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Gavin Ball
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Wood Green
London
N22 8HQ

Submitted by E Mail

Dear Mr Ball,

Haringey Community Infrastructure Levy Draft Charging Schedule

Introduction

I am writing on behalf of the Berkeley Group in response to your Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS).

The Berkeley Group brings together a range of prestigious brand names including Berkeley, St James, St Edward, St George, and Berkeley First. The Berkeley Group is Britain's leading residential property developer. The company has developed considerable experience in creating sustainable communities within complex regeneration schemes. The Berkeley Group is a leader in the business of urban regeneration, with a target to build over 95% of its development on brownfield land.

St. James has been active in Haringey for a number of years, having built the completed New River Village development. St. James is currently working with Sainsbury's to bring forward proposals for the re-development of the Hornsey Depot for a mixed-use retail, commercial and residential development.

As London's leading residential developer, the Berkeley Group is likely to continue to work in Haringey in the future and is therefore concerned to ensure that development in the Borough continues to be viable and deliverable. They are concerned that the current proposals could put achievement of the Council's Local Plan targets at risk.

We have undertaken a thorough review of the Draft Charging Schedule, Viability Study and Infrastructure Study and our concerns can be summarised as follows:

- The proposed level of CIL charges haven't been tested properly against the Growth Areas identified in Haringey's Local Plan Strategic Policies document, nor against previously achieved Section 106 obligations, as required by the Statutory Guidance;

- For larger sites the proposed rates tend to rely on the lowest land value benchmarks, for industrial land, without taking into account the additional costs associated with bringing such land into use and demonstrating how representative such sites are in the Council's likely housing supply;
- The boundaries of the Charging Zones, whilst being broadly reflective of development values in the Borough do not necessarily reflect how values vary within zones and in particular on the boundary of the western and central zones at Haringey Heartlands;
- The Draft Regulation 123 list does not provide sufficient information to understand the extent to which Section 106 and 278 obligations will be scaled back and whether the £1,000 per dwelling assumed in the Viability Study is a justified assumption. Further information on this issue is likely to be required before examination.

We will set out more information on each of these points in turn, below.

a) CIL Charges and the Local Plan

As the Council is aware, Regulation 14 of the CIL regulations sets out the key test against which the Charging Schedule is measured, namely that it strikes an appropriate balance between the desirability of funding from CIL and the effects on the development of the area as a whole.

The CIL Guidance (April 2013) - statutory guidance to which the local authority must have regard - sets out more detail as to how this test should be interpreted:

"In meeting the requirements of Regulation 14(1), charging authorities should show and explain how their proposed levy rate (or rates) will contribute towards the implementation of their relevant Plan and support the development of their area. As set out in the National Planning Policy Framework in England, the ability to develop viably the sites and the scale of development identified in the Local Plan should not be threatened" (paragraph 8).

From our review of the documentation we are concerned that the Council has not explained how the work undertaken to date relates to the Local Plan and the sites and scale of development within that Plan. The Viability Study contains two paragraphs (2.16 and 2.17) which describe the local policy and development context but do not refer to any Local Plan policies other than affordable housing. Nor is there any cross reference between the typologies in Table 4.7.2 and the Council's housing pipeline. In addition there is a discrepancy between the number of homes assumed in the typologies listed in that Table (5, 25, 50, 100 and 250), and in Table 4.30.1 (5, 75, 100, 175 and 250). It would be useful if the Council could clarify which is correct.

The Guidance also suggests that, in relation to the evidence base on viability, local authorities should take an area-based approach setting out a broad test of viability, as well as sampling an appropriate range of sites, including strategic sites on which the relevant plan relies (paragraph 23). Again the Viability Study contains no site-specific viability assessment.

The Council has recently adopted its *Haringey Local Plan: Strategic Policies (HLPSP)* Development Plan Document, which sets the overarching policy framework and is in the process of producing *Development Management* and *Site Allocations* DPDs.

The HLPSP does not contain specific site allocations – which will be contained in the subsequent DPD – but does set out a broad spatial strategy, including indicative areas of change and growth. The Growth Areas are:

- Haringey Heartlands: 1,430 homes
- Wood Green Town Centre: 290 homes
- Tottenham Hale: 3,410 homes
- Northumberland Park: 410 homes
- Seven Sisters Corridor: 767 homes
- Tottenham High Road: 623 homes

Of these areas, the latter four are in the Eastern residential charging zone. Wood Green Town Centre is in the Central Zone and Haringey Heartlands spans the borders of the Western and Central zones. Haringey Heartlands/Wood Green is an Opportunity Area in the London Plan and the Upper Lee Valley Opportunity Area covers part of the eastern charging zone.

In 2011 the Council produced a Five Year Housing Supply schedule to support the production of the HLPSP. This listed sites across the Borough (including those in growth areas, unimplemented planning permissions and SHLAA Proposed Sites) which were expected to bring forward housing in the five year period from 2011/12-2015/16. Overall, 38 schemes were identified, accounting for 4,132 units. Of these units, 56% (equivalent to 2,330 units) were expected to come forward on sites larger than Development Type 5 (i.e. 250 units) as set out within the Viability Study. A further 859 units were expected to be accommodated by sites larger than Development Type 4 (i.e. 100 units). The Development Typologies least likely to be impacted upon in viability terms by CIL – Development Types 1 and 2 - only account for approximately 14% of the five year housing land supply. Please note that this is on the assumption that Table 4.7.2 is correct (see above).

The Viability Study does not appear to have undertaken any specific testing of these locations or sampling of sites within them. Whilst it is arguable that the sites in the east of the Borough have similar low values and therefore viability issues, Haringey Heartlands and Wood Green Town Centre are likely to be atypical of the Zones in which they are located.

In the case of Haringey Heartlands the planning permission granted last year (March 2013), for 1,200 homes included around 11% affordable housing and Section 106 contributions of around £7,000 per **private** dwelling. Other large regeneration schemes in the Borough show similar levels of affordable housing and lower Section 106 contributions.

For a 75sqm private dwelling total CIL in the Central Zone (including Mayoral CIL) would be around £15,000 per dwelling, and in the Western Zone £22,500. We note that the Council in its response to the PDCS consultation suggests, in response to a representation making a similar point, that net figures will be lower due to affordable housing discounts. However, the example above is based on private dwellings only.

This also assumes that CIL is only payable on the area of the 'dwelling'. In fact average CIL per unit will be significantly higher covering all areas defined as "Gross Internal Area", including communal areas and covered parking.

The CIL Guidance suggests (paragraph 22) that the Council should provide background evidence on Section 106 and affordable housing levels previously achieved. We would suggest that it would be in the Council's interest to benchmark their proposed rates against achieved Section 106 obligations and also to apply the proposed CIL charges to approved developments to identify the full obligation, including all chargeable floorspace.

b) Proposed Rates and Available Evidence

Section 211 (7a) of the Planning Act 2008 (as amended) which established CIL, requires the Council to use "appropriate available evidence" to inform the Charging Schedule.

The Viability Study produced to support the DCS is intended to provide the "appropriate available evidence" to meet the test set out in Regulation 14 of the CIL regulations.

The Viability Study adopts a standard 'residual value' approach. For residential appraisals it identifies four land price benchmarks, and applies these to a number of site/development typologies, ranging from two through to 250 homes. It then factors in assumed development values and land costs to calculate a residual amount which is available for planning obligations.

Development costs and land values are held constant across the area, with values varied on the basis of broadly defined areas. The main factor that then drives viability is the assumed land value. Tables 6.9.1 and 6.10.1 (of the Viability Study) set out the conclusions on maximum CIL (including Mayoral CIL) available for each land value benchmark.

For larger developments (Site Type 5), in five of the eight areas developments with policy compliant affordable housing are not viable and therefore there is no scope for additional planning obligations. For only one value area – Highgate – is the full amount achievable across most assumed land values. In areas like Finsbury Park and Hornsey, the proposed CIL rates (with a buffer) are only achievable if one assumes the lower land values.

Given the dependence of Haringey's housing supply on larger sites, the proposed CIL charges place a great dependence on the "Former Employment Land" value being typical. The Viability Study itself notes (at paragraph 6.14) that this is a significant risk, but implies that no assessment of the extent to which these values are broadly reflective of local market conditions has been undertaken.

The Study goes on to identify as one of the three key risks of introducing a CIL charge that:

“individual sites might incur exceptional costs (decontamination, difficult ground conditions etc.) and as a result the residual land value could fall. Developers will try and reflect such costs in their offer to the landowner, but the extent of any issues is not always fully apparent until the land value is fixed. Where sites have an existing use, an owner will not be prepared to accept a reduction below the value of the current building to accommodate exceptional costs on a redevelopment.”

However, the Study does not take into account any abnormal costs. These costs are very common on ex-industrial land and have certainly been a significant issue at Haringey Heartlands and in the Upper Lee Valley. Therefore, it is likely that not only do the CIL rates rely on industrial land values, but that the Study overstates the viability of development on such sites.

As a final point on general viability, the Study does not apply the proposed Borough CIL and Mayoral CIL correctly in the appraisals. Mayoral CIL should be treated as a cost and not a residual, and be applied in line with the adopted Instalment Policy. Similarly Haringey CIL should be applied in line with the Council’s proposed approach in the Draft Charging Schedule (adopting the Mayoral CIL instalment policy) and not as set out in Table 4.30.1. Rather than re-run all appraisals it would be useful if the Council or its advisers could run a sensitivity test on site Types 3, 4 and 5 to check whether this has any significant effect on conclusions.

c) Charging Area Boundaries

The Regulations allow local authorities to charge differential rates for different zones or different intended uses (Regulation 13).

The CIL Guidance states that:

"Differences in rates need to be justified by reference to the economic viability of development. Charging authorities can set differential levy rates for different geographical zones provided that those zones are defined by reference to the economic viability of development within them. In some cases, charging authorities could treat a major strategic site as a separate geographical zone where it is supported by robust evidence on economic viability" (Paragraph 34).

The Viability Study currently takes a broad brush approach to area definition, using broad postcode boundaries as a basis for the identification of values, which the Council has then fitted to wards. This is a generally reasonable approach. However, we have two specific points to make in relation to the boundary between the Western and Central Zones.

As we have already noted the Haringey Heartlands Regeneration area spans the boundary between the Central and Western Zones. The boundary is defined by the railway track which bisects the area. St James Homes’ completed New River Village development is located in the (higher rated) western part of the area as is Hornsey Depot.

The area is subject to an adopted Supplementary Planning Document (SPD) which seeks to provide an overall framework for the comprehensive development of this area, including planning obligations and other requirements, some of which are contained on the Council’s draft list of relevant infrastructure (Regulation 123 list) but a number of which are not. This could place significant cost liabilities on development in the area which, as demonstrated by the Haringey Heartlands development, cannot meet currently defined policy obligations in full. We have suggested above that the Council should consider a site-specific viability appraisal and, subject to the conclusions of that assessment should consider a lower or zero rate in this area.

We would also note that, although a large proportion of development in this area now has planning permission which in theory will not be subject to CIL it is common, indeed typical, that complex regeneration schemes require regular changes to planning permissions, many of which cannot be achieved through Section 73 applications and the proposals could therefore become liable for CIL.

If the Council is not minded to take this approach, it should consider revising the boundary of the Central Zone to encompass the part of Haringey Heartlands to the west of the railway line. This area is currently covered by the ‘Hornsey (N8)’ area in the Viability Study, which uses an average value across the postcode area. A closer analysis of the HM Land Registry data, used as the basis for the study, suggests that sales values in this part of the regeneration area are significantly lower than N8 as a whole and more typical of the central zone. The table below shows the average sales price in the western part of the Haringey Heartlands regeneration area compared to the postcode as whole and to the two specific benchmark developments highlighted in the Viability Study (paragraph 4.3). This clearly demonstrates that the adjustment of the boundary would be justified by viability evidence.

Table 1: Average Sales Values May 2012 to April 2013

Area	Average Sales Price 2012/13 (Flats)
Regeneration Area (New River Avenue & Chadwell Lane)	£259,127
Fuller Court (N8)	£329,667
Roden Court (N6)	£467,083
All N8	£334,348

Source: HM Land Registry

Draft Regulation 123 List and Infrastructure Planning

The CIL Guidance (April 2013) places a strong emphasis on the need for local authorities to demonstrate, when setting their charging schedule, that they have been realistic when testing viability what residual Section 106 and 278 requirements will remain. They should provide confidence in these assessments through a draft list of relevant infrastructure (Regulation 123 list) and revised policy on planning obligations that demonstrate how obligations will be scaled back.

The CIL Guidance states that:

‘When a charging authority introduces the Community Infrastructure Levy, S106 requirements should be scaled back to those matters that are directly related to a specific site... For transparency, charging authorities should have set out at examination how their S106 policies will be varied and the extent to which they have met their S106 targets’ (para. 87).

The DCS recognises that S106 obligations and S278 highways agreements will continue to be used to secure site-specific mitigation and affordable housing. It identifies that S106 obligations may include the following:

- Specific infrastructure requirements that directly arises from 5 or fewer developments, S106 arrangements may continue to apply if the infrastructure is required to make the development acceptable in planning terms;
- Affordable housing contributions;
- New access roads/junction improvements serving the site;
- Connections to a renewable/decentralised energy network;
- On-site open space requirements;
- Employment and training provision;
- Travel plans/car clubs/ cycle parking;
- Town centre management funding.

The Haringey Heartlands SPD also includes a number of items which are not included on the Regulation 123 list such as proposed obligations for remediation, infrastructure, transport and highway agreements, as well as health contributions.

Whilst the site-by-site approach may be acceptable for smaller sites for which Regulation 122 of the CIL regulations is likely to provide an important safeguard against unreasonable obligations, for larger sites there may be a significant policy basis for requirements for obligations. For strategic sites and locations described above the Council should identify clearly which infrastructure will be funded through CIL and Section 106 and vary any appraisals if necessary.

One of the advertised benefits of CIL was that it would provide clarity and certainty as to what would be required from developers. The current approach implies that it will continue to be a matter for detailed site by site negotiation with significant obligations continuing to be sought. This is not consistent with the NPPF (paragraph 173), with CIL Guidance, or the assumption in the Council's viability study that residual contributions will be around £1,000 per home. The CIL rates as currently proposed would leave no capacity to provide on-site infrastructure.

Conclusions and Suggestions

We welcome the opportunity to respond to this consultation, and we understand that the Council is keen to maximise CIL income to provide infrastructure to support development in the Borough. However we are concerned that, as we have set out above, the proposed rates could have the unintended consequence of putting development in the Borough at risk, particularly of large regeneration sites on which the Borough is unusually dependent for its future housing supply.

We note that the Viability Study itself expresses concerns about viability in the east of the Borough particularly as, unlike in most of the rest of London, sales values are so low that reducing affordable housing requirements – the main flexibility available to the Council once CIL is adopted – has no positive impact on viability. Given the relatively small sums that would be raised from CIL by the proposed rate there, we would urge the Council to give serious consideration to the approach set out in paragraph 6.16 of the Viability Study of setting a zero rate, at least for larger developments. We believe this would be in the interest of the Council and developers in allowing obligations to be varied and balanced between requirements more easily than would be possible if a further (on top of MCIL) charge were introduced.

In addition to this, we are of the view that the Council should also consider the proposed rates in the Central and western zones to allow a greater buffer. Again this is particularly important for larger sites.

Before submitting the DCS for examination we believe that, consistent with the CIL Statutory Guidance, the Council should consider undertaking further work which would help re-assure stakeholders and Planning Inspector at EiP that the proposed rates will not put development in the Borough at risk. This should include:

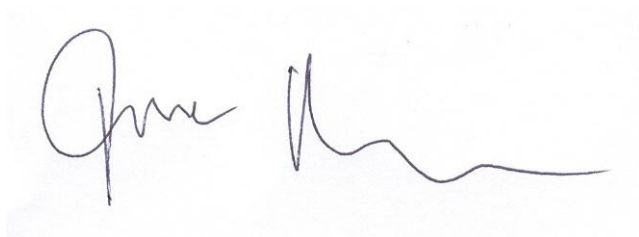
- An assessment of the impact of proposed rates on the development of the growth areas and strategic sites, where necessary adjusting proposed rates;
- Benchmarking the proposed CIL rates, and other obligations, against the total cost of obligations and delivery of affordable housing on developments which have received planning permission and have been subject to viability assessment;
- Undertaking sensitivity analysis, correctly applying MCIL and Haringey CIL on the basis of adopted and proposed installment policies;
- Setting out clearly the likely scope and scale of continuing planning obligations for strategic sites/growth areas and ensuring they are consistent with the approach to viability assessment;
- Reviewing charging boundaries in the Haringey Heartlands area.

The Berkeley Group wishes to work with the Council to ensure that the introduction of CIL achieves its stated objective of supporting development in the Borough. We would therefore be happy to provide any further information that might be useful and engage with the Council to address the practical issues we have identified above.

If the Council chooses to progress to Examination on the basis of the current DCS, Berkeley would like to reserve the right to be represented at the hearing.

Please do not hesitate to contact me if you require further information.

Yours sincerely,



Tom Dobson

Director

cc: Simon Lewis (St. James)