

THE EXAMINATION OF THE LONDON BOROUGH OF HARINGEY
PARTIAL REVIEW OF THE COMMUNITY INFRASTRUCTURE LEVY
DRAFT CHARGING SCHEDULE, AS MODIFIED

HARINGEY COUNCIL RESPONSE TO EXAMINER'S QUESTIONS
EQ1

Affordable Housing

- i) Mention is made of Policy SP2 that sets the requirement for affordable housing in new development. Since it is inappropriate for me to seek out documents that have not been formally put before me, please supply a copy of this policy and its reasoned justification.

Council response: Policy SP2 is contained within Haringey's Local Plan Strategic Policies (adopted 2017). This document forms part of the statutory Development Plan for the London Borough of Haringey and can be viewed here: https://www.haringey.gov.uk/sites/haringeygovuk/files/final_haringey_local_plan_2017_online.pdf

The document has been uploaded onto the Council's Community Infrastructure Levy Examination webpage with document reference HCIL9.

- ii) Strutt & Parker, on behalf of CBRE Global Investors, refer to a requirement for 50% affordable housing in accordance with the draft London Plan. I believe that this Plan is now adopted. Please supply me with a copy of the policy and supporting text where this requirement is set out, and explain how this policy will impact on the borough's policy.

Council response: The London Plan 2021 was formally published on 2 March 2021 at which point it became part of the statutory Development Plan for the London Borough of Haringey.

Policy H4 of the London Plan 2021 sets out the Mayor's strategic target for 50 per cent of all new homes delivered across London to be genuinely affordable. It contains specific measures to achieve this aim as follows:

- 1) requiring major developments which trigger affordable housing requirement to provide affordable housing through the threshold approach (Policy H5 Threshold approach to applications)
- 2) using grant to increase affordable housing delivery beyond the level that would otherwise be provided

- 3) all affordable housing providers with agreements with the Mayor delivering at least 50 per cent affordable housing across their development programme, and 60 per cent in the case of strategic partners
- 4) public sector land delivering at least 50 per cent affordable housing on each site and public sector landowners with agreements with the Mayor delivering at least 50 per cent affordable housing across their portfolio
- 5) industrial land appropriate for residential use in accordance with Policy E7 Industrial intensification, co-location and substitution, delivering at least 50 per cent affordable housing where the scheme would result in a net loss of industrial capacity

The 50% affordable housing target referred to by Strutt & Parker, on behalf of CBRE Global Investors, is noted. However, this is subject to a threshold approach to viability as detailed in Policy H5 of the London Plan 2021. Part A of Policy H5 sets out that the threshold approach applies to major development proposals which trigger affordable housing requirements. Part B sets out that the threshold level of affordable housing on gross residential development is initially set at:

- 1) a minimum of 35 per cent; or
- 2) 50 per cent for public sector land where there is no portfolio agreement with the Mayor; or
- 3) 50 per cent for Strategic Industrial Locations, Locally Significant Industrial Sites and Non-Designated Industrial Sites appropriate for residential uses in accordance with Policy E7 Industrial intensification, co-location and substitution where the scheme would result in a net loss of industrial capacity

Policy H5 can be satisfied via two routes: a Fast Track Route and a Viability Tested Route. The Fast Track Route may be followed provided applications meet four requirements including that they meet or exceed the relevant threshold level of affordable housing on site without public subsidy. Fast tracked applications are not required to provide a viability assessment at application stage. Where an application does not meet the requirements of the Fast Track Route it must follow the Viability Tested Route. This requires detailed supporting viability evidence to be submitted as part of the application to ascertain the maximum level of affordable housing deliverable.

The Viability Tested Route facilitates lower levels of affordable housing provision where the target level is demonstrated not to be viable. This approach is consistent with the approach in the Council's Local Plan Strategic Policies (Policy SP2) which sets out that the affordable housing target in the Local Plan Strategic Policies is subject to viability and the approach in Policy DM13 of the Council's Development Management DPD which sets out that the Council will seek the maximum reasonable amount of affordable housing provision when negotiating on individual private residential and mixed-use schemes with site capacity to accommodate more than 10 dwellings, having regard to factors a to g which includes f development viability.

The London Plan 2021, including Policies H4 and H5, can be viewed online here:
https://www.london.gov.uk/sites/default/files/the_london_plan_2021.pdf

The document has been uploaded onto the Council's Community Infrastructure Levy Examination webpage with document reference HCIL10.

The Council's Development Management DPD can be viewed online here:
https://www.haringey.gov.uk/sites/haringeygovuk/files/final_haringey_dmp_dtp_online.pdf

The document has been uploaded onto the Council's Community Infrastructure Levy Examination webpage with document reference HCIL11.

- iii) The council's response to this representation in HCIL2 'Statement of Representations' says that BNPPRE has now run the appraisals allowing for 50% affordable housing. I do not appear to have been provided with a copy of these appraisals. Please supply a copy with any additional comment that you may wish to make.

Council response: The BNPPRE "Note on Additional Viability Testing of Residential Rates 30 June 2020" sets out the results, findings and their advice relating to the residential typologies allowing for 50% affordable housing. This note is provided with this letter and has been uploaded onto the Council's Community Infrastructure Levy Examination webpage with document reference HCIL12.

BNPPRE have identified that although the results indicate that viability of residential development is currently challenging at 50% affordable housing for certain types of development on sites with higher existing uses and providing lower value tenures of affordable housing, it is possible for the Council to continue to levy rates in the Eastern CIL Zone.

In their analysis, BNPPRE have highlighted that it is important to clearly distinguish between two scenarios; namely, schemes that are unviable regardless of the level of CIL (including a nil rate) and schemes that are viable prior to the imposition of CIL at certain levels. If a scheme is unviable before CIL is levied, it is unlikely to come forward and CIL would not be a critical factor. Schemes that are 'unviable' have therefore been disregarded in recommending an appropriate level of CIL. The unviable schemes will only become viable following a degree of real house price inflation, or if benchmark land values fall, or in the event that the Council agrees to a lower level of affordable housing for particular sites in the short term.

The key issue considered by BNPPRE in their suggestion of a CIL rate is the extent to which an increase in CIL rates would move a development typology from showing as viable to being either only marginally viable or unviable after the increased rate is imposed.

BNPPRE have also considered the recommended residential CIL charge of £50 per sq m in the context of total scheme value. This has identified that the proposed charge will be a very modest amount, typically accounting for between 1% and 1.6% of development costs. The Council and BNPPRE would also wish to point out that the proposed CIL charge of £50 per sq m reflects an increase of £29.10 per sq m (i.e. the difference between the indexed rate of £20.90 per sq m and the proposed rate at £50). On this basis, BNPPRE have identified that the proposed increase of the CIL charge equates to an increase of circa 0.5% of residential development costs. At this level of increased charge, the CIL rate is considered to be nominal and is unlikely to have an impact on a developer's decision making as to whether to bring forward a scheme or not.

In addition, both the Council and BNPPRE note that the London Plan 2021, Haringey Local Plan Strategic Policies and Haringey Development Management DPD all identify that where schemes are not able to viably meet the identified target they would be able to follow a Viability Tested Route.

- iv) Also with reference to the council's response to that representation, it is stated that "BNPPRE has undertaken further analysis ... and identified that the proposed £50 per m² charge as a whole equates to between 1.25% and 0.7% of affordable housing costs, with an average of 0.91%." If this further analysis is in the documentation supplied to me, please indicate where; if not please supply it.

Council response: As part of the additional viability testing set out in their "Note on Additional Viability Testing of Residential Rates 30 June 2020", BNPPRE undertook additional supplementary analysis of their residential typologies testing for which they set out their findings at para 3.1.3. This established that implementation of the proposed residential CIL charge of £50 per sq m is equivalent to the provision of between 1.25% and 0.7% of units on a site as affordable housing, with the average across the typology scenarios tested being 0.95% affordable housing. Moreover, the Council and BNPPRE would highlight that, in reality, the proposed CIL charge will result in a smaller impact on schemes given that at present schemes already contribute £20.90 per sq ft in CIL, so the increased CIL liability would be £29.10 per sq m.

The Council's judgement is that the proposed new CIL rate will not have a detrimental effect on the delivery of planning obligations towards affordable housing.

- v) Collective Planning's representation on behalf of Starlow Holdings Ltd has as its main strand the effect of CIL on affordable housing, and cites six schemes that have received planning permission with below-policy levels of affordable housing, taking into account viability assessments. The most recent of these permissions, judging by the date of the application, is in fact on the site immediately to the south of the representor's site: a copy of the committee report is attached to the

representation. It is clear that the date of this committee meeting was some time before 4 November 2019 (2 years ago). Highlighted is the fact that on site affordable housing was agreed at 19%. However, I note from the committee report that there was a £230,000 off-site contribution. Is it possible to indicate what this contribution would amount to in terms of habitable rooms provided? Does the council have any additional comment on this part of the representation?

Council response: As requested, the Council has considered the query raised with respect to the £230,000 affordable housing contribution. The Council has analysed the opportunity cost between the private market revenue for 1 and 2 bed flats against the value of comparable shared ownership and Affordable Rent units, along with the differential of 17.5% vs 6% profit allowances for the private versus the affordable units respectively. This has identified that the contribution would equate to between 4 to 8 additional habitable rooms on site, dependant on the size and tenure of the affordable housing provided.

The six sites cited by Collective Planning as being granted planning permission with below-policy levels of affordable housing are noted. The Council wishes to point out that every scheme is subject to individual circumstances. By way of example, the first permission cited was Strategic Development Partnership Sites in Tottenham Hale (planning reference: HGY/2018/2223). As set out in the Affordable Housing Statement accompanying the application, the scheme was subject to a 'portfolio-based approach' to affordable housing to achieve the Council and the GLA's objectives for Tottenham Hale. This approach treated Tottenham Hale as a site as a whole with different sites with Tottenham Hale having different objectives in terms of the distribution of housing, non-residential uses (commercial, social and community) and infrastructure. This approach is specifically supported in the adopted Tottenham Area Action Plan. It is the case that other sites in Tottenham Hale delivered levels of affordable housing significantly above the policy target as part of the same portfolio approach. As a second example, the final site cited was Bernard Works (planning reference: HGY/2017/3584). While this was granted with only 12% affordable housing provision, this as part of a scheme providing 23,000 sqm of affordable workspace to be let at 75% of market rent, subject to a rent review mechanism, for a period of 50 years and with the 12 affordable units being tethered rental accommodation.

In determining schemes the Council regularly balances various competing planning needs, with infrastructure delivery funding and affordable housing being key elements of the consideration process. The evidence of below-policy levels of affordable housing in some cases demonstrates that the Council applies their policies flexibly as and when a robust viability case is presented to demonstrate the need for this to ensure the delivery of development in the area. In setting a CIL rate, the Council is mindful that there may be a modest impact on affordable housing delivery in some cases. Affordable housing cannot be prioritised to the exclusion of securing funding towards essential community infrastructure and vice-versa.

It is important to consider the relative costs of delivering affordable housing in comparison to CIL. Affordable housing will typically cost a developer £4,500 to £5,000 per square metre¹ and in contrast, the proposed CIL of £50 per square metre is evidently very small in comparison.

As previously identified, the Council would like to reiterate that the proposed increase in CIL charge to £50 per sq m from the current £20.90 per sq m charge equates to an increase of circa 0.5% of residential development costs. At this level of increased charge, the CIL rate is considered to be nominal and is unlikely to have an impact on a developer's decision making as to whether to bring forward a scheme or not. Moreover, BNPPRE's analysis has also identified that the total £50 per sq m charge equated to the provision of between 1.25% and 0.7% affordable housing on a site, with the average across the typology scenarios tested being 0.95% affordable housing provision in schemes.

The Council would point to a range of recent planning applications in the Eastern Charging Zone that have been submitted to the Local Planning Authority and which have proposed policy-compliant affordable housing to enable them to take the FastTrack Route outlined above. These include the following:

Planning reference	Site	Scheme summary	Affordable housing proposed
HGY/2021/3175	High Road West hybrid application	Up to 2,869 homes as part of mixed-use scheme	35% by unit, 40% by habitable rooms
HGY/2021/2283	Printworks	72 new homes	35% by habitable room
HGY/2021/2304	The Hale	Purpose-built student accommodation	Payment in lieu of on-site affordable student accommodation equivalent to 35%
HGY/2021/1771	The Goods Yard and The Depot	Circa 1200 units as part of mixed-use scheme	36% by habitable room

Given the above, the Council considers that the proposed charge strikes an appropriate balance between the delivery of development and the funding of necessary infrastructure to support such development as required by Regulation 14 of the CIL Regulations 2010.

¹ Based on revenue foregone when a private unit is replaced by an affordable unit. The value for the former is typically circa £7,000 per square metre in the east of the Borough and a Registered Provider will typically pay between £2,000 and £2,500 per square metre for affordable housing units.

CIL/S106 obligations

- vi) Quod, on behalf of Tottenham Hotspur Football Club, in respect of the Tottenham Area Action Plan, refers to evidence presented at the 'Goods Yard Inquiry' stating "Evidence presented at the Goods Yard Inquiry demonstrated a significant lack of clarity and it (is) not evident that the CIL Charging schedule nor the supporting viability work has addressed this." Obviously, I do not have any knowledge of this inquiry or the evidence given. I invite the council to comment on this element in the representation, in relation to social and community infrastructure and its delivery through CIL or s106, and the extent of flexibility, if any. You do not appear to have responded to this in your document HCIL2 'Statement of Representations', unless it is picked up in the statement "The parameters of these allocations including development quantum and site-specific infrastructure requirements will be reviewed as part of the New Local Plan with viability assessment carried out to ensure that the revised allocations are deliverable." In relation to the New Local Plan, I assume that this is some way off being adopted – please indicate a timescale, and elaborate if you wish.

Council response: The Council notes that the provision of infrastructure was a key issue of consideration as part of the Goods Yard inquiry (planning reference HGY/2018/0187). In the first instance, and with reference to the Council Draft Charging Schedule, as modified, the Council would make the point that it has to consider the impact of CIL on development across the area as a whole and not on individual sites. While of significant scale, the Goods Yard site is by no means a 'strategic' site as it does not constitute a significant proportion of anticipated housing supply. There is no evidence that imposition of a higher rate of CIL would have had any significant impact on the viability of the Goods Yard site. It is also noted that the applicant offered 35% affordable housing without public subsidy. If the applicant had serious concerns about viability they could have adopted the Viability Tested Route provided for by the London Plan and sought to reduce the level of affordable housing to ensure deliverability. Since the Goods Yard Inquiry took place a further application has been brought forward for the site (planning reference HGY/2021/1771) which by virtue of the level of affordable housing proposed was also eligible for the Fast Track Route.

The Council's Community Infrastructure Levy Charging Schedule (adopted July 2014) updated with Governance and revised Reg 123 (March 2020) sets out the borough's Regulation 123 list. This includes a clear demarcation between CIL contributions and infrastructure requirements necessary to make specific development acceptable in planning terms. It is stated that the "list excludes infrastructure projects that are required to make a development acceptable in planning terms in accordance with the planning policies set out in the Council's Local Plan. Whilst CIL will be the Council's main mechanism for securing funding towards the infrastructure that is required to support the cumulative demands

from development in Haringey, there will be some instances where individual development gives rise to their own requirements for infrastructure in order to make the development acceptable in planning terms. Such infrastructure will be secured as part of the development through the use of planning conditions or planning obligations. This Regulation 123 list therefore explicitly excludes the provision of infrastructure that is required to make a development acceptable in planning terms and which meets the legal tests of Regulation 122 of the CIL Regulations. Through the publication of this list the Council therefore retains its discretion to negotiate necessary planning conditions and s106 planning obligations to secure such infrastructure.” The Good Yard is an example of a site which due to the specific local circumstances and objectives of the adopted site allocation is required to deliver infrastructure requirements made necessary by the development. Such an approach is wholly consistent with the Government’s policy approach and Planning Practice Guidance for CIL which states that “The levy is not intended to make individual planning applications acceptable in planning terms. As a result, some site-specific impact mitigation may still be necessary for a development to be granted planning permission. Some of these needs may be provided for through the levy but others may not, particularly if they are very local in their impact. There is still a legitimate role for development specific planning obligations, even where the levy is charged, to enable a local planning authority to be confident that the specific consequences of a particular development can be mitigated” (Paragraph: 167 Reference ID:25-167-20190901).

The Council’s Community Infrastructure Levy Charging Schedule (adopted July 2014) updated with Governance and revised Reg 123 (March 2020) viewed online here:
https://www.haringey.gov.uk/sites/haringeygovuk/files/cil_charging_schedule_updated_with_governance_and_revised_reg_123_2020.pdf

The document has been uploaded onto the Council’s Community Infrastructure Levy Examination webpage with document reference HCIL13.

With regards to the Council’s emerging new Local Plan, the Council will publish a Draft Local Plan (Regulation 18) in 2022 with adoption expected in early 2023.

Use Classes Order

- vii) The Draft Charging Schedule of November 2019 and the Modified version of September 2021 make reference to Use Classes A1 to A5. However, as the council will know, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 made substantial changes to the Use Classes. Class A1 (shops), Class A2 (financial and professional services) and Class A3 (restaurants and cafes) were absorbed into new Class E (along with other uses). This Order came into force on 1 September 2020. I assume that it is an oversight that the references to the three old Use Classes has been retained. It seems to

me that it would be appropriate to simply delete these references. Please comment.

Council response: The Council agrees it would be appropriate to delete the references to use class A1-5 and would like to propose a new modification to this effect having regard to the changes which have been made to the Town and Country Planning (Use Classes) Order 1987.

Haringey Council
25 November 2021