

Our Ref: DfE/CIL/LBE24

18th April 2024

Dear Sir/Madam,

Re: LB Ealing Draft Charging Schedule

Consultation under Regulation 16 of the Community Infrastructure Levy Regulations 2010 (as amended)

Submission of the Department for Education

1. The Department for Education (DfE) welcomes the opportunity to contribute to the development of planning policy at the local level.
2. Under the provisions of the Education Act 2011 and the Academies Act 2010, all new state schools are now academies/free schools and DfE is the delivery body for some of these, rather than local authorities. Local authorities have a statutory responsibility to ensure sufficient education provision and a key role in securing contributions from development to new education infrastructure. In this context, we aim to work closely with local authority education departments and planning authorities to meet the demand for new education infrastructure. We have published guidance on securing developer contributions for education and estimating pupil yield from housing development (we note the latter is referenced in your methodology), at <https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth>. You will also be aware of the corresponding Planning Practice Guidance on planning obligations and viability.¹
3. We would like to offer the following comments in response to the proposals in the above consultation document.

Comments on the Draft Charging Schedule, Infrastructure Delivery Plan, Infrastructure Delivery Schedule and Viability Assessment

¹ <https://www.gov.uk/government/collections/planning-practice-guidance>

4. The housing growth planned for Ealing will place pressure on social infrastructure including education facilities. The critical need for two x 2-form entry primary schools, alongside secondary, significant SEND and 16+ provision in the borough has already been identified in your Infrastructure Delivery Schedule (IDS) (Feb 2024). An increase in early years provision is also anticipated but not quantified. The timely delivery of this provision alongside phased development of housing will be critical to meeting education needs. Whilst no delivery timescales are set out and detailed costs are still to be confirmed, the department notes that a funding gap for education infrastructure is anticipated, demonstrating a clear need for developer contributions towards the costs of education provision.
5. State-funded schools are essential social infrastructure, and viable profit-making developments should be expected to contribute to the cost of new schools or school expansions. The department therefore supports Ealing's proposed use of planning obligations to secure developer contributions for education wherever there is a need to mitigate the direct impacts of development, consistent with Regulation 122 of the CIL Regulations.
6. The advantage of using Section 106 relative to CIL for funding schools is that funding is ringfenced for education, increasing certainty that developer contributions will be used to fund the new school places that are needed. The department also supports education use itself being nil-rated (as specified in para 7.25 of the viability assessment). For clarity, this exemption should also be clearly stated on the Council's final published table of CIL rates.
7. Construction costs and land requirements should be incorporated in the viability assessment to ensure that any barriers to delivery are identified early, to inform the Council's planning and prioritisation of infrastructure delivery. Government 'basic need' grant for the creation of new school places does not include funding for land acquisition. Therefore, it is particularly important that education land required within any large development sites is provided where possible at no cost to the local authority, and pooled developer contributions (Section 106 and/or CIL) are secured for the purchase of any standalone sites for new schools.
8. We request that you consider carefully the appropriate balance of CIL and Section 106 funding for education, to ensure that new schools and school expansions can be delivered when they are needed, in step with housing development. Our guidance on securing developer contributions for education provides further advice on the types of education need that should be considered, and how to calculate the costs of provision.²
9. Finally, we would welcome clarification on whether Ealing propose to apply CIL to prior approval applications related to residential development. This would help to maximise the amount of developer contributions available towards education infrastructure over the plan period.

Conclusion

10. I hope the above comments are helpful in shaping Ealing's CIL Charging Schedule, with specific regard to the provision of funding for new and expansions to existing education provision. Please advise the department of any proposed changes to the emerging CIL charging schedule and/or evidence base arising from these comments.

² <https://www.gov.uk/government/publications/delivering-schools-to-support-housing-growth>

11. Please do not hesitate to contact me if you have any queries regarding this response. DfE looks forward to working with LB Ealing to aid in the preparation of appropriate funding and delivery mechanisms for education.

Yours faithfully,

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