

ROYAL BOROUGH OF GREENWICH

COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE EXAMINATION

Main issues and questions for the Examination

Main Issues for consideration by the Examiner

- A. *Has the Charging Authority complied with the procedural requirements in the 2008 Act (Part 11 and section 221), the 2010 Community Infrastructure Regulations (as amended) and the 2012 CIL amending Regulations?*
- B. *Is the CIL charging schedule supported by appropriate available evidence on infrastructure planning and economic viability?*
- C. *Are the proposed CIL charging rates informed by and consistent with the evidence?*
- D. *Does the evidence show that the proposed CIL charging rates would not put at risk the overall development of the area? Has an appropriate balance been struck between helping to fund the new infrastructure required and the potential effects of the levy on the economic viability of development across the borough?*

Questions for the Examination

Royal Borough of Greenwich responses to questions

Residential rates

Overall question: Does the evidence show that the proposed single residential levy rate of £70/sqm would not put at risk the overall development of the borough and the delivery of the Royal Greenwich Local Plan? Does it strike an 'appropriate balance'? In particular, how will it affect development viability in areas of lower land value and higher infrastructure cost?

Response: The detailed responses to the specific questions on residential rates below clearly show that the Royal Borough's proposed charging rate of £70psm for residential development has struck an appropriate balance by providing competitive returns to land owners and developers in line with the National Planning Policy Framework (NPPF) whilst also addressing the infrastructure funding gap in Royal Greenwich. The rate ensures that the delivery of the growth objectives set out in the *Royal Greenwich Local Plan: Core Strategy with Detailed Policies [LSD1]* (hereinafter referred to as the 'Local Plan' or the 'Core Strategy') are not at risk, that development coming forward as identified in the Core Strategy housing trajectory will continue to be viable even with a CIL in place.

It is not always the case that areas with higher infrastructure costs are where sales values are lower; this also occurs where they are high, such as on the Greenwich Peninsula. Even areas with lower house sales values will be able to absorb a CIL rate of £70psm, and a single residential rate across Royal Greenwich is easy to understand and implement.

Specific questions

1. In the light of the conclusion in the BNPPRE Viability Appraisal that residential schemes in Royal Greenwich should be able to absorb CIL rates of between £95/sqm and £265/sqm across different areas of the borough, is the proposed single rate of £70/sqm for residential development appropriate?

Response: The £70psm single rate for residential development in Royal Greenwich does seem a modest amount, particularly for London and the South East. However, the Royal Borough considers that this rate is viable for most types of residential development across Royal Greenwich and will not act as an obstacle preventing development proposals from coming forward.

It is true that some parts of Royal Greenwich would be able to absorb higher CIL rates; however the unique circumstances of each strategic development location in Royal Greenwich needs to be considered. For example, on the Greenwich Peninsula and where the CIL rate could be higher, there is a need for more site specific infrastructure that is likely to be delivered through s106 agreements. Indeed, the s106 agreement secured for the Greenwich Peninsula outline planning permission has delivered infrastructure in an area of Royal Greenwich that was effectively derelict 20 years ago as the phased developed has progressed.

The Charlton Riverside area, another sustainable development location that could have a higher CIL rate, has been recently released from a strategic industrial land designation, and is in need of significant infrastructure investment that is likely to be delivered on sites within the area. As a consequence, setting a high CIL rate could prevent development coming forward in this area. A higher CIL rate in other areas where it could be absorbed, such as Blackheath, Eltham and Charlton, would have little impact as it is not anticipated that these areas will deliver significant amounts of new housing over the life of the Core Strategy.

Setting a lower CIL rate allows the most residential development of all types to come forward in Royal Greenwich, including the key sustainable development locations of Woolwich and Kidbrooke. In addition, this rate allows different types of housing to come forward, such as retirement/sheltered housing, which the viability assessment recommends at £70psm, allowing for a buffer.

Given that the proposed £70 is the most appropriate for the majority of Royal Greenwich, then there would need to be more than a single residential rate if the more viable areas were allocated a higher rate. Setting differential rates would mean defining rate boundaries, and any boundary would have to be based on robust viability evidence. It would inevitably involve developments on one side of the selected boundary street being placed in a different charging zone from developments on the other side of the same street even though sales prices at that point were essentially identical.

Although house sales prices are higher “on average” in Greenwich, Blackheath, the Peninsula and Charlton, there are pockets of relatively high sales prices in Eltham, Kidbrooke, and in Woolwich, particularly in the Woolwich Arsenal redevelopment. Conversely, there are pockets of relatively low prices in parts of Charlton, and East Greenwich, and even in Greenwich and Blackheath, where there are housing estates in need of regeneration. If more than one residential rate were to be proposed, then determining the boundary between changing rates could prove divisive, with it difficult to justify at the point where the actual boundary was drawn and may lead to objections by people who felt that they were being unfairly caught on the wrong side of the boundary.

The Royal Borough believes that these locally specific considerations strongly outweigh the marginal financial benefit of departing from a single, simple and easily understood and implemented residential CIL rate. A charge of £70psm is the right rate to set for residential development in Royal Greenwich, striking an appropriate balance between raising money from CIL to deliver much needed infrastructure to support development in Royal Greenwich whilst not putting development across the charging authority area at risk. The Royal Borough of Greenwich has the third highest housing target of all London boroughs, and this ambitious amount of growth is set out in the Core Strategy. Setting a modest CIL charging rate ensures that this key priority is deliverable.

2. In the light of BNPPRE Viability Appraisal finding that most residential development in Thamesmead, Plumstead and Abbey Wood is not viable, is the maximum CIL rate of £95/sqm for these areas indicated by the VA supported by the evidence?

Response: As identified in the Viability Assessment prepared by BNP Paribas Real Estate (BNPPRE), the Thamesmead, Plumstead and Abbey Wood areas are identified as being largely unviable. However typology 1, which is below the affordable housing threshold, identifies viability on benchmark land values 3 and 4. On this basis the £95psm is not a maximum viable CIL rate, it is a suggested maximum rate for these areas, based on the recommendation of a maximum nominal borough rate plus mayoral CIL of £35 per square metre.

The Royal Borough has adopted a single rate approach for residential development and this is permitted by the CIL Regulations 2010 (as amended) and statutory National Planning Practice Guidance (NPPG). The Royal Borough considers that the £70 rate for residential development strikes an appropriate balance by providing competitive returns to land owners and developers in line with the NPPF whilst also addressing the infrastructure funding gap in Royal Greenwich. As the appraisals have demonstrated, it is not CIL that is making the developments unviable and it is very likely that some areas would be unviable even if a zero CIL were adopted and as such it will be other factors i.e. sales values and building costs that will need to adjust for the scheme to become viable, as noted in the viability report.

Does the evidence support the need for a lower or zero rate for residential development in Thamesmead, Plumstead and Abbey Wood?

Response: With regard to the Thamesmead, Plumstead and Abbey Wood areas it should be noted that it is not CIL that is making development unviable. It is very likely that

some areas would be unviable even if a zero CIL rate were adopted and as such it will be other factors i.e. sales values and building costs that will need to adjust for the scheme to become viable, as noted in the viability report.

The London Borough of Newham's CIL Examiner identified in his report¹ that, *'if a scheme is not viable before CIL is levied it is unlikely to come forward and CIL is, therefore, unlikely to be a material consideration in any development decision'*. This is particularly pertinent in Royal Greenwich, where should a development come forward, the CIL charges proposed are of a reasonably nominal level by comparison to other build costs such that they are unlikely to have an impact on a developer's decision making as to whether to bring forward a development or not.

It is also worth noting that CIL is not a wholly new charge; it will replace the majority of S106 and S278 contributions previously required. It would be unreasonable to expect developments not to contribute towards the delivery of necessary infrastructure required to support the growth envisaged by the Core Strategy and without such infrastructure development would not be sustainable. In this regard the Royal Borough considers that it has struck an appropriate balance between needing to raise money to fund infrastructure whilst not putting the delivery of their local plan at risk, as required by Regulation 14.

The NPPG identifies that charging authorities do not have to set a nil rate, they can set a low rate (Paragraph: 021 Reference ID: 25-021-20140612). It is the charging authority's prerogative to establish the appropriate balance between raising money from CIL to deliver much needed infrastructure to support development in their area and not putting development across the charging authority area at risk. In this regard it is noted that the NPPG identifies that 'there is no requirement for a proposed rate to exactly mirror the evidence... There is room for some pragmatism.' (Paragraph: 019 Reference ID: 25-019-20140612)

The rate proposed for residential development in Royal Greenwich is of a nominal level in consideration of all other development costs. In this regard the CIL charge proposed is unlikely to be the determining factor in relation to viability and unlikely to have an impact on a developer's decision making as to whether to bring forward a development or not. The proposed charges equate to no more than 2.69% and in most cases below 2% of scheme costs for residential uses. A CIL charge of this level is hardly likely to threaten the delivery of the Core Strategy, particularly as CIL is not an entirely new charge. It is important also to note that respondents have not provided any evidence that would demonstrate that a cost that amounts to no more than 2.69% of development costs would threaten the economic viability of development across Royal Greenwich, and therefore, the delivery of the Local Plan.

Within the strategic growth locations of Woolwich and Kidbrooke, does the available evidence indicate the need for a lower CIL rate than £70/sqm to take account of higher on-site infrastructure costs?

Response: What evidence of higher on-site infrastructure costs is the Examiner referring to? The Woolwich strategic development location is a London Plan designated

¹ [London Borough of Newham Examiner's CIL Report](#)

Major Town Centre with an aspiration in both the Local Plan and the London Plan to develop into a Metropolitan Centre. Woolwich Town Centre already has a wide range of infrastructure, and it is unlikely that any on-site infrastructure costs would be higher than elsewhere in Royal Greenwich. The London Plan states that:

“In outer and inner London, town centres are the most accessible locations on the public transport system and the centres of their communities. They are key locations for a diverse range of activities, including retail, leisure and office space as well as housing, social infrastructure and public open space. They are also key nodes for more effective land use and transport integration, enabling intensification...” (Para 2.70)

The Kidbrooke strategic development location is a designated London Plan Intensification Area, which are ‘typically built-up areas with good existing or potential public transport accessibility that can support redevelopment at higher densities.’ (Para 2.58 of the London Plan) Again, as for Woolwich, it is unlikely that this area would have higher on-site infrastructure costs than any other part of Royal Greenwich.

What effect would setting a lower or zero rate for these areas have on the delivery of development and infrastructure across the borough?

Response: The CIL charge referred to amounts to an average across the schemes tested in the study in this area of 1.99% of development costs in Woolwich and 1.78% of development costs in Kidbrooke. This level of cost is unlikely to play a major part in a developer’s decision making. However in contrast the CIL collected in these areas would contribute to the funding gap and therefore would play an important role in the Royal Borough’s ability to deliver infrastructure to support the developments and growth in Royal Greenwich envisaged by the Core Strategy. Viewed in this light the Examiner can see that the requirement in regulation 14 to strike an appropriate balance has been carefully considered. Again it should be highlighted that the proposed CIL charge is not an entirely new charge – it replaces a large majority of the current s106 requirements.

3. What proportion of the borough’s future housing land supply is made up of the types of sites represented by the Benchmark Land Values that the BNPPRE Viability Appraisal concludes would be viable with CIL?

Response: The future housing land supply for Royal Greenwich, which is set out in Appendix 9 of the Core Strategy, includes sites with the potential capacity to deliver a mix of housing types and sizes within appropriate densities as set out in the London Plan. The sites range from approximately 40 units, to 5,000 units per development. This range of sites is reflected within the typologies tested by BNPPRE.

A direct comparison is to consider that types 3 to 6, as described in paragraphs 4.14 to 4.17 of BNPPRE’s Viability Assessment, are covered within the list of sites in the housing trajectory, whilst site types 1 and 2 as described in paragraphs 4.12 and 4.13 are sites covered within the small sites allowance. Therefore, the entire proportion of future housing land supply is represented in the BNPPRE Viability Assessment.

4. Does the evidence demonstrate that the buffer between the maximum viable CIL rates identified in the BNPPRE Viability appraisal and the proposed rate

of £70/sqm is enough to allow viable residential development across the borough?

Response: There is no prescribed level of buffer that a charging authority is required to adopt; this is entirely a matter for the charging authority's judgement when striking the appropriate balance. The NPPG simply requires the CIL charge not to be set at the margins of viability (Paragraph: 019 Reference ID: 25-019-20140612). Given that the Royal Borough has adopted a reasonable buffer and that the rates proposed are of such a nominal level that they are unlikely to impact on the deliverability of schemes, it is considered that an appropriate balance has been struck, as required by regulation 14.

It should be noted that the rate for the Thamesmead and Abbey Wood and Plumstead areas is not a maximum viable rate, as these areas are identified as being largely unviable. Rather, the rates are a maximum nominal rate suggested by BNPPRE, i.e. at this level it is considered that the rate would not have an impact on a developer's decision making as it is such a small percentage of development costs. In this regard there is no need for a buffer as the rate is simply set at a nominal rate. Table I below sets out information on the CIL rates and buffers for Royal Greenwich. In BNPPRE's experience charging authorities have adopted a buffer of between 20% - 50% from maximum rates.

Table I Information on CIL rates and buffers

Area	Max CIL inclusive of Mayoral CIL	Max Borough CIL	Buffer 25%	Buffer 20%	Actual buffer
Area 1 Plumstead and Abbey Wood	£95	£60	£60	£60	N/A
Area 2: Thamesmead	£95	£60	£60	£60	N/A
Area 3: Woolwich	£120	£85	£64	£68	18%
Area 4: Eltham	£120	£85	£64	£68	18%
Area 5: Kidbrooke	£120	£85	£64	£68	18%
Area 6: Charlton	£190	£155	£116	£124	55%
Area 7: Charlton Riverside	£190	£155	£116	£124	55%
Area 8: Greenwich Riverside and Blackheath	£265	£230	£173	£184	70%
Area 9: Greenwich Peninsula	£265	£230	£173	£184	70%

5. How will the proposed rate of £70/sqm affect the delivery of the affordable housing target of the Core Strategy?

Response: As identified above CIL should not be regarded simply as a cost on top of current development costs. S106 contributions are to be scaled back from April 2015 and CIL is replacing a s106 charge that was previously sought on sites, the only difference being that this element would no longer be negotiable and taking a practical view of the viability position of sites, going forward other policies may need to flex to accommodate this in certain circumstances, including a reduced affordable housing provision based on overall scheme viability.

It is noted that not all sites in Royal Greenwich are capable of delivering the full policy levels of affordable housing at a minimum of 35% and this is the Royal Borough's experience on the ground. In this regard it is useful to highlight that the CIL Examiner's report for the London Borough of Newham's CIL Charging Schedule acknowledged at Paras 15 and 16 that:

'The Core Strategy was adopted in January 2012. Policy H2 was supported by an Affordable Housing Economic Viability Study and seeks the provision of 35 to 50% affordable housing on sites with a capacity of 10 units or more. However, the Council concede that, at present, the majority of new schemes are unable to deliver affordable housing at the level required by Policy H2. According to the Viability Study, at 35% affordable housing, most sites are not viable regardless of CIL.

As stated in the Viability Study, if a scheme is not viable before CIL is levied it is unlikely to come forward and CIL is, therefore, unlikely to be a material consideration in any development decision. Consequently, the Viability Study, sensibly in my view, did not factor in unviable schemes in recommending appropriate rates. The Viability Study is based on 35% provision of affordable housing.'

In BNPPRE's experience the proposed £70 per square meter residential CIL rate will be a marginal factor in a scheme's viability with an opportunity cost of circa 4% affordable housing, deliverable between £70psm and £0psm CIL charge. The quantum of affordable housing delivered on a site has a much greater impact on viability. In light of this, even in setting a nil rate of CIL would not ensure that the Royal Borough achieves its target level of at least 35% affordable housing on every site in Royal Greenwich.

Further, this approach would also not strike an appropriate balance between the delivery of development and the provision of infrastructure to support the growth envisaged in the adopted and emerging Local Plan. The delivery of affordable housing in a local authority area is based on all sites delivering the maximum possible amount of affordable housing. This means that delivery of affordable housing on some sites will exceed the target, including 100%, whilst others will only be able to support levels lower than the target. This is due to all sites having different viability characteristics, and as such the ability to deliver affordable housing will differ from site to site and potentially even from scheme to scheme on a particular site.

What evidence is there to indicate that the type of sites which the BNPPRE Viability Appraisal identifies as viable for both affordable housing and CIL are available in the borough to come forward in future?

Response: It is a policy requirement of the Royal Greenwich Local Plan that developments of 10 or more units should contribute towards affordable housing. It is expected, as set out in policy H3 of the Core Strategy that 35% of units should be affordable, and this has been taken into account within the assessments of the BNPPRE viability study.

The types of sites tested in the BNPPRE Viability Assessment reflect the sites identified in the Royal Borough's housing trajectory (Appendix 9 of the Core Strategy) that are expected to come forward in Royal Greenwich for future development. These sites range in size

from 40 to 5,000 units and would therefore be above the 10 unit threshold whereby developments are expected to contribute to affordable housing.

Retail and Commercial Rates

Overall question: Does the evidence support the proposed retail levy rate of £100/sqm for supermarkets, superstore and retail warehouses? Does it strike an 'appropriate balance'? Would it put at risk the delivery of commercial development across the borough?

Response: A CIL rate of £100psm, for large supermarkets/superstores and retail warehouses, is considered by the Royal Borough to be appropriate and the detailed responses in the questions below support this conclusion. The sensitivity test in the viability appraisals (Appraisal 5) at a reduced yield of 5.75% reflect a maximum CIL of between £96 per square metre and £451 per square metre, dependant on the size of the store (which has impacts on the build costs and the current use value). In this regard a CIL rate of £100 per sqm is supported by the evidence and would not put at risk the delivery of this type of development across Royal Greenwich.

Specific questions:

6. Is the zero CIL rate proposed for all other A1-A5 developments supported by the evidence? Would it give rise to selective assistance?

Response: To a degree, A1-A5 development for all retail uses other than large supermarkets/superstores and retail warehouses will involve the re-use of existing retail space, which will not be CIL liable. The BNPPRE Viability Assessment does show that for all other new (CIL liable) retail development, a few key locations in Royal Greenwich could absorb a CIL charge. Outside of these prime locations however, the evidence suggests that a nil rate would be appropriate and this would mean that a differential rate would need to be set. Similar to the reasons for setting a single residential rate, the Royal Borough believes that setting boundaries for a differential charge for all other A1-A5 development could be divisive and potentially prevent retail development from coming forward.

7. What viability evidence is there to support 929 sqm as the minimum threshold at which retail schemes would viably support a CIL of £100/sqm?

Response: The 929sqm threshold is not a threshold proposed by the Royal Borough and was not a threshold tested in the BNPPRE Viability Assessment. MDA Associates, on behalf of Aberdeen Asset Management [REPI] and also on behalf of Greenwich Shopping Park Unit [REPI0], suggest in their representations that the threshold should be increased from 280sqm for retail development to 929sqm. Their representation states that:

'It is generally acknowledged that town centres accommodate for units of up to 929sqm. As such by increasing the minimum level of floor space at which CIL comes into effect will ensure that the future town centre development is not prejudiced in any centre within the borough.'

No evidence has been submitted by MDA associates to support the 929sqm threshold they have proposed.

8. What evidence is there to indicate that the proposed rate of £100/sqm will negatively affect the viability of large operators?

Response: There is no evidence to indicate this. BNPPRE's appraisal of such schemes is conservative with respect to the yield adopted. The sensitivity test in the viability appraisals (Appraisal 5) at a reduced yield of 5.75% reflect a maximum CIL of between £96 per square metre and £451 per square metre, dependant on the size of the store (which has impacts on the build costs and the current use value). In this regard a CIL rate of £100 per sqm is highly unlikely to negatively affect the viability of large operators.

9. Does the evidence support and do the CIL regulations allow the exclusion of ancillary car parking from the calculation of chargeable floorspace for retail developments on viability grounds?

Response: It is up to the Royal Borough to decide what type of development will be CIL liable and what rate or rates will be charges, within the scope of CIL legislation. In this instance of the exclusion of retail ancillary car parking from CIL, the Royal Borough has considered the evidence set out in the representation made by CgMs on behalf of IKEA and has proposed a modification to the draft charging schedule in order to clarify there is a nil charge for this type of development. This is supported by the retail appraisal of large supermarkets/superstores and retail warehouses in the BNPPRE Viability Assessment.

The Greater London Authority (GLA) and Transport for London (TfL) have made a representation to the proposed modification objecting to the wording of the exclusion in the draft charging schedule, concerned that it was not consistent with the CIL Regulations. A statement of common ground has been agreed between the Royal Borough and the GLA/TfL, with an amended draft charging schedule, to ensure that the exclusion makes clear that the retail ancillary car parking is zero rated.

General

Overall question: How do the policies for residual S106/S278 obligations, exceptional relief and payment of CIL by instalments affect the economic viability of development across the borough?

Response: The Royal Borough has considered the discretionary policies set out by CIL legislation and has determined to offer CIL payments by instalments and also for developers to apply for exceptional relief. In addition, the Royal Borough is revising and updating its Planning Obligations supplementary planning document (SPD) to adopt alongside a CIL charging schedule, to provide clear guidance on matters that will be addressed through s106 agreements. These policies have been carefully considered and are being put in place to ensure that development across Royal Greenwich remains viable and not put at risk, and that there is no possibility of a developer being charged twice for the same infrastructure. The detailed responses to the questions below provide further information.

In addition, planning permissions may also be implemented in phases (if agreed with the Royal Borough, although likely to be applicable to larger applications), in which case charges may be payable over an extended period of time. Each phase would be treated as a separate chargeable development, to which the Royal Borough's instalments policy would

then apply, thereby allowing a further extension to the timing of payments. The NPPG identifies that;

'this is expected to be especially useful for large scale, locally planned development, which is an essential element of increasing housing supply. Large scale developments which are delivered over a number of years face particular issues in relation to cash flow and the delivery of on-site infrastructure. The regulations allow for both detailed and outline permissions (and therefore 'hybrid' permissions as well) to be treated as phased developments for the purposes of the levy. This means that each phase would be a separate chargeable development and therefore liable for payment in line with any instalment policy that may be in force. The principle of phased delivery must be apparent from the planning permission. Local authorities should work positively with developers to allow such developments to be delivered in phases.' (Paragraph: 056 Reference ID: 25-056-20140612)

Specific questions:

10. Is the assumption in the BNPPRE Viability Appraisal of £1000/unit to address residual s278/s106 costs for residential development and £5/sqft for commercial development realistic and supported by evidence?

Response: BNPPRE's appraisals incorporate an allowance of £1,000 per unit for residential schemes and £5/sqft (£53.82/sqm) for residual s278 and residual s106 costs. As identified in the viability report, this figure is considered to be a reasonable proxy for likely sums to be sought after CIL is adopted.

The figure adopted is broadly in line with those adopted by many other London boroughs which have already been through Examination and is regarded as reasonable for testing purposes and incorporates an appropriate top-up to account for factors specific to Royal Greenwich. Once CIL is adopted, s106 contributions will remain negotiable and in this regard there is scope for these to flex according to viability.

As identified in the Royal Borough's responses to representations to the draft charging schedule (see [CE7] Viability evidence on retail floor space), the £5 per square foot allowance has been informed by analysis undertaken by the Royal Borough of actual retail schemes determined within Royal Greenwich. This looked at the s106 and s278 items that will remain as residual at the earlier of April 2015 or once the Royal Borough adopts its CIL Charging Schedule. This has then been further analysed to identify what level of residual contributions would be required from these schemes on a per square metre of the proposed floor space basis (in-line with the approach in BNPPRE's viability appraisals).

This identifies an average residual S106 of £2.92 per sq ft (£31.44 per sqm), with the highest requirement being £6.78 per sq ft (£73 per sqm) and the lowest £0.46 per sq ft (£5 per sqm). BNPPRE have adopted £53.832 per sqm (£5 per sq ft), higher than the average residual S106 and S278 identified and higher than all but one of the schemes. Considering that residual contributions will be site and scheme specific it is difficult to identify an accurate figure, however considering this evidence the allowance for residual s106 on such schemes is considered to be reasonable.

BNPPRE would also highlight that at paragraph 18 of his Report² on the London Borough of Merton's CIL Draft Charging Schedule, the Examiner identified that:

'A significant assumption made for the inputs for all the retail types is that after the CIL is introduced, section 106 costs would be zero. This does not so much reflect an expectation that this would be the case, but more the difficulty of judging an appropriate input when S106 costs for site-specific works (such as highway access) would be likely to vary considerably from site-to-site. Assuming a fixed sum for S106 costs where circumstances vary widely would be no more accurate than the working assumption of zero costs. The approach is a reasonable choice in the circumstances, subject to a sufficient buffer in the overall assessment of viability'

11. What further clarification can be provided from the emerging Planning Obligations SPD and the Reg 123 list that there will be no double dipping for infrastructure contributions from future S106 agreements and CIL?

Response: In terms of developer contributions, CIL has not wholly replaced s106 agreements; rather, the introduction of CIL resulted in a tightening up of the s106 tests. S106 agreements, in terms of developer contributions, should be focused on addressing the specific mitigation required by a new development. CIL has been developed to address the broader impacts of development. There should be no circumstances where a developer is paying CIL and s106 for the same infrastructure in relation to the same development.

The legal tests for when an s106 agreement can be used are set out in regulation 122 and 123 of the CIL Regulations (as amended). The tests are:

- 1) necessary to make the development acceptable in planning terms
- 2) directly related to the development; and
- 3) fairly and reasonably related in scale and kind to the development.

It is considered that, once a local CIL is in place, the developer contributions sought to be secured through use of the Planning Obligations SPD will meet all three of these legal tests and that the developer will not be charged twice for the same infrastructure.

As part of the process of adopting a local CIL, the Royal Borough has set out those items that will be subject to s106 agreements, and those that will be covered by CIL within the Regulation 123 List. The government's main concern is to ensure that CIL charging authorities do not charge twice for the same item. The NPPG states:

"When a charging authority introduces the levy, section 106 requirements should be scaled back to those matters that are directly related to a specific site, and are not set out in a regulation 123 list...The charging authority's proposed approach to section 106 contributions should be set out at examination and should be based on evidence. Where a regulation 123 list includes project-specific infrastructure, the charging authority should not seek any planning obligations in relation to that infrastructure." (Paragraph: 097 Reference ID: 25-097-20140612)

² [LB Merton examiner's CIL report](#)

It is considered that the Draft Planning Obligations SPD and the Regulation 123 Draft Infrastructure List clearly set out how infrastructure will be funded, ensuring that no ‘double dipping’ occurs. The following two tables set out the matters to be delivered through s106 and regulation 123, respectively.

Table 2 Residual site specific contributions delivered through s106 agreements

Matters to be delivered through section 106 agreements
Affordable housing
Non-strategic transport matters (including but not limited to) site-specific matters needed to make developments acceptable in planning terms
Greenwich local labour and business
Professional, legal and monitoring fees

Table 3 Infrastructure delivered through CIL

Regulation 123 draft infrastructure list
Transport (excepting site specific matters needed to make the development acceptable in planning terms.
Waste
Decentralised energy
Information and communications technology
Water and drainage
Non site specific flood defences
Education
Health and social services
Emergency services and public safety
Local and social community facilities including libraries, sports and leisure facilities
Burial provision and crematoria
Open space and public realm including town centre improvements and public art
Environmental protection

12. How would the Council’s proposed instalments policy affect the viability of developments?

Response: The Royal Borough’s instalments policy is generous and will allow developers to spread the cost of development more effectively assisting with viability and delivery in line with paragraph 055 of the NPPG.

The BNPPRE Viability Assessment takes account of the fact that developments are likely to pay by instalments. It has been assumed that residential developments are due in three instalments with the exception of typology I which is in two payments. The viability assessment assumes that payments are to be made in equal instalments. The Royal

Borough's instalments policy allows for four instalments for developments where liability is £500,000 or more, which is more flexible than the assumptions used in the viability study and further spreads the costs for developers.

Does the evidence indicate that the alternative staging of payments proposed by Linden/Noalong or instalments paid on implementation of projects, as proposed by the Peabody Group, would have a significant effect on development viability?

Response: BNPPRE have re-run the appraisals for site types 3 and 4 with CIL as an upfront cost (i.e. no phasing of payments) and have compared the maximum CIL rates generated in these new appraisals to those with assumed CIL instalments. The results show that for the majority of schemes there is no change to the viable maximum CIL rate band tested originally and with a few exceptions they remain well above the actual rate of £70 per sqm.

It is important to note, that in addition to the instalments policy, the CIL regulations (2014 amendment) allows developers to pay CIL on a phase by phase basis. Therefore, large developments that often come forward in phases will be treated as a separate chargeable development to which the Royal Borough's instalments policy would also apply, thereby further spreading the payment in each phase of development.

What is the status of the instalments policy – does it form part of the charging schedule or is it separate and if separate what development plan status would it have?

Response: The instalments policy is a standalone document that can be amended at any time by the Royal Borough. The NPPG identifies that, 'If the charging authority wishes to publish a new instalments policy, or withdraw the policy, it must give at least 28 days' notice before the new policy takes effect and/or old policy is withdrawn.'

The Royal Borough included the instalments policy as part of the preliminary draft charging schedule consultation. Upon publication of the draft charging schedule the instalments policy was included as a separate document. Regulation 69(B) states that an instalments policy must contain only the information listed in paragraph (2) of that regulation. As a result, the Royal Borough considered it appropriate that the instalments policy sit separately from the charging schedule.

The approved instalments policy, along with the adopted CIL charging schedule, does not have development plan status. Section 38 of the Planning and Compulsory Act 2004 (as amended by the Localism Act 2011) states that, for the purposes of any area in Greater London the development plan is—

- a) the spatial development strategy,
- b) the development plan documents (taken as a whole) which have been adopted or approved in relation to that area and
- c) the neighbourhood development plans which have been made in relation to that area.

The spatial development strategy is the London Plan. The adopted development plan documents are the *Royal Greenwich Local Plan: Core Strategy with Detailed Policies*, and

remaining sections of the 2006 Unitary Development Plan that have not been replaced by the Core Strategy, which are in effect the Proposals Map (as amended) and the Site Schedules (as amended). There are no neighbourhood development plans for Royal Greenwich.

The Royal Borough's instalments policy for the CIL Charging Schedule, once approved, would not form part of the Development Plan for Royal Greenwich as it is not one of the above types of document. In addition, Para 011 of the NPPG states that: 'Charging schedules are not formally part of the relevant Plan, but charging schedules and relevant Plans should inform and be generally consistent with each other.' Furthermore, the NPPG states that:

'Willingness to allow an instalments policy can be a material consideration in assessing the viability of proposed levy rates. The authority has freedom to decide the number of payments, the amount and the time due. The authority may revise or withdraw the policy when appropriate.' (Paragraph: 055 Reference ID: 25-055-20140612)

It is therefore understood that the instalments policy can form a material consideration in assessing the viability of proposed levy rates but neither the instalments policy nor the charging schedule, once approved, form part of the development plan or have any development plan status.

13. What is the status of the Exceptional Relief Policy document (CE12)? Is it part of the Charging Schedule or separate and if so what is its development plan status?

Response: The Exceptional Relief Policy is a separate document that does not form part of the charging schedule. It does not form part of the development plan for the same reasons as the instalments policy (set out in question 12 above) and does not have development plan status.

14. What is the available evidence to support the projected CIL income of £5 million/year identified in the Supporting Information document (CE9)?

Response: paragraph 6.5 of the Supporting Information Document [CE9] sets out that an annual average of £5.5 million was received through s106 contributions, over the last five years, equating to 5.2% of the overall funding gap. The income projection for CIL is set out in table 7.1 of the same document, with again an annual average of £5.5 million.

The income projection was derived from the residential and retail development types only; adding in student housing and hotel development would increase the annual average income. Residential and retail were used as baseline development types as there are policy assumptions and evidence from the Core Strategy that can provide the variables and data to feed into the model.

In this instance the assumptions for housing development was a 35% delivery of affordable housing and an average unit size of 70sqm. The Core Strategy housing trajectory formed the basis for the amount and locations of housing coming forward and the phasing of developments. For retail development, the net additional floor space variable was set at 70% and the amount and locations for the development was based on the retail capacity

study, evidence that supported the Core Strategy policies on town centre vitality and viability.

The Core Strategy housing and retail data are considered robust from 2013 – 2028, which is the Local Plan period. However, a Royal Greenwich CIL charging schedule will not be adopted until April 2015 at the earliest; therefore the first two years of data have not been used in the income model projection. The background calculations can be provided if more clarity is required on the available evidence.

If 28,500 residential units already have planning permission, how would this affect the receipt of CIL income during the first 10 years of the local plan period what is the trajectory for the delivery of CIL contributions from the remainder of the Core Strategy's housing requirement?

Response: CIL is expected to be adopted and implemented in Royal Greenwich in 2015. The first 10 years of the Local Plan period are from 2013-2013. Development proposals with planning permission are shown in the five year supply to ensure delivery and this will have the potential to affect the receipt of CIL income in the first few years; however this will not affect overall developer contributions to infrastructure as the Royal Borough receives the same average annual amount in s106 agreements (see response to the first part of question 14 above), which will already be secured for the developments with planning permission.

The housing trajectory sets out potential development over the 15 year life of the Local Plan. The first five years of the housing trajectory are the most robust, and are based on available, deliverable and developable sites. The Royal Greenwich housing trajectory is based on the Mayor's strategic housing land availability assessment (SHLAA), with the most recent study carried out in 2013 as evidence supporting the Further Alterations to the London Plan. The methodology for the SHLAA is consistent with the requirements set out in Government planning policy.