

**BY POST AND EMAIL (ldf@haringey.gov.uk)**

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21650/A3/EH  
14 June 2013

Dear Mr Ball

**LONDON OF BOROUGH OF HARINGEY**  
**DRAFT CIL CHARGING SCHEDULE CONSULTATION (APRIL 2013)**

**1. INTRODUCTION**

This submission is made on behalf of Workspace Management Ltd in response to the above document.

Workspace owns over 100 properties in London providing 5.4 million square feet of space that is home to some 4,000 businesses employing over 30,000 people. Workspace provides business premises tailored to the needs of new and growing companies across London.

The London Borough of Haringey (LBH) is consulting on its Draft Charging Schedule from 26<sup>th</sup> April to 14<sup>th</sup> June 2013, under Section 16 of the CIL Regulations. Our client is looking to LBH to provide transparent, clear, concise and fair CILs which will enable the necessary infrastructure be delivered without compromising housing delivery in London. Our client has not previously lodged comments in respect of the proposed Charging Schedule.

The process for the preparation, consultation, examination and adoption of CIL Charging Schedules is set out in Part 3 of the Community Infrastructure Levy Regulations 2010 (as amended) ('the Regulations'). Regulation 14 sets out that in setting rates in a charging schedule, a charging authority must inter alia strike the balance between:

- (a) the desirability of funding infrastructure from CIL (in whole or in part) the actual and expected estimated total costs of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and
- (b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.

LBH appointed BNP Paribas Real Estate to tests the ability of development types throughout LBH to yield contributions to infrastructure requirement through CIL.

The Chocolate Factory and associated buildings is located within the Woodside charging zone which is located within the 'central' part of the borough. LBH proposes a charge of £165 per sq/m for new residential space in Woodside.

In short, it is Workspace's submission that the imposition of a £165 per sq m CIL charge cannot be justified on the evidence relied upon by LBH, and having regard to the viability and commercial realities of the future development in Woodside.

In considering whether the CIL charge as proposed in Woodside is justified, regard ought to be had to:

- The evidence relied upon by the Council: The BNP Paribas Viability Assessment – does this justify the proposed charge in the first instance;
- The robustness of the assumptions and evidence base relied upon by the Council having regard to the actual evidence of development in Woodside; and,
- Notwithstanding the above, does the proposed charging schedule provide for sufficient flexibility?

## **2. BNP PARIBAS ECONOMIC VIABILITY ASSESSMENT**

The proposed CIL rate has been supported by evidence produced by BNP Paribas dated April 2013.

Owing to the key test of Regulation 14(1) it is important that the viability appraisal prepared is fit for purpose. It is clear that at Examination the Charging Schedule will need to be supported by **"relevant evidence"** (Regulation 11(1) (f)/ 19(1) (e)).

### **The Requirement for a Viability Study**

The requirement to justify the Charging Schedule with evidence of viability is outlined by CIL – In Overview paragraphs 25 and 26, which notably also makes reference to setting differential rates. The CLG CIL Guidance (2012) at paragraph 23 refers to taking an "area based approach", further of notable importance paragraph 30 outlines ***"charging authorities should avoid setting a charge right up to the margin of economic viability across the vast majority of sites in their area"***.

NPPF paragraph 173 outlines the need for 'competitive returns.' The viability exercise must also be aimed to demonstrate the need for flexibility in seeking CIL payments. It should not be assumed that all development can afford to pay or that all development should be charged the same levy. It must also be recognised that in certain circumstances relief may be offered where viability is an issue.

The fundamental premise is that to enable delivery, sites must achieve a credible land value and provide developers the required return on investment, otherwise development will be stifled. This is recognised by the NPPF and is certainly 'in-built' within the CIL Regulations.

The LBH Draft Charging Schedule is split into three areas - east, west and central. When viewing the BNP Paribas Viability Assessment we refer to page 3, paragraph 1.5 which states that the ***'ability of residential schemes to make CIL contributions varies depending on area and current use of the site'***. The suggested ranges for Wood Green are between £100 - £20 per sqm, yet the central zone is expected to pay £165 per sqm. On the face of it, these required levels of CIL are therefore out of line with the analysis undertaken by BNP.

### **3. BNP PARIBAS ASSUMPTIONS**

Workspace does not consider the proposed sales values, sales rates, infrastructure costs and viability buffers to be acceptable or justified in full. Workspace is currently working up a mixed use proposal with LBH and once the exact floor areas are agreed, they will undertake viability analysis against this scheme.

#### **Ensuring flexibility**

*Exceptional Circumstances:* The CIL Regulations recognise the need for flexibility and provide for social housing and charitable relief. In addition there is provision for a charging authority to introduce further discretionary relief for exceptional circumstances (Regulation 55). A charging authority may only grant relief if:

- A charging authority has made relief for exceptional circumstances in its area; and
- A S106 Agreement has been entered into and the charging authority considers that:
  - the cost of complying with the S106 is greater than the CiL;
  - the requirement to pay CIL would have an unacceptable impact on economic viability;
  - the grant relief would not constitute a State aid which is required to be notified to and approved by the European Commission.

In the first instance therefore, the charging authority has the option to make provision for relief for exceptional circumstances.

### **4. REVIEW OF CIL**

There are no details of when LBH is intending to review its charging schedule and under what circumstances LBH may reduce or increase its charge. Details of this should be provided along with details of how the CIL will be monitored, particularly as a proportion of the CIL will go towards the Collecting Authority's administrative costs.

### **5. CONCLUSION**

In summary, in my clients case that the imposition of a £165 per sq m CIL charge is not justified on the evidence relied upon by LBH, nor can it be justified having regard to the viability and commercial realities of development at The Chocolate Factory.

Furthermore, Workspace considers that it is imperative that an instalments policy is outlined at the earliest opportunity. Developers only have access to certain levels of funding throughout the construction process and the timing of CIL payments is therefore of critical importance. It is advised that any phasing of CIL payments should accord with appreciation for build out rates, in considering the time based payments.

We look forward to confirmation of receipt of the above and that it has been registered as duly made. We would also welcome a meeting with LBH to discuss our position further.

Yours sincerely

  
**ED HANSON**  
 Associate

cc: Ian Dubber