



RE: London Borough of Ealing Draft Community Infrastructure Levy (CIL) Charging Schedule Consultation (February 2024) – '54 – 58 Uxbridge Road'

We write in connection with the London Borough of Ealing ('LBE') draft Community Infrastructure Levy (CIL) Charging Schedule dated February 2024. We are instructed by Commercial Estates Group ('CEG'), as landowners of the property known as 54 – 58 Uxbridge Road, London W5 ('the Subject').

Our response is intended foremost to assist the Council in its consideration of the robustness of the Local Plan Viability Assessment ('the LPVA') undertaken by BNP Paribas Real Estate ('BNPP') and subsequently, the Council's draft CIL Charging Schedule. This response should be read in conjunction with the wider Regulation 19 response to Policy HOU: Affordable Housing, also concerning the Subject submitted under separate cover.

The overarching concern is that any future development brought forward would be materially affected whilst being rendered unviable by the proposed CIL Charging Schedule – equivalent to £350 per sq m for Purpose Build Student Accommodation (PBSA) accommodation, and £75 per sq m for office accommodation. It is considered that the introduction of the proposed CIL unamended would fetter development from being brought forward or that mean those tasked with major development investment decisions must operate at the margins of viability. It is important that the viability of the draft charging schedule is therefore resilient, and that the viability work supports this.

This note should be taken as a formal objection to the proposed introduction of CIL unamended. We would however welcome the opportunity to work with the Council and its advisors throughout the consultation process so that it may be appropriately developed.

Response to Consultation

Within the LPVA, PBSA development is not specifically tested, albeit we note Typology 20: "200 unit Co-living scheme" appears to be relied upon for the purposes of testing 'living products' generically. We maintain material reservations surrounding the credibility of this approach and do not consider it appropriate for the purpose of supporting the introduction of a CIL charging schedule. More detailed commentary is included within our aforementioned wider response to Policy HOU: Affordable Housing, but we note that the LPVA assumption base demonstrates a lack of clarity with no clear derivation provided separating Co-living from PBSA for example. We would therefore expect that the LPVA is updated to incorporate further development typologies, specifically PBSA.

Further to the above, we have highlighted concerns surrounding the methodology and/or assumptions included within the updated LPVA supporting the proposed increase in levy within our wider response to Policy HOU: Affordable Housing, which should be taken in conjunction with this response.

On a further point of consideration, it is unclear whether sufficient provision has been made for a viability 'buffer' when interpreting the viability evidence resulting in the potential introduction of a CIL levy above what is viable whilst incorporating an appropriate buffer. This is especially pertinent where no base testing exists in respect of PBSA led development. Such buffers are recommended within the current CIL regulations which state the following:



"It would be appropriate to ensure that a 'buffer' or margin is included, so that the levy rate is able to support development when economic circumstances adjust. In all cases, the charging authority should be able to explain its approach clearly." (Paragraph 020 Reference ID: 25-020-20190901)

Site specific circumstances mean that the economics of development will vary over the course of development. This is inevitable given the varied nature of large scale mixed-use development and the associated costs associated with bringing forward such schemes. It is therefore important to consider these factors when proposing a simplified 'one size fits all' rates across a significantly diverse location in terms of market and development characteristics.

The viability buffer is used to mitigate against fluctuations within the market to ensure that the rates are not set at the margins of viability. During periods of political and economic uncertainty and changing market assumptions it is fundamental that sufficient and often increased leverage is allowed for within the proposed rates.

The proposed introduction of a CIL charging schedule represents a material increase to existing policy i.e. being zero rated, and falls in excess of all other forms of development including residential use. It is therefore essential that the LPVA offers sufficient consideration to the additional burden on schemes when undertaking their viability modelling which would clearly have significant commercial implications.

We would also observe that in respect of offices, a negative land value is apparently concluded across a number of the tested scenarios. We would welcome clarity in how the proposed office CIL charge is ultimately concluded.

Summary & Conclusions

The consultation concludes that schemes delivering PBSA and office uses are viably able to support a CIL contribution equivalent to £350 psm and £75 psm respectively, which would undoubtedly place significant financial burden upon development whilst rendering future development of the site unviable.

The above conclusion is considered to be without reasonable justification and evidence as required under Regulation 13 of the CIL Regulations 2010 (as amended) which stipulates that *"any differential rate should be justified by economic viability evidence"*. Our primary concern is that the Council has at this stage not published a sufficient level of analysis including a clear absence of PBSA being assessed. There is therefore fundamentally an insufficient information base in which to effectively engage with the consultation process.

Despite the lack of supporting viability evidence or analysis surrounding PBSA development, we have reviewed the recently prepared LPVA and have identified a number of key inputs that, in our opinion, do not support the basis for the proposed increase in CIL charges contained within the draft Charging Schedule with a resulting artificial enhancement of scheme viability. We would therefore expect further consideration of PBSA led development through updated analysis.

As stated above, it is essential than an appropriate viability buffer is incorporated within the Viability Assessment and we would welcome clarity of the same in justifying the proposed CIL Charging Schedule. The importance of flexibility is reinforced when taking account of the many changes regularly taking place in the development industry including from a regulatory perspective. For a plan that operates over several years and

whose next review may not take place for some time, it is important to consider the likely impacts now to avoid unnecessary viability issues in future years through flexibility.

In conclusion, we have material concern that a proposed scheme at the site would be able to viably support the proposed CIL levy whilst taking account of the Council's relevant policies including draft Policy HOU: affordable housing requiring a 40% affordable housing contribution. The proposals are fundamentally detrimental to both scheme viability and the potential deliverability of the site. The consequence of adopting such policies unchanged, would most likely preclude the subject site from being brought forward for development during the Local Plan period fettering critical student housing delivery, employment opportunities and the delivery of planning obligations within the borough.

We are of the opinion that the Council is currently unable to reasonably demonstrate that the proposed increased CIL rates strike a suitable balance, or are supported by accurate, substantiated viability evidence. It is therefore essential that additional testing is undertaken and that the CIL rates are reviewed in light of PBSA being assessed specifically.

Notwithstanding the above, as part of the consultation process we have also reviewed current CIL charges across neighbouring authorities as shown within the table below:

Authority	Adopted CIL Charge (£psm) ¹		Adoption Date
	PBSA	Offices	
Hounslow	£20 (£29.96)	£20 (£29.96)	July 2015
Brent	£200 (£346.43)	£40 (£69.29)	July 2013
Harrow	£55 (£95.27)	-	Oct 2013
Hillingdon	-	£35 (£56.82)	July 2014

Aside from Brent, the above table shows a material uplift in proposed CIL charges within Ealing for both PBSA and office uses when compared with neighbouring authorities. This gives rise to significant concerns surrounding the economic viability of undertaking development within Ealing by comparison to other locations with similar credentials.

We trust that the information provided is useful and would welcome the opportunity for further engagement with the Council to ensure that appropriate evidence and methodology informs due process. Should you have any queries in relation to the above please do not hesitate to contact us. We would be pleased to provide additional comment and support discussions with the Council and its appointed advisors in due course.

¹ Figures shown unindexed and indexed within brackets.