



**LONDON BOROUGH OF HARINGEY COUNCIL
COMMUNITY INFRASTRUCTURE LEVY
DRAFT CHARGING SCHEDULE EXAMINATION**

Statement of Position

On behalf of Tottenham Hotspur Football Club

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1.0 Introduction

- 1.1 This Position Statement has been prepared by Savills on behalf of Tottenham Hotspur Football Club (THFC). This Statement responds to issue 2 put forward by the Examiner within the Draft Hearings Programme.
- 1.2 THFC previously submitted representations to the Draft Charging Schedule consultation¹ and subsequently to the consultation on the Statement of Modifications². Concerns expressed within those representations are embodied within our response to the Examiner's issue, set out below.
- 1.3 Firstly, though not specifically requested, we make reference to some aspects of Regulatory compliance which the Examiner may wish to deal with.

¹ Included within document reference CILSD - 02

² Document reference not provided

2.0 Regulatory Compliance

2.1 Whilst it has not been specifically requested by the Examiner, we would like to draw attention to some procedural matters in relation to the Draft Charging Schedule. The Draft Charging Schedule does not appear to be in conformance with the following CIL Regulations:

- **Regulation 12(2)(c)** – The map provided is not based on an OS map and as such, the locations and boundaries of the charging zones cannot be clearly defined. National Grid lines are not shown.
- **Regulation 12(2)(d)** – There is no explanation provided within the Schedule as to how the CIL will be calculated.
- **Regulation 12(2)(a)** – The name of the Charging Authority is not clearly stated.
- **Regulation 19(3)** – The Council failed to publish the full evidence base, as submitted to the Examiner, on its website until 4 December – the day of the deadline for the submission of this Statement of Position (at which point a two day extension was granted).

2.2 We have endeavoured to include consideration of the latest published documents in our response to the issues herein, given the limited time to do so.

3.0 ISSUE 2(a) - Are the three local levy rates for residential development across the Borough justified by appropriate available evidence, having regard to national guidance, local economic context and infrastructure needs, including in relation to the Council's adopted Planning Policies?

- 3.1 The justification for CIL should be based on up-to-date infrastructure planning evidence. The Infrastructure Delivery Plan (IDP) was produced in 2010 and subsequently updated in April 2013³ specifically to support the introduction of a CIL. The updated IDP sets out the infrastructure required to support the delivery of the Haringey Local Plan: Strategic policies DPD⁴ and identifies a funding gap of £230m, which is also re-stated in the Draft Charging Schedule⁵. Being that the IDP was updated specifically to inform the CIL, the document should be subject to Examination, in line with the CIL Guidance⁶. We would therefore request that this is placed under scrutiny at the Examination.
- 3.2 The Regulation 123 list of infrastructure should identify those types or projects of infrastructure that are to be funded by CIL and should be drawn from the IDP. The Draft Charging Schedule as originally consulted upon⁷ gave a list of infrastructure that was proposed to form part, if not all, of the Regulation 123 list. However, the subsequently modified Draft Charging Schedule, as submitted for Examination⁸, gives a much more closely defined list of projects, rather than types, of infrastructure on the enclosed 'final draft' Regulation 123 list. This list of projects covers only a very limited few projects and omits large and strategic pieces of infrastructure that are required in order to support delivery of the Plan.
- 3.3 The 'final draft' Regulation 123 list identifies only three primary school projects, improvements to two parks and a recreation ground and four improved Greenway cycle and pedestrian routes. Whilst we acknowledge that the Regulation 123 list is not exhaustive, it should be considered at the Examination as informing the setting of the CIL rates. THFC is

³ CILSD - 07

⁴ March 2013, CILSD - 09

⁵ Page 2, Haringey CIL Draft Charging Schedule for pre-submission modifications consultation

⁶ Paragraph 17, Community Infrastructure Levy Guidance, DCLG, April 2013

⁷ Document reference not provided

⁸ CILSD - 01

concerned, therefore, that the Regulation 123 list does not comprise any of the strategic items of infrastructure that are identified in the updated IDP as being required to support the delivery of the proposed development within the Eastern zone in particular; being the zone with the lowest level of viability. The critical nature of these items of infrastructure in supporting the delivery of the Plan has not been discussed or accounted for within the evidence base submitted in support of the Draft Charging Schedule.

- 3.4 The Charging Schedule should positively support the delivery of the Plan⁹. In defining a narrow list of Regulation 123 projects, there is no plan for the delivery of key items of infrastructure, as identified within the IDP, which forms part of the Plan. The use of section 106 will therefore be required in addition to CIL.
- 3.5 A more comprehensive list of infrastructure is included in the Local Plan¹⁰, which itself identifies items of infrastructure to support the planned development in the Eastern zone as requiring funding from either CIL or s.106.
- 3.6 Within our representation to the Draft CIL Charging Schedule, we requested that the Council make available evidence on the historic collection of s.106 as per the requirements in the CIL Guidance¹¹. It is fundamental that this evidence is analysed to inform the assumption for residual s.106 contributions that are made within the viability appraisals. This information had not been published as at the time of writing this Statement, but is considered by the Council to be enclosed in the 2011-12 Annual Monitoring Report¹². This information is very important in ensuring that the delivery of Plan-critical infrastructure is not overlooked or underestimated within the viability appraisals.
- 3.7 There has therefore been no real assessment or indication of the scale of s.106 obligations that can be expected following the implementation of the CIL as should be provided in accordance with the CIL Guidance¹³. Within the Draft Charging Schedule, there is a statement of intent that sets out some of the types of infrastructure that may be sought through s.106¹⁴ – this is a substantial and wide-ranging list, which could result in large s.106 obligations in addition to CIL levies.

⁹ Paragraph 30, CIL Guidance, DCLG, April 2013

¹⁰ Appendix 4, CILSD - 09

¹¹ Paragraph 22, CIL Guidance, DCLG, April 2013

¹² CILSD - 08

¹³ Paragraph 15, CIL Guidance, DCLG, April 2013

¹⁴ Page 6, CILSD - 01

- 3.8 Within the Viability Study (updated April 2013)¹⁵, BNP Paribas only incorporate £1,000 per dwelling allowance for residual S.106¹⁶.
- 3.9 We have not seen any evidence to justify the £1,000 per dwelling rate, nor have we seen (or had access to) evidence that demonstrates that the Council has had full and proper regard to the application of all of its current development plan policies on the viability of development.
- 3.10 By not allowing for sufficient residual S.106 in the viability appraisals, the full cost of planning obligations has not been taken into account (in accordance with the CIL Guidance¹⁷) and the viability headroom for the CIL rates has therefore been overestimated.
- 3.11 We are therefore of the opinion that the Draft Charging Schedule is not based on appropriate available evidence. The failure to appropriately analyse data on historic S.106 contributions and apply the findings to the viability testing means the Draft Charging Schedule is not based upon appropriate available evidence as is required by Section 212(4)(b) of the Planning Act 2008.

¹⁵ CILSD – 05, 05A and 05B

¹⁶ Paragraph 4.15, Viability study, BNP Paribas, April 2013 – CILSD - 05

¹⁷ Paragraph 29, DIL Guidance, DCLG, April 2013

4.0 ISSUE 2(b) - Are the three levy rates for residential development across the Borough reasonable and realistic in relation to an appropriate balance between helping to fund new infrastructure and the potential effects on economic viability and/or should there be different rates for different parts of the area, and/or different boundaries between zones, and if so, why and where?

- 4.1 In light of the points made in response to issue 2(a) above, we conclude that the viability appraisals, that support the CIL rates proposed, overestimate the viability of development and therefore the potential headroom for CIL, as a result of less than robust S.106 assumptions.
- 4.2 When considering the Eastern residential charging zone, which includes the Tottenham area, it is clear from the results within the Viability Study that viability is severely limited for three of the five site typologies tested. BNP Paribas recommends that a rate of between £0 and £50/m² would be appropriate for this area¹⁸. We would contend that the results within tables 6.8.2, 6.9.1 and 6.10.1 of the Viability Study do not support this recommendation as it is clear that a rate above £0/m² would put at risk the delivery of development (and therefore regeneration) within the Tottenham area and in doing so prejudice on the most important objectives of the Local Plan. Importantly, BNP Paribas go on to suggest that s.106 should be used instead of CIL in those areas¹⁹.
- 4.3 Taking into account the underestimation of residual s.106 costs, this poor viability will only be made worse. It is not sufficient for the Charging Authority to say that it does not matter if sites are made unviable that may already be at the margin of viability. The Council is under a duty to have a viable and deliverable local plan, as per the National Planning Policy Framework.
- 4.4 There is increasing evidence that where there are likely to be significant residual s.106 on site requirements, as is likely to be the case with development schemes such as high Road

¹⁸ Paragraph 6.13 of the Updated Viability Study – CILSD - 05

¹⁹ Ibid. Paragraph 6.16

West, LPAs are setting nil rates (refer to Winchester and Waveney CILs, for example). This is supported by the CIL Guidance²⁰.

- 4.5 Given all the evidence referred to above, we do not think that the Council are justified in selecting to charge a rate of £15/m² in the Eastern zone and therefore believe that the Draft Charging Schedule fails the test within CIL Regulation 14(1). When taken holistically, together with the cost of the Mayoral CIL at £35/m² (allowed for within the appraisals), in addition to the not yet quantified residual s.106 requirements that will evidently be required, it is clear that the viability of development in the Eastern zone will be put at serious risk.

²⁰ Paragraph 39, CIL Guidance, DCLG, April 2013

5.0 Conclusion and Recommendations

- 5.1 The CIL is supposed to positively support the delivery of the Plan, in accordance with the CIL Guidance. THFC is concerned that there are significant items of infrastructure not on the draft Regulation 123 list that will therefore need to be delivered via section 106 agreements.
- 5.2 THFC is not concerned with whether infrastructure is delivered via s.106 or via CIL, only that it is delivered. However, THFC is concerned that if seeking to rely upon s.106, the Council should ensure that the CIL charging rates are set at a level which takes into account that there will also be residual s.106 requirements.
- 5.3 As a result of the evidence and the concerns outlined above, we would recommend that the residential rate of CIL to be applied to the Eastern zone should be reduced to £0/m². This would allow the flexibility and viability to deliver the required infrastructure at the site level, in accordance with the intentions stated by the Council in the Draft Charging Schedule²¹.
- 5.4 In addition, whilst this is not necessarily a matter for the Examination, we would recommend that the wider Regulation 123 list should include those items of strategic infrastructure that are deemed critical to the delivery of the Plan.
- 5.5 In summary, the Draft Charging Schedule is believed to not have been produced in line with CIL Regulation 19(3) (publicising the submitted evidence base), does not meet the requirements of CIL Regulations 12(2)(c) (appropriate map), 12(2)(d) (explanation of the calculation of CIL), 12(2)(a) (clearly stating the Charging Authority's name), 14(1) (striking an appropriate balance) and Section 212(4)(b) or the Planning Act 2008 (appropriate available evidence).

ENDS

²¹ Page 6, CILSD - 01