b>Document Section</b>	<a href="#">CIL Draft Charging Schedule</a> <a href="#">Please enter your comments here</a> <a href="#">Comments</a>
<b>Comment ID</b>	6
<b>Respondent</b>	<b>Paul Lever</b>
<b>Response Date</b>	10 Feb 2014
<b>Comment</b>	<p>The rate at which the Community Infrastructure Levy is charged should reflect the type of development. It should in particular penalise the excavation of basements. Basement construction imposes particular problems for residents (which the Council is seeking to recognise in its new policy) and it is reasonable therefore for those who profit from such construction should pay a higher contribution to Community Infrastructure. There is no question that they can well afford it. A basement levy in Zones A and B of, say, £2000 per sq.m. would be an appropriate rate.</p>
<b>Supporting Documents</b>	
<b>Officers response</b>	
<b>Officer's Recommendation</b>	
<b>Submission Method</b>	Web
<b>Processed?</b>	No
<b>Agreed?</b>	Undecided
<b>Officer's Recommendation</b>	
<b>Notes</b>	

## CIL Draft Charging Schedule

[View Comment](#)

### Comment Information

<b>Document Section</b>	<a href="#">▷ CIL Draft Charging Schedule</a> <a href="#">▷ Please enter your comments here</a> <a href="#">▷ Comments</a>
<b>Comment ID</b>	1
<b>Respondent</b>	<b>Philip Roberts</b>
<b>Response Date</b>	22 Jan 2014
<b>Comment</b>	<p>I fully support the principles of the CIL.</p> <p>On the scales of charges, these are best defined by those with direct experience, and after consultation with interest groups such as The Chelsea Society and The Kensington Society.</p>
<b>Supporting Documents</b>	
<b>Officers response</b>	
<b>Officer's Recommendation</b>	
<b>Submission Method</b>	
<b>Processed?</b>	
<b>Agreed?</b>	
<b>Officer's Recommendation</b>	
<b>Notes</b>	



## CIL Draft Charging Schedule

[View Comment](#)

### Comment Information

<b>Document Section</b>	<a href="#">▷ CIL Draft Charging Schedule</a> <a href="#">▷ Please enter your comments here</a> <a href="#">▷ Comments</a>
<b>Comment ID</b>	7
<b>Respondent</b>	Susan Walker Architects (Susan Walker)
<b>Response Date</b>	10 Feb 2014
<b>Comment</b>	I support the proposed charges
<b>Supporting Documents</b>	
<b>Officers response</b>	
<b>Officer's Recommendation</b>	
<b>Submission Method</b>	Web
<b>Processed?</b>	No
<b>Agreed?</b>	Undecided
<b>Officer's Recommendation</b>	
<b>Notes</b>	





**From:** [Planning Policy](#)  
**To:** [Shearing, Claire: PC-Plan](#)  
**Subject:** FW: Community Infrastructure Levy (CIL) Draft Charging Schedule Consultation - Canal & River Trust comments  
**Date:** 04 March 2014 10:13:18

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**From:** Claire McLean [mailto:Claire.McLean@canalrivertrust.org.uk]  
**Sent:** 13 February 2014 09:45  
**To:** Planning Policy  
**Subject:** Community Infrastructure Levy (CIL) Draft Charging Schedule Consultation - Canal & River Trust comments

Dear Planning Policy Team,

Thank you for consulting the Canal & River Trust on this recent document.

The Canal & River Trust is the new charity set up to care for England and Wales' wonderful legacy of 200-year-old waterways, holding them in trust for the nation forever. The Trust has responsibility for 2,000 miles of canals, rivers, docks and reservoirs, along with museums, archives and the country's third largest collection of protected historic buildings.

The Trust launched on 2nd July 2012, taking over responsibility from British Waterways and The Waterways Trust in England and Wales.

The Trust has a range of charitable objectives including:

- To hold in trust or own and to operate and manage inland waterways for public benefit, use and enjoyment;
- To protect and conserve objects and buildings of heritage interest;
- To further the conservation, protection and improvement of the natural environment of inland waterways; and
- To promote sustainable development in the vicinity of any inland waterways for the benefit of the public.

The main sources of the Trust's funding are from a 15-year contract with government and income from boating, property and utilities. This funding is important for keeping our precious 200-year old waterways running, but it is not enough to fully support our canals and rivers as valuable resources for people and nature, particularly when under increased pressure and intensified use from expanding development.

Our canals and rivers are today used by more people and for a wider variety of purposes than ever before, with over 35,000 boats and 13 million towpath visitors using them as an escape from the pressures of modern life. Once Britain's most important transport system, our waterways are now a focus for economic renewal in the towns and cities they helped to create.

We have just one comment to make on the documents, which refers to the Viability Report January 2014. Reference is made, under 3.1 Kensal Gasworks, to bridges over the canal, and a figure identified for these works. We do not generally support new bridges over our waterways unless it can be demonstrated that there is a justifiable need, and that there would be no significantly adverse impacts on the character, heritage, biodiversity value and navigation requirements of the waterway. Bridges over the canal can exacerbate issues of anti-social behaviour and increase maintenance requirements, as well as impact on mooring opportunities.

We have not seen any details of any new bridges, and would need to fully assess the design and potential impact on the Grand Union Canal and its functions before we would be in a position to

accept a new bridge. This would then require a commercial agreement with the Canal & River Trust Estates team.

Please let me know if you have any questions about the Trust or our waterways, and we look forward to being updated on your progress of these documents.

Kind regards,

**Claire McLean**

**Area Planner – Canal & River Trust London**

The Toll House, Little Venice, Delamere Terrace, London W2 6ND

0203 204 4409

07917 616832

Please visit [www.canalrivertrust.org.uk](http://www.canalrivertrust.org.uk) to find out more about the Canal & River Trust and download the "Shaping Our Future" document on the **About Us** page.

Follow [@canalrivertrust](https://twitter.com/canalrivertrust) from the Canal & River Trust on Twitter.

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The Canal & River Trust is a new charity entrusted with the care of 2,000 miles of waterways in England and Wales. Get involved, join us - Visit / Donate / Volunteer at [www.canalrivertrust.org.uk](http://www.canalrivertrust.org.uk)

Canal & River Trust is a charitable company limited by guarantee registered in England & Wales with company number 7807276 and charity number 1146792. Registered office address First Floor North, Station House, 500 Elder Gate, Milton Keynes MK9 1BB.

Elusen newydd yw Glandŵr Cymru sy'n gofalu am 2,000 o filltiroedd o ddyfrffyrdd yng Nghymru a Lloegr. Cymerwch ran, ymunwch â ni - Ewch i Rhoddion a Gwirfoddoli yn [www.glandwrcymru.org.uk](http://www.glandwrcymru.org.uk)

Mae Glandŵr Cymru yn gwmni cyfyngedig drwy warant a gofrestrwyd yng Nghymru a Lloegr gyda rhif cwmni 7807276 a rhif elusen gofrestredig 1146792. Swyddfa gofrestredig: First Floor North, Station House, 500 Elder Gate, Milton Keynes MK9 1BB.



Date: 20 February 2014  
Our ref: 110393



FAO: Planning Policy Team,  
The Royal Borough of Kensington and Chelsea  
The Town Hall,  
Hornton Street,  
London  
W8 7NX

Consultation Service  
Hornbeam House  
Electra Way  
Crewe Business Park  
Crewe  
CW1 6GJ  
T: 0300 060 3900

**By Email**

Dear Planning Policy Team,

**Re: Community Infrastructure Levy (CIL) Draft Charging Schedule**

Thank you for your consultation on the above, which was received by Natural England on the 21 January 2014.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Natural England has no specific comments to make on the draft CIL Charges, however would like to make the following general comments, which we hope are helpful.

Natural England is not a service provider, nor do we have detailed knowledge of infrastructure requirements of the area concerned. However, we note that the National Planning Policy Framework Para 114 states "Local planning authorities should set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure." We view CIL as playing an important role in delivering such a strategic approach.

As such we advise that the council gives careful consideration to how it intends to meet this aspect of the NPPF, and the role of the CIL in this. In the absence of a CIL approach to enhancing the natural environment, we would be concerned that the only enhancements to the natural environment would be ad hoc, and not deliver a strategic approach, and that as such the local plan may not be consistent with the NPPF.

Potential infrastructure requirements may include:

- Access to natural greenspace.
- Allotment provision.
- Infrastructure identified in the local Rights of Way Improvement Plan.
- Infrastructure identified by any Local Nature Partnerships and or BAP projects.
- Infrastructure identified by any AONB management plans.
- Infrastructure identified by any Green infrastructure strategies.
- Other community aspirations or other green infrastructure projects (e.g. street tree planting).
- Infrastructure identified to deliver climate change mitigation and adaptation.
- Any infrastructure requirements needed to ensure that the Local Plan is Habitats Regulation Assessment compliant

We hope that you find this information useful. For any correspondence or queries relating to this consultation only, please contact Piotr Behnke using the details given below. For all other correspondence, including in relation to forward planning consultations, please contact the address above or email [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely,

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