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Royal Borough of Greenwich  
The Woolwich Centre (5<sup>th</sup> Floor)  
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15<sup>th</sup> December 2014

Dear Holly,

**ROYAL BOROUGH OF GREENWICH COMMUNITY INFRASTRUCTURE LEVY  
DRAFT CHARGING SCHEDULE SUBMISSION CONSULTATION  
(NOVEMBER TO DECEMBER 2014)**

Thank you for providing us with the opportunity to comment on the Council's Community Infrastructure Levy (CIL) Draft Charging Schedule Submission Version, published 17<sup>th</sup> November 2014. On behalf of Our Client, Berkeley Homes (East Thames) Ltd, please find enclosed our representations. A copy of these representations has also been emailed to: [planning.policy@royalgreenwich.gov.uk](mailto:planning.policy@royalgreenwich.gov.uk)

As you are aware, Berkeley Homes are currently working in partnership with the Council on a number of strategically significant regeneration projects, including the redevelopment of the Ferrier Estate, Kidbrooke, and the Royal Arsenal, Woolwich. Our Client is therefore a key stakeholder and employer in the Borough and wishes to ensure that engagement with the Council on policy issues continues in the future.

Our Client has previously objected to the Council's Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule (PDCS) in December 2013 and objected again on the Draft Charging Schedule (DCS) in September 2014. As with the first two rounds of consultation, Berkeley Homes is still looking to the Council to provide a transparent, clear and fair CIL which will enable the necessary infrastructure to be delivered without compromising housing delivery throughout the Royal Borough on, in particular, key regeneration sites such as Kidbrooke and Royal Arsenal. It is frustrating that the Council has again chosen not to take on board Our Clients comments. Accordingly, Berkeley Homes maintains their previous objections and detailed points raised and seeks that these are given full consideration in the Examination.

Further to the above, Our Client would like to take the opportunity to respond to some of the Council's summary responses as detailed in the 'Regulation 19(1b) Representations statement and summary of main issues', published in November 2014, which we set out below.



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**URN R9.**

**Topic – Charging rates for residential**

Council Summary Response

*"Whilst the £70 rate is set slightly higher than the rate shown in the viability report for Plumstead, Abbey Wood and Thamesmead, the strategic growth locations of Woolwich and Kidbrooke are well within the margins of viability."*

Our Response

We disagree that Woolwich and Kidbrooke are 'well within' the margins of viability.

The Department of Communities and Local Government guidance (April 2013) requires that charging authorities do not set their CIL at the margins of viability and recommend that a viability 'buffer' is applied. Accordingly, the Assessment by BNP recommends that a buffer is used to help mitigate against any risk factors unaccounted for in the viability assumptions due to changing circumstances / unforeseen issues. Although it is understood that there is no prescribed percentage buffer set in policy guidance, and it is a matter for the charging authorities' judgement, we understand that these tend to vary from a 25% to 50% reduction from the maximum viable amount.

As noted in our PDCS Representations (December 2013), looking into the viability buffers for the nine sub areas of the Borough there is an uneven and unfair range:

- Plumstead and Abbeywood = +16.7%
- Thamesmead = +16.7%
- Woolwich = -17.6%
- Eltham = -17.6%
- Kidbrooke = -17.6%
- Charlton = -54.8%
- Charlton Riverside = -54.8%
- Greenwich Riverside & Blackheath = -69.6%
- Peninsula = -69.6%

The Council's proposed residential CIL rate and approach to the viability buffer therefore means that two areas are completely unviable and three other areas are on the margins of viability. Whilst we understand the Council's position regarding CIL not being a defining matter regarding viability in Plumstead and Abbeywood and Thamesmead, there is no justification provided by the Council why the viability buffer on the other three areas (Woolwich, Eltham and Kidbrooke) should be so low and, in particular, below the 25% - 50% margin. Specifically to Kidbrooke and Woolwich where Our Client has particular interest, the percentage viability buffer is only 17.6% which we would suggest is not sufficient enough to take account of any unknown or risk factors within the development process, let alone be considered to be 'well within' the margins of viability.

On this basis a flat rate for residential use is not appropriate in the case of the Royal Borough of Greenwich where there is large divergence of residential viability across the Borough.

Setting a Zero Charge

In addition to the above, we do not consider that our comments in relation to the Council reconsidering setting a zero charge in key locations and utilising existing and future site specific S.106 Agreements instead has been adequately addressed. There is no specific reference in the Council's response (URN R9) of a zero charge in areas that require a high level of infrastructure provision such as Kidbrooke and Royal Arsenal.



In order to fully take account of the need for regeneration and growth in key areas it is considered necessary to apply a zero charge for residential use in certain key areas e.g. Kidbrooke and Woolwich. This approach was set out in detail in our earlier representations dated 3<sup>rd</sup> December 2013 and 10<sup>th</sup> September 2014 (enclosed again for reference).

A zero charge approach has been adopted by the London Borough of Wandsworth, where all development (including residential use) in the 'Roehampton Charging Area' has a zero charge. This was justified by Wandsworth on the basis that Roehampton has been identified in the Core Strategy as an area requiring comprehensive regeneration. Rather than just to meet growth, the area requires a high level of infrastructure provision to remedy existing deficiencies. Ultimately, the level of on-site infrastructure required in Roehampton, and lower than average property values in the area, indicated that proposals were likely to be unviable if they were charged the same rate of CIL as the rest of the Borough.

Furthermore, recent research prepared by Savills and the Home Builders Federation (CIL – Is it delivering? - October 2014) note that to date over 30 Local Authorities have published a Charging Schedule that includes a zero CIL rate for strategic sites or key growth areas, suggesting that Section 106 is the preferred and more appropriate system for large-scale development.

It should be recognised that for key strategic sites such as Kidbrooke and Royal Arsenal where there is a high infrastructure need, it is not sustainable to charge a development CIL and then for the Charging Authority to spend the income where it chooses, anywhere in the Royal Borough. These key locations, just like Roehampton and other across the Country, require high levels of on-site infrastructure provision to remedy existing deficiencies. The very large existing (and potential future) S.106 Agreements are best placed to provide the necessary infrastructure to ensure sustainable development and high quality places are delivered in these bespoke cases.

Accordingly, we request that further consideration is given to setting **Zero Charge on strategic sites.**

#### **URN R10.**

#### **Topic – Relationship between CIL and S.106**

#### Council Summary Response

*For large-scale development where planning permission has been granted with a s106 in place but construction has not yet begun, the Council has allowed for the developer to apply for exceptional relief.*

#### Our Response

It is still unclear how this will work in the case of large scale phased development sites; schemes which continue to evolve during long (10 to 20 years) construction periods where certain phases have commenced construction, whilst other phases have yet to begin. Further clarity on these bespoke complex schemes would be helpful. As previously stated, perhaps a meeting with Officers (Policy, Planning and Regeneration) would be helpful to proactively work together to better understand how this will work in practice to ensure that development is sustainable and viable, that the on-site and Borough wide infrastructure need is met and there is no 'double dipping' for developers.

**URN R12.**

**Topic – Payments in Kind**

**Council Summary Response**

*The request to review the Councils position on payments in kind is noted. The regulations state that "a charging authority may accept one or more land payments..." There is no requirement in legislation for a charging authority to justify its decision.*

**Our Response**

Whilst it is recognised that there is no requirement in the regulations, in order to work collaboratively and have a transparent and effective CIL for the Borough, it is considered necessary that the Council should seek to justify its decisions.

We look forward to receiving confirmation that these representations have been received and we would be grateful if you could keep us informed of future opportunities to comment further on the emerging CIL Charging Schedule and attend the Examination in Public.

In the meantime, if you have any queries or require any further information please do not hesitate to contact the writer at this office.

Yours Sincerely



Cc. John Anderson, Chairman – Berkeley Homes  
Tobin Rickets, Development Director – Berkeley Homes  
Julian Evans, Senior Development Manager – Berkeley Homes  
Tudor Jones, Senior Planner – Barton Willmore

Enc. Representation to Royal Borough of Greenwich's DCS prepared by Barton Willmore on behalf of Berkeley Homes (East Thames) Ltd, dated 10<sup>th</sup> September 2014; and

Representation to Royal Borough of Greenwich's PDCS prepared by Barton Willmore on behalf of Berkeley Homes (East Thames) Ltd, dated 3<sup>rd</sup> December 2013.

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## Enclosed

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Representation to Royal Borough of Greenwich's DCS prepared by Barton Willmore on behalf of Berkeley Homes (East Thames) Ltd, dated 10<sup>th</sup> September 2014.



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10<sup>th</sup> September 2014

Dear Holly,

**ROYAL BOROUGH OF GREENWICH COMMUNITY INFRASTRUCTURE LEVY  
DRAFT CHARGING SCHEDULE (JULY TO SEPTEMBER 2014)**

Thank you for providing us with the opportunity to comment on the Council's Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS), published 30<sup>th</sup> July 2014. On behalf of our Client, Berkeley Homes (East Thames) Ltd, please find enclosed our representations. A copy of these representations has also been emailed to: [planning.policy@royalgreenwich.gov.uk](mailto:planning.policy@royalgreenwich.gov.uk)

Berkeley Homes are currently working in partnership with the Council and the Mayor of London on a number of strategically significant regeneration projects, including the redevelopment of the Ferrier Estate, Kidbrooke, and the Royal Arsenal, Woolwich. Our Client is therefore a key stakeholder and employer in the Borough and wishes to ensure that engagement with the Council on policy issues continues in the future.

As you are aware, our Client objected to the Council's Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule (PDCS) in December 2013. As with the first round of consultation, Berkeley Homes is still looking to the Council to provide a transparent, clear and fair CIL which will enable the necessary infrastructure to be delivered without compromising housing delivery throughout the Royal Borough. It is in this context that we make the following representations on the DCS.

The representations set out below are structured as follows:

1. Maintaining Our Objection
2. Setting a Zero Charge Rate for Certain Areas
3. A Two Area Based Approach
4. Additional Comments:
  - a. Discretionary Relief in Exceptional Circumstances;
  - b. GLA Review of Mayoral CIL and RBG Review of Borough CIL;
  - c. Payment In Kind and Infrastructure; and
  - d. Relationship with S.106 / Planning Obligations



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## 1. Maintaining Our Objection

As currently drafted, the Council is still proposing to have a flat rate of £70 per sqm across the whole Royal Borough for residential use. Inclusive of Mayoral CIL (currently set at £35 per sqm in the Royal Borough of Greenwich); this is a total of £105 per sqm of C3 Use Class floorspace.

In our representations to the PDCS (enclosed), dated 3<sup>rd</sup> December 2013, we objected to the proposed flat residential rate of £70 per sqm as it did not take into account of the lowest common denominator as set out in BNP Paribas Viability Assessment (April 2013) of £95; and it did not allow sufficient viability buffers to provide flexibility to give a sufficient margin to allow for site specific variations. Sadly, it is considered that Officers have not treated these comments with due consideration in preparing the DCS. It is on this basis that our Client continues to object to the flat residential rate of £70 per sqm (£105 including Mayoral CIL).

The DCS is supported by an updated Viability Assessment prepared by BNP Paribas (April 2014). This Assessment clearly explains that the ability of residential schemes to make CIL contributions varies depending on the area and current use of the site. On this basis, the Assessment maintains that nine housing sub-market areas exist within the Borough.

Taking a broad view across their appraisals, BNP consider that residential schemes should be able to absorb a *maximum* CIL rate (including Mayoral CIL) in the following areas as follows:

- Area 1 Plumstead & Abbeywood: £95 per square metre
- Area 2: Thamesmead: £95 per square metre
- Area 3: Woolwich: £120 per square metre
- Area 4: Eltham: £120 per square metre
- Area 5: Kidbrooke: £120 per square metre
- Area 6: Charlton: £190 per square metre
- Area 7: Charlton Riverside: £190 per square metre
- Area 8: Greenwich Riverside & Blackheath: £265 per square metre
- Area 9: Peninsula: £265 per square metre.

Having regard to these variations, BNP conclude that residential schemes should still be able to absorb a *maximum* CIL rate of up to £265 per sqm at the top end and £95 per sqm at the bottom (including Mayoral CIL but not allowing for a buffer).

Whilst a single charge approach is attractive for Local Authorities as it is the easiest to implement, it is not appropriate for all Authorities, particularly in areas where sales values vary significantly between areas such as this. It is extremely disappointing that the Borough is persisting to choose administrative ease at the expense of potential income that could otherwise have funded infrastructure for the Borough, whilst also risking putting key regeneration areas such as Woolwich and Kidbrooke on the margins of viability at the same time.

This approach is restrictive and will stifle development and growth. An alternative approach needs to be found.

## 2. Setting a Zero Charge Rate for Certain Areas

An alternative approach in order to fully take account of the need for regeneration and growth in key areas is to apply a zero charge for residential use in certain key areas. This approach was set out in detail in our earlier representations dated 3<sup>rd</sup> December 2013 (enclosed again for reference).

A zero charge approach has been adopted by a proactive London Borough of Wandsworth, where all development (including residential use) in the 'Roehampton Charging Area' has a zero charge. This was justified by Wandsworth on the basis that Roehampton has been identified in the Core Strategy as an area requiring comprehensive regeneration. Furthermore, rather than just to meet



growth, the area requires a high level of infrastructure provision to remedy existing deficiencies. Ultimately, the level of on-site infrastructure required in Roehampton, and lower than average property values in the area, indicated that proposals were likely to be unviable if they were charged the same rate of CIL as the rest of the Borough.

Following our original comments, the Borough has responded in their Preliminary Draft Charging Schedule Consultation Statement (July 2014) stating that *"it is important that in all areas, including Strategic Development Locations, development is sustainable. Large residential developments without the necessary infrastructure to support them would not be sustainable"*.

We agree wholeheartedly with this comment and proactive approach. However, it should be realised that in locations such as Kidbrooke and Woolwich where there is a high infrastructure need, it is not sustainable to charge a development CIL and then for the Charging Authority to spend the income where it chooses, anywhere in the Royal Borough. These key locations, just like Roehampton, require high levels of on-site infrastructure provision to remedy existing deficiencies. The very large existing (and potential future) S.106 Agreements are best placed to provide the necessary infrastructure to ensure sustainable development and high quality places are delivered in these bespoke cases.

Consequently, our Client seeks again that the Council reconsiders setting a zero charge in key locations and utilising existing and future site specific S.106 Agreements instead. For our suggested approach, please refer to Table 3 of our previous representations to the PDCS (enclosed).

### **3. A Two Area Based Approach**

Notwithstanding the above approach, we consider that it would be prudent for the Council to consider their Viability Assessment further, rather than continuing down the route of a flat rate residential charge.

Both the original and updated Viability Assessments prepared by BNP Paribas point towards an area based approach for residential use, and whilst it is noted that the Viability Assessments are only to be used as a guide to base a decision on, it is surprising that the only justification the Borough has given for dismissing this recommendation is that *"a single rate is the most simplistic approach, the least confusing for developers and the easiest approach to implement"*. A number of Local Authorities, including London Boroughs, have successfully adopted and implemented a multiple residential zone approach without confusing developers and it is frustrating that there is not a willingness to do so in this instance.

Whilst we can sympathise with the Council that the setting of a CIL rate is a difficult balancing act between raising enough money to provide the necessary infrastructure to enable and support growth, whilst not prohibiting development from coming forward in the first place, it is disappointing that a proactive Borough such as the Royal Borough of Greenwich is trying to secure the benefit of simplicity at the expense of potential income foregone, that could otherwise have funded infrastructure, and putting schemes such as Kidbrooke and Royal Arsenal on the margins of viability in the process.

In our previous representations we noted that taking account of the information on maximum CIL rates and analysis on buffers there appears to be a natural split of the nine housing sub-market areas into two distinct groups. This split is in fact identified in the BNP Paribas Viability Assessment as a possible approach to the charging schedule where the Peninsula, Greenwich Riverside & Blackheath, Charlton Riverside and Charlton are combined into one charging area (Zone A); and Woolwich, Eltham, Kidbrooke, Thamesmead and Plumstead & Abbeywood into another (Zone B).

This approach could have an average per sqm residential rate across the Borough that is far greater than £70 per sqm. Importantly, this could be a balanced and fair approach to assist the Council in bridging its funding gap for necessary infrastructure to be delivered, without





*"Charging authorities should work proactively with developers to ensure they are clear about the authorities' infrastructure needs and what developers will be expected to pay for through which route. There should be no actual or perceived 'double dipping', with developers paying twice for the same item of infrastructure."*

Currently, it is unclear what the Council's Infrastructure need is on large scale strategic regeneration projects that have very large pre-existing S.106 Agreements, especially in those schemes which continue to evolve during long (10 to 20 years) construction periods, such as Royal Arsenal and Kidbrooke. Consequently, our Client would welcome a meeting with Officers (Policy, Planning and Regeneration) to proactively work together to better understand how this will work in practice to ensure that development is sustainable and viable, that the on-site and Borough wide infrastructure need is met and there is no 'double dipping' for developers.

We look forward to receiving confirmation that these representations have been received and we would be grateful if you could keep us informed of future opportunities to comment further on the emerging CIL Charging Schedule and attend the Examination in Public.

In the meantime, if you have any queries or require any further information please do not hesitate to contact the writer at this office.

Yours Sincerely



Cc. Tobin Rickets, Development Director – Berkley Homes  
Tudor Jones, Planner – Barton Willmore

Enc. Representation to Royal Borough of Greenwich's PDCS prepared by Barton Willmore on behalf of Berkeley Homes (East Thames) Ltd, dated 3<sup>rd</sup> December 2013.

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## Enclosed

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Representation to Royal Borough of Greenwich's PDCS prepared by Barton Willmore on behalf of Berkeley Homes (East Thames) Ltd, dated 3<sup>rd</sup> December 2013.



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3<sup>rd</sup> December 2013

Dear Holly

**ROYAL BOROUGH OF GREENWICH COMMUNITY INFRASTRUCTURE LEVY  
PRELIMINARY DRAFT CHARGING SCHEDULE (SEPTEMBER 2013)**

Thank you for providing us with the opportunity to comment on the Council's Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule (PDCS), published 30th September 2013. On behalf of Berkeley Homes (East Thames) Ltd, please find enclosed our representations. A copy of these representations has also been emailed to: [planning.policy@royalgreenwich.gov.uk](mailto:planning.policy@royalgreenwich.gov.uk)

Berkeley Homes are currently working in partnership with the Council on a number of strategically significant regeneration projects, including the redevelopment of the Ferrier Estate, Kidbrooke, and the Royal Arsenal, Woolwich. Our client is therefore a key stakeholder and wishes to ensure that engagement with the Council on policy issues continues in the future. As you are aware, our client has recently commented on the Council's Submission Version of the Core Strategy with Development Management Policies.

Berkeley Homes seeks to allow greater flexibility in the preparation of policy documents, ensuring that they are not overly prescriptive; are in line with the National Planning Policy Framework (NPPF; 2012); and will assist in alleviating planning barriers to redevelopment that have previously existed to ensure that development can come forward in a timely, viable and sustainable manner. We consider that the approach towards the Council's CIL charging schedule should be the same.

It is acknowledged that the monies collected through CIL will help close the infrastructure funding gap, estimated in Greenwich to be in excess of £1.5 billion, to fund infrastructure that has been identified as necessary to support new development and growth in the Borough. However, as stated in the NPPF (Paragraph 173), 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, 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" (Paragraph 175).

The CIL rates currently proposed in the PDCS, combined with the other costs of development, are unlikely to provide competitive returns to a willing land owner and willing developer in certain areas of the Borough. In fact, there are some key growth areas of the Borough, as identified in the London Plan and forthcoming Greenwich Core Strategy (i.e. Plumstead & Abbeywood and Thamesmead Opportunity Areas / Strategic Development Locations) where the proposed level of CIL will make development unviable. This is likely to threaten the deliverability of development and consequently restrict the ability of the Borough to meet its targets for growth as set out in the

Submission Version of the Core Strategy. It is on this basis that Berkeley Homes objects to the currently proposed CIL charging schedule. Instead, Berkeley Homes is looking to the Council to provide a transparent, clear and fair CIL which will enable the necessary infrastructure to be delivered without compromising housing delivery throughout the Borough. It is in this context that we make the following representations on the PDCS.

The representations set out below are structured as follows:

1. Objection
2. Three Alternative Approaches:
  - a. A viable flat residential rate;
  - b. A two area based approach;
  - c. Setting a zero charge rate;
3. Additional Comments:
  - a. Discretionary relief in exceptional circumstances;
  - b. GLA review of Mayoral CIL.

## 1. Objection

As currently drafted, it is proposed to have a flat rate of £70 per sqm across the whole Borough for residential use. Inclusive of Mayoral CIL (currently set at £35 per sqm in the Royal Borough of Greenwich); this is a total of £105 per sqm of C3 Use Class floorspace.

The PDCS is supported by a Viability Assessment prepared by BNP Paribas. This Assessment clearly explains that the ability of residential schemes to make CIL contributions varies depending on the area and current use of the site. On this basis, the Assessment identifies that nine housing sub-market areas exist within the Borough as illustrated in the map at Figure 1 below:

**Figure 1: Nine housing sub-market areas**





Taking a broad view across their appraisals, BNP consider that residential schemes should be able to absorb a *maximum* CIL rate (including Mayoral CIL) in the following areas as follows:

- Area 1 Plumstead & Abbeywood: £95 per square metre
- Area 2: Thamesmead: £95 per square metre
- Area 3: Woolwich: £120 per square metre
- Area 4: Eltham: £120 per square metre
- Area 5: Kidbrooke: £120 per square metre
- Area 6: Charlton: £190 per square metre
- Area 7: Charlton Riverside: £190 per square metre
- Area 8: Greenwich Riverside & Blackheath: £265 per square metre
- Area 9: Peninsula: £265 per square metre.

Having regard to these variations, BNP conclude that residential schemes should be able to absorb a maximum CIL rate of up to £265 per sqm at the top end and £95 per sqm at the bottom (including Mayoral CIL).

The Department of Communities and Local Government (DCLG) guidance (April 2013) requires that charging authorities do not set their CIL at the margins of viability and recommend that a viability 'buffer' is applied. Accordingly, the Assessment by BNP recommends that a buffer is used to help mitigate against any risk factors unaccounted for in the viability assumptions due to changing circumstances / unforeseen issues e.g. land contamination. Although it is understood that there is no prescribed percentage buffer set in policy guidance, and it is a matter for the charging authorities' judgement. Looking at other Boroughs in London, we understand that these tend to vary from a 25% to 50% reduction from the maximum viable amount.

The table below (Table 1) is one we have created. It firstly compares the maximum amounts of CIL that the nine housing sub-areas are able to absorb, as identified in the Viability Assessment, against the proposed rate of CIL of £105 per sqm (£70 + £35 Mayoral CIL) for residential use class (C3). It secondly, illustrates the percentage difference from the total proposed (excluding Mayoral CIL) against the maximum local CIL amount reasonably viable (excluding Mayoral CIL) - the viability buffer.

Table 1: Proposed CIL rate and area based 'buffer'

Area	Maximum CIL rate as set out in Viability Report per sqm (including Mayoral CIL at £35 per sqm)	Proposed PDSC rate (including Mayoral CIL at £35 per sqm)	Proposed PDSC rate (excluding Mayoral CIL)	Buffer (%) from maximum amount of RBG's CIL
Plumstead and Abbeywood	£95 (£60 + £35)	£105	£70	+16.7%
Thamesmead	£95 (£60 + £35)	£105	£70	+16.7%
Woolwich	£120 (£85 + £35)	£105	£70	-17.6%
Eltham	£120 (£85 + £35)	£105	£70	-17.6%
Kidbrooke	£120 (£85 + £35)	£105	£70	-17.6%
Charlton	£190 (£155 + £35)	£105	£70	-54.8%
Charlton Riverside	£190 (£155 + £35)	£105	£70	-54.8%
Greenwich Riverside & Blackheath	£265 (£230 + £35)	£105	£70	-69.6%
Peninsula	£265 (£230 + £35)	£105	£70	-69.6%



After a quick review, it is immediately evident that the rate currently proposed in Plumstead & Abbeywood and Thamesmead exceeds the maximum amount of CIL considered to be viable in the BNP Assessment. In fact, the Assessment prepared by BNP notes that at £95 (inclusive of mayoral CIL) Thamesmead and Plumstead & Abbeywood areas are considered to be unviable, and it will be other factors that will need to adjust for the schemes to become viable e.g. sales values and build costs. In areas such as Woolwich, Eltham and Kidbrooke, the percentage viability 'buffer' is shown as 17.6% which we would suggest is not sufficient enough to take account of any unknown or risk factors within the development process. We would expect this to be a minimum of 25%. Therefore, setting a flat residential rate at £105 per sqm (including Mayoral CIL) makes these areas either unviable or places them on the margins of viability.

If the proposed rate was adopted, this would act as a serious barrier for growth in these areas and could result in the Borough falling short of Core Strategy / London Plan housing target objectives regarding the defined Opportunity Areas. It is on this basis that our client seeks to object to the proposed £70 per sqm rate for residential development.

## **2. Three Alternative Approaches**

### **A) A viable flat residential rate**

If a flat residential rate approach is the preferred route by the Borough because, for example, it has administrative advantages, our client considers that it must set a rate which is viable for all areas of the Borough (i.e. the 'lowest common denominator').

Using BNP's evidence as set out above, the maximum local CIL rate all developments can viably afford in the Borough is £60 per sqm (£95 including Mayoral CIL at £35 per sqm). In accordance with DCLG guidance, to ensure that no schemes are at the margins of viability, it is necessary to include a reasonable viability buffer. As highlighted above, 25% is considered to be a reasonable and fair viability buffer. On this basis, we propose that the Borough should set a flat rate of no more than £45 per sqm for residential use (i.e. a total of no more than £80 per sqm including Mayoral CIL).

### **B) A two area based approach**

Our client recognises and appreciates that the setting of a CIL rate is a difficult balancing act between raising enough money to provide the necessary infrastructure to enable and support growth, whilst not prohibiting development from coming forward in the first place. On this basis, we recognise that setting a lower flat rate than £70 per sqm for residential use as suggested above may not sufficiently assist in closing the infrastructure funding gap. In addition, there will be some areas that could viably afford to provide a greater contribution towards infrastructure requirements, and therefore there is a lost opportunity for the Borough. An alternative to (A) above is that the Borough could decide to take an area based approach, where it charges certain areas a lower amount and others a higher one. We set out our recommendations on a two area based approach below.

Looking at Table 1 again, it is evident that Woolwich, Eltham and Kidbrooke have a viability buffer of only 17.6%, whilst Charlton and Charlton Riverside and Greenwich Riverside & Blackheath and Peninsula have much higher buffers of 54.8% and 69.6% respectively. As Plumstead & Abbeywood and Thamesmead exceed the maximum amount of CIL considered to be viable, these areas actually have a percentage increase, as opposed to a reduction. This illustrates that these schemes are approximately 17% above their maximum viable CIL level. On this basis, from the proposed figures, only Charlton and Charlton Riverside have a reasonably appropriate level of viability buffer (based on a 25% - 50% average being suitable as highlighted above), with the majority of areas not being provided with enough leverage for unknown factors. The exceptions to this are however Greenwich Riverside & Blackheath and Peninsula, where it could be considered that too much leverage is being provided, and schemes in these areas could viably afford much more CIL; helping the Borough to reduce the funding gap further.

Taking account of the information on maximum CIL rates assessed in the preceding section and the above analysis on buffers, there appears to be a natural split of the nine housing sub-market areas into two distinct groups (as illustrated in Figure 2 below). This split is in fact identified in the BNP Viability Assessment as a possible approach to the charging schedule where the Peninsula, Greenwich Riverside & Blackheath, Charlton Riverside and Charlton are combined into one charging area (Zone A); and Woolwich, Eltham, Kidbrooke, Thamesmead and Plumstead & Abbeywood into another (Zone B).

Based on the ability to pay, our client considers that the Borough could conceivably charge one (higher) rate for Zone A and one (lower) rate to Zone B, to take account of the different financial viabilities of these areas. When setting a charge, it is important to remember that any proposed 'grouping' would again need to have regard to the lowest value in each area and apply a reasonable viability buffer.

Based on the findings set out in the BNP Viability Assessment, we propose that in this instance, the Borough could charge the following rates for residential use:

**Table 2: Proposed CIL rates for two areas**

Zone	RBG CIL Rate (£ per sqm)	CIL Rate including Mayoral CIL (£ per sqm)
<b>Zone A</b> (Including: Charlton, Charlton Riverside, Greenwich & Blackheath and Peninsula)	£116	£151
<b>Zone B</b> (Including: Plumstead & Abbeywood, Thamesmead, Woolwich, Eltham and Kidbrooke)	£45	£80
<i>N.B. Assumes a 25% minimum buffer on the lowest common denominator in each zone (excluding Mayoral CIL), but does not exceed 50% for the higher values areas.</i>		



**Figure: 2**

This methodology would have an average per sqm residential rate of approximately £80 across the whole of the Borough, which exceeds the currently proposed rate of £70 per sqm. Importantly, this could be a balanced and fair approach to assist the Council in bridging its funding gap for necessary infrastructure to be delivered, without compromising the delivery of development (i.e. not overburdened with financial obligations). We strongly urge that the Borough consider this as an alternative approach to setting their CIL for residential use.



### C) Setting a zero charge rate

Whilst the recommendations identified above regarding a flat residential rate of £45 per sqm or a two area based approach are strongly preferred to the suggested PDCS flat rate of £70 per sqm for residential use, our client considers that both the alternative options could still potentially impede Greenwich's objectives for housing delivery in key growth areas, notably in the defined Opportunity Areas and Strategic Development Locations on the margins of viability such as Abbeywood, Thamesmead, Kidbrooke and Woolwich Development Areas. An alternative strategy in order to fully take account of the need for regeneration in key areas is to apply a zero charge for residential use in certain areas such as these.

A zero charge approach has been adopted by the London Borough of Croydon, where in the defined 'Croydon Metropolitan Centre' no charge is set for residential use. This has also been adopted in the London Borough of Wandsworth, where all development (including residential use) in the 'Roehampton Charging Area' has a zero charge. This was justified by Wandsworth on the basis that Roehampton has been identified in the Core Strategy as an area requiring comprehensive regeneration. Furthermore, rather than just to meet growth, the area requires a high level of infrastructure provision to remedy existing deficiencies. Ultimately, the level of on-site infrastructure required in Roehampton, and lower than average property values in the area, indicated that proposals were likely to be unviable if they were charged the same rate of CIL as the rest of the Borough.

We suggest that a similar approach could be considered in the Royal Borough of Greenwich, with defined areas within Thamesmead, Plumstead & Abbeywood, Woolwich and Kidbrooke all with a residential charge set at zero with the option to review at such a time that the need for compressive regeneration has subsided. All areas of Eltham would be excluded from this zero rate for residential use, because it does not include an identified regeneration area. Existing boundaries could be utilised, for example the Kidbrooke Development Area and Woolwich SPD red line boundaries. This approach would ensure that vital residential regeneration and estate renewal could take place without the risk of being financially unviable. As such, our client seeks that the Borough considers this as an alternative option to either (A) or (B) above.

Based on the above, we propose that in this instance, the Borough could charge the following rates for residential use:

**Table 3: Proposed CIL rates including a zero charge**

Areas	RBG CIL Rate (£ per sqm)	CIL Rate including Mayoral CIL (£ per sqm)
<b>Zero Charge Areas</b> (Specific redline boundaries drawn for growth areas on the margins of viability within Thamesmead, Plumstead & Abbeywood, Woolwich and Kidbrooke)	£0	£35
<b>Zone 1</b> (Plumstead & Abbeywood and Thamesmead excluding zero charge area boundaries)	£45	£80
<b>Zone 2</b> (Kidbrooke and Woolwich excluding zero charge area boundaries and Eltham)	£64	£99
<b>Zone 3</b> (Charlton and Charlton Riverside)	£116	£151
<b>Zone 4</b> (Greenwich Riverside & Blackheath and Peninsula)	£173	£208



This methodology would have an average per sqm residential rate of approximately £80 across the whole of the Borough, which exceeds the currently proposed rate of £70 per sqm. This could be another balanced and fair approach to assist the Council in bridging its funding gap for necessary infrastructure to be delivered, without compromising development (i.e. not over burdened with financial obligations). We strongly recommend that the Borough consider this as an alternative approach to setting their CIL for residential use.

### 3. Additional Comments

Whichever approach is taken for the proposed residential rate, our client has two additional comments which they strongly urge that the Borough take on board and include in the Draft CIL Charging Schedule. These are set out below:

#### A) Discretionary relief in exceptional circumstances

It is noted at Point 6.3 of the PDCS that the Council does not expect to implement any discretionary exemptions in the Borough. Our client strongly objects to this position.

Regulation 55 of the CIL Regs 2010 (as amended) states:

55.

*(1) A charging authority may grant relief ("relief for exceptional circumstances") from liability to pay CIL in respect of a chargeable development (D) if —*

- a) it appears to the charging authority that there are exceptional circumstances which justify doing so; and*
- b) the charging authority considers it expedient to do so.*

*(2) Paragraph (1) is subject to the following provisions of this regulation.*

*(3) A charging authority may only grant relief for exceptional circumstances if—*

- a) it has made relief for exceptional circumstances available in its area;*
- b) a planning obligation under section 106 of TCPA 1990(b) has been entered into in respect of the planning permission which permits D; and*

*(c) the charging authority—*

- i. considers that the cost of complying with the planning obligation is greater than the chargeable amount payable in respect of D,*
- ii. considers that to require payment of the CIL charged by it in respect of D would have an unacceptable impact on the economic viability of D, and*
- iii. is satisfied that to grant relief would not constitute a State aid which is required to be notified to and approved by the European Commission.*

The Council's rationale for not making relief available in accordance with the above regulations is unclear and has not been justified in any of the published information or supporting documents. In the event that a required CIL payment could render a development scheme financially unviable, and to take account of changing circumstances and/or exceptional cases, our client considers that the Council should seriously reconsider the decision not to grant relief from liability to pay CIL in respect of a chargeable development.

This relief could be particularly relevant in very large regeneration schemes such as Kildbrooke and Royal Arsenal where they have existing S.106 Agreements with very significant planning obligations associated with estate regeneration and Crossrail respectively, which should be considered in the context of any chargeable amount payable due to CIL. We consider that the Royal Borough of Greenwich should follow the approach set by the London Borough of Brent and Barnet (two of the

seven London Boroughs' who have successfully adopted their CIL) who have issued statements notifying exceptional circumstances relief (copy enclosed). Consequently, we consider that the Council should issue a statement in accordance with Regulation 56 of the CIL Regulations 2010 (as amended) to allow exceptional circumstances relief.

**B) GLA review of Mayoral CIL**

Finally, we note that as part of the adopted London Charging Schedule, the Mayor will be undertaking a review on his CIL this coming spring (expected March/April 2014). During this time the GLA and TfL will assess the success of the levy to date. It is reasonable to expect that this review could lead to a potential alteration (likely to be an increase) in the proposed level of Mayoral CIL (currently set at £20, £35 and £50 dependent on area). We note that the BNP Viability Assessment correctly factors in the current Mayoral CIL rate for Greenwich at £35 per sqm. However, as this rate is subject to change, we urge that the Borough does not publish their Draft CIL Charging Schedule until the Mayor has completed his review, in order to ensure the correct rate has been assessed in the Viability Assessment.

We look forward to receiving confirmation that these representations have been received and we would be grateful if you could keep us informed of future opportunities to comment further on the Draft CIL Charging Schedule and attend the Examination in Public.

We hope the above representations are useful and we would be more than happy to discuss these alternative approaches with you in further detail if this would be of assistance.

In the meantime, if you have any queries or require any further information please do not hesitate to contact the writer at this office.

Yours sincerely



**BOB MCCURRY**  
Director

cc: John Anderson, Chairman - Berkeley Homes  
Tobin Rickets, Development Director - Berkeley Homes  
Tudor Jones, Planner - Barton Willmore

Enc. London Borough of Brent and Barnet Exceptional Circumstances Relief Notices.

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