

Consultation Statement

Community Infrastructure Levy- Submission of the Draft Charging Schedule



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Appendices:

Appendix 1 - Copy of letter inviting discussion with interested parties

Appendix 2 - Copies of DCS consultation correspondence

Appendix 3 - Copies of DCS consultation responses

1.0 Introduction

1.1 This report is prepared in accordance with regulation 19(1)a) and b) of the CIL regulations (as amended) which requires the charging authority to submit a statement setting out if representations had been made following consultation on the Draft Charging Schedule and a summary of the main issues raised.

2.0 Public Consultation to Date

- The Council has carried out public consultation on both the preliminary draft charging schedule (PDCS) in 2013 and the draft charging schedule (DCS) in 2014. Both consultations were carried out in accordance with the CIL regulations 2010 and as amended in 2011, 2012 and 2013. Subsequent amendments were made to the regulations in February 2014, however, both consultations pre-dated these changes.
- 2.2 Consultation on the preliminary draft charging schedule took place between 23rd January and 20th February 2013, in accordance with regulation 15. A public consultation event was also held on 11th February 2013. 14 responses were received during this time. Those parties who raised concerns during this consultation were subsequently invited to meet with officers to discuss their concerns in November and December 2013. A copy of one such invitation is included within Appendix 1 below.
- 2.3 Consultation on the draft charging schedule took place between Tuesday 21st January and Sunday 23rd February 2014, in accordance with regulation 16. The consultation documents, including evidence documents, were made publically available on the Council's website, at Kensington Town Hall and within the Borough's 6 libraries. Consultation letters were sent to interested parties registered on the Borough's LDF database as well as statutory consultees including adjoining Boroughs, TFL and the GLA. Additional media, including Council newsletters and Twitter were also used to raise awareness of the consultation. During this consultation period 22 representations were received.
- 2.4 Appendix 2 contains copies of the letters and emails which were sent as part of the consultation on the draft charging schedule, a copy of the press notice and copies of electronic announcements of the consultation. The table below contains a summary of the issues raised within those representations and a brief response to those main issues. Appendix 3 comprises copies of the representations received, in accordance with regulation 19c).

3.0 DCS Respondents

3.1 In accordance with regulation 18(2), respondents to the consultation on the draft charging schedule were invited to request further notifications of the progress of the charging schedule. Table 1 contains the list of respondents and the notification requests received.

	Request for further notifications	Reserve right to be heard at examination	When the DCS is submitted to the examiner	Recommendations of the examiner	Approval of the CS
Gerald Eve	Yes		Х	Х	Χ
TFL	Yes	Χ	Х	Х	Х
GLA	Yes	Χ	Х	Х	Χ
London First	Yes	Χ	Χ		
Savills	Yes		Χ	Χ	Χ
GVA	Yes	Χ	Χ	Χ	Χ
Environment Agency	No				
English Heritage	No				
The Kensington Society	No				
St Helen's Residents Association	No				
DP9 (Carraig Investments Sarl)	No				
DP9 (Capco)	No				
Highways Agency	No				
Port of London Authority	No				
Theatre Advice Service	No				
Hammersmith and Fulham	Yes		Χ	Χ	Χ
Martyn Baker	No				
Paul Lever	No				
Philip Roberts	No				
Susan Walker Architects	No				
Canal and River Trust	No				
Natural England	No				

Table 1: Requests for further notifications

4.0 Summary of Issues Raised

The following pages contain only a summary of the main issues raised within each consultation response. Full copies of the representations can be found below appended to this report.

Summary of Main Issues Raised

Ref.	Name	Company	Main Issues Raised	Response
01	-	Gerald Eve (on behalf of The Cadogan Estate)	 The cost of CIL is significantly greater than that of section 106s and will risk delivery of schemes. The proposed rates would reduce developer profit to 15% from 20%, making schemes unviable. An exceptional circumstances policy should exist to accommodate high development costs. The instalment policy is welcome. 	 The increase in cost from S106 is acknowledged. However, the triggers for CIL liability shall be materially different from the existing S106 system, for example which acquires S106 contributions from conversations, where CIL shall not. The Council have collected modest contributions through S106, averaging at between 3 and £4,000 per net additional unit. For these reasons the costs of CIL vs S106 does not provide a reasonable comparison in this case. The Council's viability testing has assumed a 20% profit on GDV on the 12 'test sites' which were found to be viable. In any event, reduced profit is just one possible outcome and a profit level slightly below 20% is not considered unreasonable in all cases. In light of the changes to exceptional circumstances relief introduced in the 2014 amendments to the CIL Regulations, it is not the Council's intention to provide such relief at this time. This will be subject to review.
02	Neil Lees	Transport for London	 A draft R123 list is encouraged as early as possible and should reflect the Borough's transport needs. The Borough has taken the Mayoral CIL fully into account. TfL will not support the case for funding strategic transport infrastructure which it does not regard as important or justified for the delivery objective of the local plan or assist in funding itself. 	Noted. A draft Regulation 123 list forms part of the submission documents.
03	Stuart Murray	Greater London Authority	 Mayoral CIL has been taken fully into account. The CIL proposals will not put at risk the objectives and detailed policies in the London Plan. 	Noted.
04	Faraz Baber	London First	 An 'appropriate balance' has not been struck. The residential rates are excessive- the combined impact of planning conditions and CIL have not been considered, contrary to CIL guidance. CIL is considerably more than S106 in the Borough. The CIL would be a significant additional cost burden, contrary to the NPPF. The viability evidence does not consider how the levy will affect different land uses. The rates have not considered the deliverability of the Core Strategy or the London Plan. The viability evidence doesn't conform to CIL guidance; RICS Guidance or LHDG guidance. No information on S106 receipts has been provided. 	 The viability testing has considered other policy/ condition requirements laid out in the Core Strategy, including affordable housing delivery and Code for Sustainable Homes level 4, compliant with the aims of the CIL Guidance 2014. The viability evidence has tested the CIL rates on 12 sites in the Borough, of which several are in the SHMA for the Borough. Testing has also included 2 strategic sites, both of which are Opportunity Areas within the London Plan, thereby demonstrating that delivery of the Core Strategy would not be adversely affected. CIL collections will facilitate development to support growth and deliver the Core Strategy. Section 2:2:2:4 of the 2014 CIL Guidance acknowledges that a number of valuation models and methodologies exist to help authorities prepare viability evidence. The methodologies of the viability reports in this case are considered acceptable to the Council. Evidence of S106 receipts has been provided at the consultation stage within the Commentary document.
05	Sarah Round	Savills (on behalf of Developer Consortium)	 It is unclear how the funding gap has been calculated and details of anticipated costs are limited. Within the viability appraisals, the residual land value has not been tested against benchmark land values. The build costs do not reflect the specification required when developing in this Borough. Professional fees are too low at 10% and should be closer to 12 or 	 With regard to benchmark values, costs and assumptions in the viability report, the assertion of incorrect figures are not substantiated and therefore cannot be relied upon. Benchmark figures from BCIS are instead used and are considered to be reasonable. The assumed rates for offices are based on secondary office stock, as opposed to new build office stock. The use of smaller unit sizes within the viability work is considered to be appropriate given the small development plots in the Borough. The use of larger

			 15%. Assumed rates for officers and office yields are below market levels; Assumed unit sizes are too small for this Borough. Instalments policy is unwelcome as it does not relate to how much of the development is built at that time. Exceptional circumstances policy should be permitted. BNP's affordable rent levels differ from that stated in RBKCs key decision report for adoption of affordable rent. 	 units is unlikely to result in a material change to the outcomes of the viability assessments. The proposed instalments policy is compliant with that operating for Mayoral CIL in London and is not considered to cause a detrimental impact on scheme viability or funding. An exceptional circumstances policy will be reviewed in due course. The lower affordable rent levels contained in the earlier assumptions were favourable to developers in this instance.
06	Fred Drabble	GVA (on behalf of Notting Hill Gate KCS Ltd)	 Account has not been given for the site specific obligations negotiated as part of the Notting Hill Gate redevelopment, in particular public realm improvements; health centre; a town centre manager. These should be added to the Reg.123 list. A viability report for Newcombe House demonstrated that the scheme for redevelopment was viable at 25% affordable housing and no CIL payment, but the surplus was small and the scheme at the margins of viability. The rates would be likely to threaten delivery as they would not provide competitive returns to willing land owners and developers. (unsubstantiated) The cushion should be kept at 30% so to encourage development in the Borough; The viability report does not take account of rising development costs, which will make funding harder to obtain and increase risk; A number of permissions have recently been granted in the Borough subject to viability testing and securing S106 contributions below the policy compliant amount 	 Consideration is being given to the appropriate means of securing infrastructure as part of the Notting Hill Gate redevelopment. It may be appropriate to add these to the regulation 123 list in due course and secure them using payments in kind or infrastructure payments. This will be subject to further discussion following understanding of the net additional floorspace and CIL liability of this development. At this stage the extent of the CIL liability for this development is not known and the extent of affordable housing and desirable infrastructure is still under negotiation and subject to viability testing. The viability report does not take account of rising costs, but neither does it take account of rising development values. This is considered appropriate. It is acknowledged that affordable housing negotiations in the Borough are often subject to viability testing. However, the viability reports suggest that the proposed rates will have minimal impact on affordable housing delivery and it will represent a modest proportion of overall development costs.
07	Wioleta Osior	Environment Agency	 No comments to make on the proposed charging zones or rates and no infrastructure requirements to add at this time; Results of the SFRA and Surface Water Management Plan should be assessed in identifying infrastructure requirements. 	Comments noted.
08	Richard Parish	English Heritage	 CIL charges should not impact negatively upon the significance and sustainability of heritage assets; The historic environment should be a recipient of CIL; The Council should continue to monitor the efficacy of exemptions based on use and the impact on development which affects the historic environment. 	 Regard will be maintained for the impact of development on the Borough's heritage assets through implementing the borough's development plan policies and the principles of the NPPF. CIL receipts will be used to support development and it may not therefore be appropriate that they be used for maintenance of heritage assets. Spending options are under consideration and the Reg.123 list shall be updated accordingly.
09	Michael Bach	The Kensington Society	 Major schemes may resubmit planning applications in order to make a reduced S106 payment and only a modest CIL payment. The charging zones do not reflect the value contours for new residential development. The charging zones are slavishly based on postcodes which produces strange boundaries. There should be a charge for out of centre retail and office developments. There is a need for greater transparency on how CIL income will be allocated to neighbourhoods and public consultation on those funds. 	 Resubmission of planning applications could occur, however S106 can still be used in order to obtain site specific mitigation should this be necessary in these cases. Affordable housing contributions will still be required. The proposed charging zones are consistent with the advice contained in the viability assessment based on the Borough's postcodes. It is acknowledged that there will be variation and anomalies in land values within these zones, however the general reference to postcode is considered to be an appropriate means of dividing the Borough to maximise CIL collections. The charging schedule contains some irregular zone boundaries. The boundaries are based on postcode boundaries; however, these postcode boundaries do not always neatly surround development sites and can cut across sites. The map within the charging schedule therefore puts sites within the same

				 charging zone as the principal building on the site. Detailed maps will make this clear. The ability of other uses, for example office and retail, to accommodate a CIL charge, are discussed within the viability evidence 2012 and associated Commentary document and it is not considered expedient to create charges for these uses. An appropriate proportion of CIL income will be allocated to spend on priorities agreed with the local communities in areas where development is taking place. This will be carried out in accordance with the CIL regulations and statutory guidance 2014 and will involve engagement with communities to facilitate spending to support development in those areas. Further information is discussed in the Commentary document.
10	Henry Peterson	St. Helen's Residents Association	 The submission documents should include a brief reference to the arrangements on neighbourhood planning and confirm that the Council will act in accordance with the statutory regulations. 	Further information in this respect has been added to the Commentary document for information and the Council is required to abide by the CIL regulations and statutory guidance in spending CIL funds.
11		DP9 (on behalf of Carraig Investments Sarl)	 The CIL map identifying the charge zone is not clear for the area of The Knightsbridge Estate. The entire Knightsbridge Estate should be bought under Zone B for clarity and to facilitate easier administration by the collecting authority. Nil rates for retail and office uses are welcomed. 	 The map has been amended accordingly only to move the letter 'B' from the zone boundary so to allow the location of the boundary to be clear. As described in the Commentary document, the charging boundaries follow postcode boundaries and this approach is maintained. The chargeable amount for development which straddle the boundaries of the charging zones will be calculated accordingly.
12		DP9 (on behalf of Capco)	The nil rate for Earl's Court is welcome and supported.	Support noted.
13	Sarah Whiting	Highways Agency	No comments at this time.	Noted.
14	Lucy Owen	Port of London Authority	 No justification is given for the extension of the charges across the river; Cremorne Wharf (zone D) is safeguarded for cargo handling uses by the London Plan and should be removed from Zone D as residential uses here would be contrary to policy. 	 The charging zones were extended to the centre of the river to ensure the rates covered the Borough in its entirety. Development proposals relating to Cremorne Wharf would continue to be assessed in light of development plan policies following the adoption of CIL.
15	Rose Freeman	Theatre Advice Service	 Support is given for the nil rate for 'all other uses' which will include the sui generis category for theatres and zone G for Earl's Court. 	Support noted.
16	Rob Kryszowski	London Borough of Hammersmith and Fulham	No objection.	Noted.
17	Martyn Baker	-	 Developers of significant schemes want tangible community gains through spending near the development site; Local communities expect compensation for development and the percentage of CIL returned to communities should be more than 15%; Signed S106 agreements should not be subject to CIL; Changes of use from education or employment space to residential should attract a premium rate. 	 The draft regulation 123 list and future regulation 123 lists will provide developers with transparency and an indication of how CIL collections may be spent. The proportion of collections allocated to local communities shall remain in accordance with the CIL regulations and any subsequent amendments.
18	Paul Lever	-	 CIL rates should penalise the excavation of basements as they cause particular problems for residents. 	The CIL regulations at this time do not allow the rates to distinguish between above and below ground development and residential extensions now benefit from the ability to apply for CIL exemptions. Such a charge would therefore not

				be in the spirit of the regulations. This matter will remain under review.
19	Philip Roberts	-	The charges are supported.	Support noted.
20	Susan Walker	Susan Walker Architects	The charges are supported	Support noted.
21	Claire McLean	Canal and River Trust	 Support is not generally given for bridges over canal waterways unless it can be demonstrated that there is a justifiable need and no significant impact on character, heritage, biodiversity value and navigational requirements of the waterway. 	The desire for bridges in connection with development at Kensal Gasworks is acknowledged within chapter 5 of the Core Strategy which relates to this site. As such these aspirations remain part of the IDP as this stage.
22	Piotr Behnke	Natural England	The Council should consider how it will comply with para 114 of the NPPF requiring a strategic approach to biodiversity and green infrastructure. The infrastructure proposals do not deliver a strategic response.	These comments are noted for the future review of the IDP.

Appendix 1 – Copy of invitation for	r discussion wi	th interested parties	

Planning and Borough Development

Kensington Town Hall, Hornton Street, LONDON, W8 7NX

Executive Director Planning and Borough Development

Mr Jonathan Bore



Craig Tabb DP9 100 Pall Mall London SW1Y 5NQ

7th November 2013

Please ask for: Mrs C Shearing

Dear Sir,

The Royal Borough of Kensington and Chelsea's Community Infrastructure Levy

Representations of Capital and Counties

Thank you for your comments made in respect of this Borough's Preliminary Draft Charging Schedule in February this year.

We would value your input and assistance in progressing our charging schedule and would like to take this opportunity to invite you to discuss your concerns in a meeting with the officers involved in developing the schedule.

Should you wish to accept this opportunity, please contact myself on 0207 361 2186 or by email to claire.shearing@rbkc.gov.uk so we can arrange a mutually convenient time for our discussion. We would be grateful if any detailed information you may wish to provide or discuss could be forwarded in advance of the meeting to allow adequate opportunity for our consideration by officers.

Please do not hesitate to contact myself if you would like to discuss this matter further.

Yours faithfully

Claire Shearing Senior Planning Officer (Planning Policy) For the Executive Director Planning and Borough Development

Direct Line: 020 7361 2186

Email: claire.shearing@rbkc.gov.uk

Web: www.rbkc.gov.uk

Appendix 2 – Copies of DCS Consultation Correspondence

Planning and Borough Development

Kensington Town Hall, Hornton Street, London, W8 7NX

Executive Director for Planning and Borough DevelopmentJonathan Bore

<Name and Surname>

<Full Address>

21st January 2014

Please ask for: Policy Team

Dear Ms <Surname>,

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 21st January 2014 and Sunday 23rd 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

I look forward to hearing from you.

Yours sincerely

Jana Ran Bon

Jonathan Bore

Executive Director Planning and Borough Development

From: Planning Policy

Subject: Public Consultation - Community Infrastructure Levy (CIL) Draft Charging Schedule

Date: 21 January 2014 15:27:37

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 21st January 2014 and Sunday 23rd 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

I look forward to hearing from you.

Yours sincerely

Jonathan Bore

Executive Director Planning and Borough Development

Copy of the Borough's Planning Bulletin dated 17 January 2014

From: Royal Borough of Kensington and Chelsea Planning Department

To: Shearing, Claire: PC-Plan

Subject: Royal Borough of Kensington and Chelsea Planning Bulletin

Date: 17 January 2014 10:01:09

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Royal Borough of Kensington and Chelsea Planning Bulletin | 17 January 2014

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Involving People in Planning

Involving People in Planning (IPIP) is a document that sets out how people can engage with the planning system, including planning applications, planning policy and neighbourhood plans.

The Council has now adopted IPIP to replace the previous Statement of Community Involvement (SCI) in Planning which was approved in 2007. The adoption of IPIP took place by a key decision in December 2013. Please see the Governance pages of the Council website for the relevant adoption documents.

The final adopted document can be found here

Further alterations to the London Plan

The Greater London Authority (GLA) has published Draft Further Alterations to the London Plan (FALP) for consultation for a twelveweek period starting on 15 January 2014.

Please follow this link for further information and to view the document https://www.london.gov.uk/priorities/planning/london-plan

Community Infrastructure Levy

The Draft Charging Schedule for the Borough's Community Infrastructure Levy will be available for public consultation next week. 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 documents will be available online at www.rbkc.gov.uk/cil and comments will be welcome up to midnight on Sunday 23rd February.

Moves to end flood prevention plans delay

A four-year delay could finally be ended to rules meant to prevent new housing developments making floods worse.

Read article here

Any Questions?

If you have any questions on any of the items in this bulletin please email planningbulletin@rbkc.gov.uk.

Please note that some of the above articles are meant for reference and may require log in or registering to access.

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Extract from Twitter dated 21 January 2014





The Royal Borough of Kensington and Chelsea hereby gives notice that it has published for inspection the Royal Borough of Kensington and Chelsea's Community Infrastructure Levy (CIL) Draft Charging Schedule.

Period within which representations about the draft charging schedule must be made:
The consultation period runs from 21st January 2014 until midnight Sunday 23rd
February 2014. Representations must therefore be received during this period
Places where the Draft Charging Schedule and evidence are available for examination:

available for examination: The Draft Charging Schedule and supporting evidence are available for inspection during normal office hours at the following locations:

- The Customer Service Centre, Kensington Town Hall, Hornton Street, London, W8 7NX. (Monday Friday 9am to
- Hornton Street, London, Hornton Street, London, Phillimore Walk, London, W8 5pm);
 Kensington Central Library, Phillimore Walk, London, W8 7RX (Monday, Tuesday, Thursday 9.30 am to 8pm and: Wednesday, Friday and Saturday 9.30 to 5pm)
 Chelsea Library, Chelsea Old Town Hall, King's Road, SW3 5EZ ((Monday, Tuesday, Thursday 9.30am to 8pm; Wednesday, Friday and Saturday 9.30 to 5pm; Sunday 1pm
- to 5pm)
 North Kensington Library, 108 Ladbroke Grove, North
 Kensington, W11 1PZ (Monday, Tuesday, Thursday 9.30am
 to 8pm and: Wednesday, Friday and Saturday 9.30 to 5pm)
 Brompton Library, 210 Old Brompton Road, SW5 0BS
 (Monday, Tuesday, Thursday 9.30am to 8pm and;
 Wednesday, Friday and Saturday 9.30 to 5pm)
 Notting Hill Gate Library, 1 Pembridge Square, Notting
 Hill, W2 4EW (Monday 1pm-8pm; Tuesday 1pm to 7pm;
 Thursday 9.30am to 1pm; Fridays 9.30am to 1pm and 2pm
 to 5pm; Saturdays 9.30am to 1pm and 2pm to 5pm)
 Kensal Library, 20 Golbourne Road, W10 5PF (Monday,
 Tuesday and Thursday 1pm to 6pm; Fridays 9.30am to 5pm
 and Saturdays 9.30 to 1pm and 2pm to 5pm.)
 Bocuments are also available online the following addresses:

The documents are also available online the following addresses:

www.rbko.gov.uk/GIL https://planningconsult.rbko.gov.uk

Address to which representations must be made:
Representations must be made in writing or by electronic communications, by email or online, as set out below.
Online: https://planningconsult.rbkc.gov.uk
By email: CIL@rbkc.gov.uk
By post: 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

Those making representations may request the right to be heard by an examiner upon the examination of the Draft Charging Schedule.

Further Notifications

- Representations may be accompanied by a request to be notified at a specific address of any 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.

For further information or enquiries, please email CIL@rbkc.gov. uk or telephone 0207 361 3012.