

Ealing London Borough Council – Draft Charging Schedule

Examiner's questions

Having read through the submission documents, the supporting information and the representations, Mr Kemmann-Lane seeks answers to the following questions from the Council.

1. The document SD3 submitted to the examination contains an appendix that appears to be the same as that submitted separately in document SD3A: please can this be confirmed?
2. Pocket Living Ltd and Ealing Ltd raise issues about discretionary social housing relief for discounted open market housing under Regulation 49A. In response the Council has stated, in document SD5 – Consultation Statement, that “the Council proposes to allow consideration of ‘discretionary relief for exceptional circumstances’. However, the relevant text of Regulations 49A and 49B is as follows:

49A.—(1) A chargeable development is eligible for relief from liability to CIL if—

- (a) discretionary social housing relief is available in the area in which the chargeable development will be situated; and
 - (b) the development comprises or is to comprise qualifying dwellings or qualifying communal development (in whole or in part).
- (2) For the purposes of this regulation a dwelling is a qualifying dwelling if all of the following criteria are met—
- (a) the dwelling is sold for no more than 80% of its market value (where the market value at any time is the price which the dwelling might reasonably be expected to fetch if sold at that time on the open market);
 - (b) the dwelling is sold in accordance with any policy published by the charging authority under regulation 49B(1)(a)(iii); and

Discretionary social housing relief: notification requirements

49B.—(1) A charging authority which wishes to make discretionary social housing relief available in its area must—

- (a) issue a document which—
 - (i) gives notice that discretionary social housing relief is available in its area,
 - (ii) states the date on which the collecting authority will begin accepting claims for relief, and

- (iii) to the extent that the charging authority is responsible for allocating the housing to be granted relief, includes a policy statement setting out how that housing is to be allocated in its area;
- (b) publish the document on its website;
- (c) make the document available for inspection—

This is a separate provision to that under Regulation 55 to which the Council refers: will the Council please comment on its intentions in respect of relief under Regulation 49A? And, to the extent that may be appropriate depending on the answer to that question, also comment on the final sentence of the first paragraph of the letter dated 26 May from Rolfe Judd Planning?

3. Whilst referring to the Regulations, Regulation 12(2) states:

- “(2) A draft charging schedule submitted for examination in accordance with section 212 of PA 2008 must contain—
- (a) Where a charging authority sets differential rates in accordance with regulation 13(1)(a), a map which—
 - (i) identifies the location and boundaries of the zones,
 - (ii) is reproduced from, or based on, an Ordnance Survey map,
 - (iii) shows National Grid lines and reference numbers, and
 - (iv) includes an explanation of any symbol or notation which it uses;”

It appears to Mr Kemmann-Lane that the two maps in the Draft Charging Schedule are clear as to the zones to which the differential charges are to apply. However, the maps do not show national grid lines and reference numbers. Please will the Council comment on this omission?

4. Similarly there is a requirement in Regulation 12(2) that the submitted Schedule must contain an explanation of how the chargeable amount will be calculated:

- 12. — (1) Subject to the provisions of this Part a charging authority may determine the format and content of a charging schedule.*
- (2) A draft charging schedule submitted for examination in accordance with section 212 of PA 2008 must contain—*
- (a), (b), (c) and, [not of relevance here],*
 - (d) an explanation of how the chargeable amount will be calculated.*
- (3) A charging schedule approved by a charging authority must, in addition to the contents mentioned in paragraph (2), contain—*
- (a) the date on which the charging schedule was approved;*
 - (b) the date on which the charging schedule takes effect; and*
 - (c) a statement that it has been issued, approved and published in accordance with these Regulations and Part 11 of PA 2008.*
- (emphasis added)*

The Draft Charging Schedule includes the following text:

“The ‘Chargeable Amount’, including indexation to take into account inflation, will

be calculated in accordance with Part 5 of the Community Infrastructure Levy Regulations 2010 (as amended).”

Mr Kemmann-Lane is not at all sure that this meets the requirement of Regulation 12(2)(d) that a draft charging schedule submitted for examination in accordance with section 212 of PA 2008 must contain an explanation of how the chargeable amount will be calculated. Will the Council comment please?

5. The representation on behalf of Acton Gardens LLP refers to the regeneration of South Acton Estate and seeks to have the estate zero rated. The Council’s response in document SD5 states “The submitted viability study confirms scenario testing has been undertaken and Ealing’s proposed rates are set low within the acceptable range for all uses.” [DCS/21 (9 of 23)]

As far as Mr Kemmann-Lane can see, whilst there clearly has been ‘scenario testing’ in the viability study, there is no scenario that is representative of a large estate regeneration scheme. He appreciates that the Council has also made reference to the consideration of ‘discretionary relief’, but please comment further on this representation and explain which scenario(s) should be considered if it is contended that the situation of South Acton Estate has been covered.

6. In the Viability Study’s Appendix 3 – Commercial appraisal results, on the spread sheet for Office, in the rows ‘Building costs’ and ‘Area’ under the column with ‘Floor area’ at the top, there is reference to “82% grs to net”. Please confirm that this is a reference to building costs being derived from the gross floorspace, whilst value (rental income) is derived from net internal area, or otherwise give an explanation if the Examiner’s assumption is incorrect.