Our ref: Ealing Draft CIL Charging Schedule
Your ref: CIL CONSULTATION
Email: [redacted]
Date: 10th April 2024

CIL CONSULTATION,
LB Ealing,
Strategic planning team,
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London W5 2HL

By email: localplan@ealing.gov.uk

Dear Strategic Planning Team,

Ealing CIL Draft Charging Schedule

1 Summary

I am writing on behalf of Global Technical Realty (GTR) in response to your Community Infrastructure Levy Draft Charging Schedule (DCS). Thank you for giving us the opportunity to provide feedback to the draft as it stands.

GTR is planning to make substantial investments in, an LSIS in the Borough which forms part of the 'Ealing Productivity Arc.' This is progressing to completion in the short-term and GTR are happy to engage further in future stages. GTR is a global provider of Data Centres in particular, although its developments can provide for a range of employment uses.

Data Centres are an integral part of the UK economy's future. The UK Government states, "Data, and its associated infrastructure and services, are increasingly crucial to the UK's economy, future growth, and security, and are therefore strategically important at a national and global level. Without functioning, secure, and reliable data infrastructure, the UK will be unable to innovate or compete in the global economy[1]." Tech UK states that "Data centres provide the core infrastructure that underpins all digital activity across government, business and community[2]." Data centres are an "emerging industrial-related sector" that generates economic value.

GTR understands that, despite their critical importance to UK growth, there is in a lack of robust evidence on the market for Data Centres (in terms of costs, values, and viability). However, as set out in Government Guidance (see below), CIL charging authorities ***must*** consider the effects of their

[1] Department for Science, Innovation and Technology, Protecting and enhancing the security and resilience of UK data infrastructure: Public Consultation Document December 2023.
[2] https://www.techuk.org/developing-markets/data-centres.html

charging rates on viability in their areas. GTR does not consider the Ealing Charging Schedule and its supporting evidence to have sufficiently considered the specific market circumstances of Data Centres to justify a chargeable rate six times the rate for "all other uses" and 1.5 times the rate of industrial uses:

- Industrial: £100 /sqm
- Data Centres: £150 /sqm
- All other: £25 /sqm

While the rates for Data Centres are much too high, our view is that all three of these rates are set too high for the context and the evidence, as this letter will set out.

In our view this rate fails to achieve the requirement of Paragraph: 010 Reference ID: 25-010-20190901 of the Planning Practice Guidance: to balance the benefits of CIL investment against the effects on viability.

We understand the limitations of the publicly available viability information on data centres and offer to work proactively with you to provide relevant evidence and expertise.

As will be further outlined below, the key concerns around the evidence used for these rates consist of:

- Inappropriate benchmark land values which underestimate the viability challenges for investing in industrial space, including data centre, space in Ealing
- A lack of evidence to justify the proposed rates for data centres and 'All Other.'

In consequence the rates are proposed in contravention of the requirements on Charging Authorities to provide 'appropriate available evidence' as set out in the Planning Practice Guidance.

The inadequacy of the evidence means that LB Ealing has not given proper consideration of the impact of the proposed rates on the viability of developments and therefore also on how the rates would prevent the implementation of the Local Plan.

These representations will set out in further detail:

- The guidance on setting CIL rates, which LPAs must adhere to
- The Local Plan objectives the rates may prevent being implemented
- An evaluation of the Viability Assessment evidence base
- Conclusions.

2 Guidance on Setting CIL Rates

The Government publishes guidance on setting CIL rates as part of its Planning Practice Guidance. This sets out the following:

1. When deciding the levy rates, an authority must strike an appropriate balance between additional investment to support development and the potential effect on the viability of developments. (Paragraph: 010 Reference ID: 25-010-20190901)
2. Authorities should show how "their proposed levy rate (or rates) will contribute towards the implementation of their relevant plan and support development across their area." In this case the relevant Local Plan is the London Plan (2021), and the emerging (Regulation 19 Draft) Local Plan (2024)
3. The regulations allow Charging Authorities to apply differential rates in a flexible way, to help ensure the viability of development is not put at risk. (Paragraph: 022 Reference ID: 25-022-20230104)
4. If the evidence shows that the area includes a zone, which could be a strategic site, which has low, very low or zero viability, the charging authority should consider setting a low or zero levy rate in that area. The same principle should apply where the evidence shows similarly low viability for particular types and/or scales of development. (Paragraph: 022 Reference ID: 25-022-20230104)
5. A charging authority must use 'appropriate available evidence' (as defined in the section 211(7A) of the Planning Act 2008) to inform the preparation of their draft charging schedule. (Paragraph: 020 Reference ID: 25-020-20190901)

The charging authority should adhere to this practice, characterised principally by transparent evidence-based assessments in consideration of Local Plan objectives, when setting out its proposed rates.

As set out in the summary above, and in more detail in the sections that follow, we do not consider that the evidence based used to support the charging schedule meets these requirements, or that the proposed rates will have a positive effect on delivering existing and emerging policies.

3 Local Plan objectives

As, described above. The practice guidance on setting rates demands that due consideration is given to the impact of rates on Local Plan objectives.

Policy SP1 of the draft Plan sets out the Council's vision. Part B states that:

> "B. Ealing will become the engine of West London's new economy, with growth managed to provide equitable access to jobs that provide decent living incomes that can support genuinely affordable homes for all. We want growth in Ealing to be inclusive so that people can both contribute to and benefit from growth. Ealing will grow and diversify its business space, and further strengthen the role of its industrial areas."

Draft Policy SP4 expands on this setting out how the Council intends to support "Creating Jobs and Good Growth". This includes:

- Ensuring that the most efficient use of land is made so that development on sites is optimised, which will contribute to more sustainable patterns of development and land uses. (SP4.1c)

- Maintaining the existing supply of industrial land on designated and undesignated sites and adding to this where possible. (SP4.2a)

- Managing Strategic Industrial Land (SIL) exclusively for conforming uses and undertaking any necessary consolidation through the plan-making process. (SP4.2b)

Figure 2.2 of the Draft Plan, which sets out the context for the Spatial Strategy identifies a 'Productivity Arc':

> "*Which places Ealing in the centre of west London's economic activity, by linking Heathrow Airport and Hillingdon with the proposed HS2 terminal at Old Oak Common. The Arc connects strategic industrial growth opportunities across Perivale, Greenford, Northolt, and Southall to Heathrow." (para 2.13)*

This then structures the remainder of the Plan which identifies 'town level' policies for sub-areas within the Borough which aims to:

> *"Reinforce and intensify existing Strategic Industrial Locations (SIL) and Locally Significant Industrial Sites (LSIS) within the borough and explore options to improve industrial land and intensify employment, where appropriate." (para 3.69)*

GTS's site is in the Southall Town.

Southall Draft Policy S1 (I) has the objective:

> *(ii) Protecting Strategic Industrial Locations (Great Western SIL) and Locally Significant Industrial Sites (Bridge Road, Featherstone and International Trading LSIS), improving densities, and ensuring the longevity of these employment sources.*

This is already expected to be delivered alongside the objective for Affordable Workspace which represents a significant additional cost:

> *(vi) The provision of affordable and managed workspace in Southall for small and medium enterprises (SMEs); this includes allocating affordable and managed workspace at future Development Sites in East and West Southall, as 386 well as in the King Street Neighbourhood Centre.*

Southall is also an Opportunity Area (OA) within the London Local Plan, which encourages the growth of the OA as an industrial employment centre.

The local plan recognises repeatedly across Ealing wide and Town level policies that intensification of existing sites is key to achieving the borough's objectives for "Creating Jobs and Good Growth".

GTR's site opportunity, situated as it is within an LSIS designations, is the kind of site that is key to the Local Plan's objectives and any rates that could disincentivise investment need to be evaluated carefully.

The evidence base for the Local Plan is supported by the West London Employment Land Review 2021/22 Update. This found:

> *"For Ealing, CoStar report that Ealing's industrial vacancy rate (2.8%) remains close to a historical low, and a lack of new construction and steady demand for last-mile units should keep it at low levels in the medium term." (para 1.27)*

And:

> *"Demand is acute and the protection of space and provision of new premises is essential, whilst the upgrading of older stock is desirable. Overall, it is critical that in Ealing as much functional*

industrial floorspace as possible is retained and upgraded; and there is a need to deliver additional floorspace where feasible. " (paragraph 1.21)

In Southall specifically the Opportunity Area Planning Framework recognised that:

"The majority of industrial areas are well-occupied"

GTR is supportive of emerging policy aspirations for creating good jobs and growth. Specifically, GTR is supportive of wording set out in SP4.1 C which seeks to ensure that the most efficient use of land is undertaken to optimise development on sites, leading to more sustainable patterns of development and land use.

This makes clear why the Local Plan highlights the importance of intensification of existing sites. Vacancy rates are low and demand for space outstrips supply.

4 Evaluation of Viability Assessment evidence base

The Council has published a 'Local Plan Viability Assessment' (December 2023) alongside the Draft Charging Schedule. This provides the evidence base for the impact of CIL and other obligations on development to meet the requirement for striking the right 'balance' to ensure that the delivery of the sites and scale of development in the Plan are not put at risk.

The report assesses a range of residential and commercial typologies. For relevant commercial uses these include:

- Data Centre (Typology 23, 0.83 hectares, 2,000 sqm total GIA) – NB the data inputs for this use are not clear as it also states it is 2 stories and 5,000 sqm GIA data centre floorspace)
- Light Industrial Scheme (Typology 28, 2 stories, 0.5 ha, 6,000 sqm)
- Industrial Scheme (Typology 29, 1 storey, 1 ha, 5,000 sqm)
- Industrial Scheme (Typology 30, 1 storey, 1 ha, 6,000 sqm)

Low Benchmark Land Values

The Viability Assessment uses a standard approach to CIL viability assessments including setting the benchmark land values used in the assessment. This assumes that "there is a general lack of demand for the type of space (**i.e. the benchmark land value sites**), resulting in low rentals, high yields and high vacancies (or in some cases no occupation at all over a lengthy period)." (para 4.41)

This argument is used to justify extremely low benchmark land values, including £3.57m for secondary industrial sites.

However, no work appears to have been done to judge if this standard approach is suitable in the context of Ealing.

In fact the Local Plan's evidence base and policies (as described above) show that the type of land available for development, and that must come forward for development if Ealing is to meet its Local Plan objectives, are characterised by the exact opposite situation to that described in the Viability Assessment's assumptions: high demand for the type of space, resulting in high rentals, lower yields and low vacancies.

For comparison, the Affordable Workspace Study uses industrial values of £7.2 million per hectare for general industrial in Ealing and £12 million to 14 million for secondary industrial in the OPDC area.

The Table below summarises the findings of the assessments based on four low benchmark land values. This demonstrates that, for the two higher land values, which are significantly lower than a realistic level for current development, sites would not be viable.

Using the more realistic figure of £7.2 million per hectare for secondary industrial makes all four typologies unviable on this land type as well.

			Per HA>	£10,175,259	£6,656,344	£3,565,943	£500,000
No.	Type	HA	Residual Land Value	BLV1 (Secondary Offices)	BLV2 (Secondary Retail)	BLV3 (Secondary Industrial)	BLV4 (Undeveloped)
23	Data Centre	0.83	4,847,465	£8,445,465	£5,524,766	£2,959,733	£415,000
28	Light industrial scheme	0.50	3,217,453	£5,087,629	£3,328,172	£1,782,971	£250,000
29	Industrial Scheme (50% plot ratio)	1.00	4,013,171	£10,175,259	£6,656,344	£3,565,943	£500,000
30	Industrial scheme (60% plot ratio)	1.00	4,815,804	£10,175,259	£6,656,344	£3,565,943	£500,000

Tables 6.30.1, 6.30.2 and 6.30.3, then show the implications of applying policies on Bio-Diversity Net Gain, Urban Greening, and Net Zero carbon (Embodied and Operational). These demonstrate that none of the data centre or industrial typologies are viable after the application of these policies for any of the Benchmark Land Values.

The report suggests the impact of the policy costs, CIL and other obligations will have a relatively small impact on residual land value and that other factors have a more significant impact on viability. Whilst this may be the case, it is only a justification for new CIL rates in situations where the viability assessment's assumptions are true and there are enough underutilised sites, which may still come forward. As established by the Local Plan's evidence base, this is broadly not the case.

In the present situation where there is low vacancy and inadequate recent supply, industrial land, even when used for lower intensity uses, generates continuous income streams. Substantial investment in the land that disrupts that income can only happen if it makes up for the period of lost income. The additional cost of the proposed rates would make it less likely that investments could provide that return meaning that redevelopment will not happen. To allow the substantial investments required for the Local Plan strategy to happen, it is therefore necessary that no additional barriers are placed in the way of landowners who want to invest in and intensify their sites.

Lack of evidence

Data Centres

In relation to the Data Centre appraisals, significantly less information is provided about the appraisal inputs and as we note above, the summary of the Data Centres appraisal is unclear on what areas and assumptions were tested.

Table 4.11.1 sets out the rents, yields and rent free period for commercial uses. The source for this information is identified as Co-Star with the background set out in Appendix 3. That appendix shows retail, office, and industrial uses but as far as we can identify no Data Centre comparables.

In terms of development costs, the assessment appears to use a BCIS median general cost. It is again unclear whether any utilities or other costs are included in the assessment.

On this basis we do not think that the report provides 'appropriate available evidence' to support the proposed rates in the Charging Schedule which are higher than industrial, and warehouse uses.

All Other

The report recommends a rate of £25 should apply to 'all other uses' because other Boroughs "*typically do*", and they "*do not consider that there are any reasons for the Council not to apply a nominal rate across the Borough*."

This line of reasoning does not constitute a suitable evidence-based reason to justify the proposed rates.

The practice in reality is variable and many boroughs, including the neighbouring boroughs of Brent, Hammersmith and Fulham, Harrow, and Hillingdon do not charge an 'All Other Uses' rate. The proposed rate is therefore a deviation from the practice of most neighbouring LPAs and should be justified.

Given that the assessment has identified viability issues for most uses, and the Local Plan encourages mixed use developments that may include the variety of uses (including uses which are proposed for their placemaking or community value, rather than their commercial value) that fall under 'All Other' it appears that a more cautious and evidence-based approach should be applied.

5 Conclusions

In GTR's view, when the more realistic evidence on land values is used, substantial viability challenges are revealed which more accurately reflect GTR's experience of the challenge of investment in this location.

The new CIL charges in combination with other policy requirements will have the unintended consequence of making it too difficult to make the investments in intensification, modernisation, and decarbonisation which the Plan seeks to encourage, and therefore put at risk the Council's "good growth" objectives and the benefits that new development will bring.

It has not been possible to properly evaluate the evidence for data centres and all other uses, and on grounds of lack of evidence, CIL charges should not be imposed. The viability assessment when using realistic land value assumptions suggests viability challenges across land types for all commercial typologies.

It is therefore not appropriate, on the basis of LB Ealing's own evidence and following the CIL guidance to charge a CIL rate for industrial and data centre development. This should include use Classes B2 and B8, and relevant parts of E Class which provide such uses: E(g)(ii) Research and development of products or processes and E(g)(iii) Industrial processes.

Quod and GTR would like to reserve the right to appear at the Examination and would be happy to meet with you in the meantime to share relevant evidence or discuss the matters in this letter further.

Yours faithfully,

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