
Regulation 19 New Local Plan and Community Infrastructure Levy Consultation

Response on behalf of Luxgrove Capital Partners

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Appendix 2 – Viability Study Analysis and CIL Representations prepared by Quod

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1. Introduction

- 1.1.1. We are instructed on behalf of our client, Luxgrove Capital Partners ('Luxgrove'), to submit representations to Ealing Council ('EC') on the Ealing Regulation 19 Local Plan and Proposed CIL Charging Schedule.
- 1.1.2. It is understood that public consultation on the Local Plan (Regulation 19) and CIL Charging Schedule have commenced on 28 February 2024 and will close at 6pm on 10 April 2024.
- 1.1.3. As a key housebuilder operating within the borough of Ealing, Luxgrove specialises in delivering high-quality developments and have engaged with the Council on a number of occasions throughout the years. This representation seeks to build upon previous representations submitted to the Council in the form of Call for Sites and the Regulation 18 consultation which was held from 30 November 2022 to 8 February 2023.
- 1.1.4. Overall, Luxgrove supports the Regulation 19 Draft Local Plan and considers it to be a highly ambitious, positive plan which focuses on delivering the homes and jobs Ealing need. Luxgrove particularly supports the spatial policies set out within Chapter 3 of the plan, and the principle of cultivating 20-minute neighbourhoods at the heart of the plan in line with sustainable living. The climate crisis objectives along with fighting inequality are considered good core aspirations which are highly regarded.

1.2. Report Structure

- Chapter 2 – Policy Context
- Chapter 3 – Representation on Regulation 19 Local Plan
- Chapter 4 – Representation on CIL Charging Schedule
- Chapter 5 – Conclusion

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2. Policy Context

- 2.1.1. The Local Plan is required to be consistent with the National Planning Policy Framework ('NPPF'), which sets out the government's planning policies for England. Chapter 3 of the National Framework provides guidance on the plan-making process specifically and seeks to ensure that development plan will pass the test of soundness and align with sustainable objectives of the NPPF. Policies of most relevance for this representation are set out below:
- 2.1.2. **Paragraph 16** requires plans to:
- a) Be prepared with the objective of contributing to the achievement of sustainable development;
 - b) Be prepared positively, in a way that is aspirational but deliverable;
 - c) Be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees;
 - d) Contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;
 - e) Be accessible through the use of digital tools to assist public involvement and policy presentation; and
 - f) Serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies within this Framework, where relevant).
- 2.1.3. **Paragraph 31** states that the preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.
- 2.1.4. **Paragraph 35** States that local plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. Plans are 'sound' if they are:
- a) **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs, and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
 - b) **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
 - c) **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
 - d) **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.

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3. Representation on Regulation 19 Local Plan

- 3.1.1. This section seeks to set out a detailed representation under each requisite policy which we consider to merit further consideration and includes comments on the proposed site allocations which are of concern to Luxgrove under the emerging Local Plan.
- 3.1.2. Icení and Quod have further supplemented this representation through providing additional comments on building height and viability, and this evidence is appended as part of this submission.

3.2. Policy D9 – Tall Buildings

- 3.2.1. Icení Projects have been instructed to undertake a review of the Regulation 19 Draft Local Plan and associated evidence base documents, with particular reference to heritage, townscape and design matters. This note is included within this submission within **Appendix 1**. This note makes particular reference to the Tall Buildings policy as well as the contents as set out within two site allocations, also touched upon below in sections 3.9 and 3.10 below. The Council is requested to refer to this submission for a full analysis, however a brief summary has been provided below.
- 3.2.2. Whilst it is acknowledged that the Council has produced an updated Tall Building Strategy, it is not considered that the strategy goes into sufficient detail to warrant the prescriptive nature of the maximum heights and design comments contained within emerging Policy D9 and respective site allocations. It is noted that there has not been any more detailed design analysis undertaken in this updated Strategy compared to the document submitted as part of There is also reference within paragraph 5.15 under Policy D9 that the 'heights listed in Development Sites are the product of detailed design assessment', which again, is disputed, given the high-level nature of the assessment contained within the Tall Building Strategy. It is however acknowledged that this paragraph does state that all sites should be subject to a full design assessment at the point of application.
- 3.2.3. It should also be noted that there were a number of inconsistencies in the Tall Building Strategy, particularly in Appendix 1, which were raised in the Regulation 18 Representations and have not been addressed.
- 3.2.4. With reference to draft Policy D9, part G states that the tall buildings threshold heights (presumably as set out within Table DMP1 and individual site allocations) do not present a presumption that any height up to this is automatically acceptable. Whilst this is accepted, we consider that it is important to clarify that the threshold heights should not also automatically preclude any proposals that are proposed above the threshold height. Therefore, an amendment is requested to part G of draft Policy D9, as set out below:

Policy D9: Tall Buildings London Plan – Ealing LPA – Local Variation

'E. The definition of a tall building in different parts of Ealing is set out in Table DMP1.

F. Tall buildings above defined thresholds are exceptional and should be located upon specified Development Sites defined in the Development Plan. Tall Buildings on sites that are not designated within the Development Plan may be acceptable only where the criteria set out in London Plan Policy D9 Part C are met.

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*G. The tall buildings threshold height is simply that and not a presumption that any height up to this is automatically acceptable, **nor any height above this automatically unacceptable.***

H. Tall buildings on designated industrial sites will be subject to agreed masterplans and based upon local impacts and sensitivity'

3.3. Policy SSC – Small Sites Contribution

- 3.3.1. This policy is considered to prevent small scale sites from coming forward as it would be detrimental to the viability of a scheme, and also dismisses the important contribution that small-scale sites provide in providing much-needed housing in the Borough. In this regard it conflicts with national objectives of focusing development on brownfield land and maximising development potential of small sites through.
- 3.3.2. Quod have been instructed to undertake a review of the Regulation 19 Draft Local Plan and associated evidence base documents, with particular reference to affordable housing and viability matters. This document has been included as part of this submission within **Appendix 2**, and the Council is kindly requested to refer to this, however a brief summary has been provided below.
- 3.3.3. First, it finds that the inputs adopted in the viability study are not realistic and accurate in the current market, including build costs, finance costs and projected sales revenues. When the inputs are adjusted to more realistic levels, this has a significant impact on whether schemes would be viable/deliverable.
- 3.3.4. Quod has undertaken analysis in relation to the impact that the introduction of a small sites contribution would have to the viability and deliverability of proposals of under 10 units, which is set out in Table 2 of the note. The calculation finds that at any level of requested affordable housing contribution ranging from 5% to 50%, a 7-unit scheme would not be viable to deliver. This is pertinent as draft Policy SSC would request a 20% contribution from a 7-unit scheme, which would render this scheme unviable and undeliverable. It is therefore expected that this same principle would apply to a majority of forthcoming schemes of comprising 1-9 residential units in the Borough. It should therefore be considered that the introduction of a requirement for small sites to contribute towards affordable housing would be detrimental for the delivery of smaller schemes in the Borough, which would have a significant impact on housing delivery within Ealing.
- 3.3.5. Additionally, an acute case study which is of relevance is the Lambeth Development Plan which sought to deliver a small sites contribution within their Draft 18/19 Local Plan under Policy H2 'Delivering Affordable Housing' Section a) ii. This policy required a financial contribution towards the delivery of off-site affordable housing for developments between 1 and 9 residential units and was a policy which was adopted within the previous rendition of the Local Plan (2015). Upon review of the emerging Local Plan, the Inspector found that compelling evidence, predominantly supplied from the Lichfield 'Small Sites: Unlocking housing delivery' (September 2020)¹ study, demonstrated that due to disputes on land values, average determination periods become extended to approximately 71 weeks which is in fact "contrary to the national aim of significantly

¹ https://lichfields.uk/media/6180/small-sites-unlocking-housing-delivery_sep-2020.pdf

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boosting the supply of housing.² Subsequently the Inspector required the small sites contribution to be removed from the adoption version of the Local Plan.

- 3.3.6. Given the above, it is considered that the small sites contribution should be removed from the draft Ealing Local Plan to prevent conflict with the NPPF and much needed housing from coming forward. In this respect, this policy is considered to fail the test of soundness.

~~'Ealing will seek affordable housing contributions from all housing development. On small sites this will be as follows:~~

~~(i) On sites of 5-9 dwellings a financial contribution equivalent to 20% affordable provision; and~~

~~(ii) On sites of 1-4 dwellings a financial contribution equivalent to 10% affordable provision'~~

3.4. Policy HOU – Affordable Housing

- 3.4.1. Quod have reviewed this draft policy and full analysis is contained within the note, however a brief summary has been provided below.

- 3.4.2. Proposed policy HOU (Affordable Housing) is considered to conflict with strategic policy as set out within the London Plan (2021). London Plan Policy H5 sets out the minimum requirement for Fast Track Route to be 35%. Ealing's policy for 40% is considered wholly unfounded and presents a clear conflict in policy.

- 3.4.3. Similarly, the specified contribution of 40% for Large Scale Purpose Built Shared Living (LSPBSL) is considered to be overly onerous in requirement and conflicts with strategic policy contained within the London Plan. The same applies to the requirements for Purpose Built Student Accommodation.

- 3.4.4. Quod's report finds that should a higher 40% threshold be introduced for Fast Track compliance, some sites would not be able to come forward if developers are unable to accept a viability review mechanism. This has been demonstrated in the note through calculations based on a currently pending application submitted to Ealing at 99-113 Broadway, West Ealing (ref: 240012FUL), which is also referred to in section 3.9 below. This application has been submitted on the basis of a 35% Fast Track approach, whereby the scheme would be viable, however should the threshold be increased to 40%, the scheme would no longer be viable. The introduction of the 40% threshold would therefore result in the loss of over a hundred homes and this situation would likely be replicated across a vast number of sites across the Borough.

- 3.4.5. Requested amendments to draft Policy HOU are shown below:

'Policy HOU: Affordable Housing – Ealing LPA – Local Policy

A. Affordable housing contributions must address identified needs in Ealing and will be based upon:

(i) A strategic Target of 50% as set out by the London Plan.

² https://www.lambeth.gov.uk/sites/default/files/2021-07/Lambeth%20Local%20Plan%20Report%20-%20final_3.pdf

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- (ii) *A split of 70% low-cost rented at social rent levels to 30% intermediate provision.*
- (iii) *An appropriate mix of tenures and unit sizes.*
- B. *Development should meet identified local needs for tenure and mix.*
- C. *The Fast Track route, set out in Policy H5 B 1) of the London Plan, in Ealing will only apply to schemes providing at least ~~35%~~ 40% affordable housing and tenure split of 70% social rent and 30% intermediate. This requirement also applies to Build to Rent developments.*
- D. *Provision should normally be made on site, and units secured in perpetuity for affordable use.*
- E. *Affordable housing contributions from large scale purpose built shared living (PBSL) should be in the form of conventional housing units on site and should meet a minimum ~~35%~~ 40% contribution.*
- F. *For purpose build student accommodation ('PBSA') to follow the Fast Track Route set out in Policy H15 4) a) of the London Plan at least ~~35%~~ 40% of the accommodation must be secured as affordable student accommodation.'*

3.5. Policy H16 – Large Scale Purpose Built Shared Living ('LSPBSL')

- 3.5.1. The proposed policy, which correlates with London Plan Policy H16, presents a variation in only allowing LSPBSL to be located within Ealing Metropolitan Town Centre. It is considered remiss of the Council to focus this type of development in this singular location and contradictory in policy.
- 3.5.2. In limiting the location for this type of development, it essentially limits the opportunity for this type of development to come forward, therefore impacting a demographic of people who this style of living is most in demand, most notably young professionals between 25 – 34 years of age. LSPBSL is a key product which plugs the gap for those that are unable to access the housing market through traditional home ownership, whereby an extra 370,000 households are anticipated to enter the private rented sector over the next decade in the post 'help to buy' world³.
- 3.5.3. As set out within paragraph 5.23 under emerging policy H16, it is agreed that LSPBSL works well in well-connected locations, with good access to local amenities. This is in line with the guidance contained within London Plan Policy H16. Given that the emerging Plan seeks to promote development within 7 main town centre areas, which are all areas that are well-connected and have access to a wide range of amenities, it would be counter-intuitive to restrict LSPBSL development to only Ealing Metropolitan Centre and not within other areas of the borough. On this basis, we suggest that the wording of the emerging policy should be updated to allow LSPBSL in all of Ealing's 7 towns, and in areas of PTAL 4 and above.

³https://www.savills.co.uk/research_articles/229130/356373-0#:~:text=An%20additional%2010%2C000%20PRS%20households,at%20least%20%C2%A315%20billion

0#:~:text=An%20additional%2010%2C000%20PRS%20households,at%20least%20%C2%A315%20billion

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3.5.4. Further, we consider that their use of the wording 'compromise the supply of class C3' to be too ambiguous. Whilst we recognise that there needs to be a policy control to control existing C3, we consider that there is clearer wording that can be used to allow for clearer decision making.

3.5.5. Requested amendments to draft Policy H16 are shown below:

'Policy H16: Large Scale Purpose Build Shared Living – London Plan – Ealing LPA – Local Variation

*B. Development of large-scale shared living will only be permitted within ~~any of Ealing's Metropolitan Town Centre~~ **7 towns or within highly accessible areas with a minimum PTAL rating of 4**, and will only be supported where it can be demonstrated that the scheme would:*

*(i) ~~not compromise the supply~~ **result in the loss** of class C3 self-contained homes, **unless justified**;*

(ii) not result in an overconcentration of similar uses; and

(iii) not be detrimental to local amenity and the mix and cohesiveness of community uses in the area.'

3.6. Policy G6 – Biodiversity and Access to Nature London Plan

3.6.1. Policy G6 sets out the requirement for proposals to achieve a Biodiversity Net Gain ('BNG') of at least 20%. The Biodiversity Net Gain Planning Practice Guidance (PPG, February 2024) advises explicitly for Local Authorities to not prescribe a higher level of BNG contribution where it cannot be justified.

"Plan-makers should not seek a higher percentage than the statutory objective of 10% biodiversity net gain, either on an area-wide basis or for specific allocations for development unless justified. To justify such policies they will need to be evidenced including as to local need for a higher percentage, local opportunities for a higher percentage and any impact on viability for development. Consideration will also need to be given to how the policy will be given to how the policy will be implemented"

– Paragraph 006 Reference ID: 74-006-20240214

3.6.2. There has not been any evidence submitted as part of this emerging Plan to justify the increased target of 20% in line with the guidance as quoted above. It is considered that the 20% requirement would have a detrimental impact on the ability of small sites to be viably brought forward, and that there are not specific local circumstances that have been demonstrated whereby a higher percentage BNG is required.

3.6.3. Requested amendments to draft Policy G6 are shown below:

'Policy G6: Biodiversity and Access To Nature London Plan – Ealing LPA – Local Variation

*F. Development proposals should achieve a biodiversity net gain of at least ~~20%~~ **10% or the as the** advised national minimum amount ~~whichever is greater~~, as follows:*

(i) Biodiversity net gain will be calculated using up-to-date national calculation methodology and should normally be provided on-site.

(ii) offsite provision may be considered where this can provide greater gains and impact.

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(iii) Any offsite provision should fall within the London Borough of Ealing boundary, and as close to the site as possible, and be guided by any potential improvement opportunities which have been identified in individual Town Plans.

(iv) Provision must be consistent with the Local Nature Recovery Strategy.

3.7. Policy OEP – Operational Energy Performance

3.7.1. The proposed OEP policy is considered to be overly onerous in its requirements in requiring all new dwellings to be designed to be Net Zero Carbon in operation. It is considered that these requirements should only apply to major developments, in accordance with national policy and guidance, as well as London Plan guidance. The requirement for all new dwellings to demonstrate predictive energy modelling and space heating demands will disproportionately affect the viability of smaller developments, which are integral in overcoming housing demand in a far more sustainable manner through promoting brownfield development.

3.7.2. Requested amendments to draft Policy OEP are shown below:

~~'New dwellings or 500 sqm~~ **Proposals of 10 dwellings and above, or 1,000sqm** or more of non-residential GIA should be designed and built to be Net Zero Carbon in operation. Including:

- (i) Predictive energy modelling to demonstrate compliance with the Space Heating Demand and Energy Use Intensity targets in Tables DMP2 and DMP3.*
- (ii) Achieving an 'Energy Balance', or where this is not technically feasible, paying for any shortfall through the Council's Offset Fund.*
- (iii) Minimising the 'Performance Gap' through an assured performance method of assessment.'*

3.8. Allocation 12EA – Chignell Place

This allocation should be updated to take into account the resolution to grant dated November 2023 under reference 224322FUL, which permitted a building up to 9-storeys in height on this site. The 'Tall Buildings' section of this allocation currently sets out that 'Design analysis indicates a maximum height of 4 storeys', which would not be consistent with the above resolution to grant. The 'Tall Buildings' and 'Design Principles' sections should be updated to reflect the above.

3.9. Allocation 13EA – 99 – 113 Broadway

3.9.1. Our client had previously made representations to the Regulation 18 consultation in relation to the maximum heights permitted on this site. We note that the 'Tall Buildings' section of the allocation has not been updated, stating that a maximum height of 12 storeys would be acceptable on this site, and therefore set out some further detail in respect of this site below.

3.9.2. There is a currently pending planning application under reference 240012FUL for the demolition of the existing buildings and replacement mixed-use development comprising Class E floorspace and 144 new homes, which steps up to 14-storeys in height. This application was supported by a detailed Townscape and

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Visual Impact Assessment by Iceni which suggests that the area and nearby townscape would be suitable for a building of up to 15 storeys.

- 3.9.3. The supplementary addendum produced by Iceni in support of these representations set out further detail in relation to the Council's Tall Buildings Strategy and the maximum heights that are set out within this allocation. When considering consents and allocations in the immediate vicinity of this allocation, it does not appear to be cohesive with the maximum heights set out within this allocation.
- 3.9.4. It should therefore be considered that the 'Maximum Heights and 'Design Principles' sections of this allocation should be updated to reflect the above. It should also be noted that Table E2 on Page 170 of the emerging Plan incorrectly notes 13EA as being '99-115 Broadway'.

3.10. Allocation 14EA – 131 – 141 Broadway

- 3.10.1. As set out within our client's previous Regulation 18 representations, there are inconsistencies within the text of the allocation itself which should be amended.
- 3.10.2. The 'Tall Buildings' section of the allocation identifies that the site 'is in principle suitable for a tall building', and that 'Design analysis indicates a maximum height of 6 storeys'. 6 storeys is at a height which is below the definition of a tall building in the area (7 storeys). There is no recognition of its role as a 'gateway' into the town centre and the merits of height here, as is recognised in the name of the Draft Site Allocation (and in the existing Site Allocation).
- 3.10.3. Notwithstanding this, application reference 225080FUL (as referenced within the 'Relevant Planning Applications' section of the allocation) granted permission for a 9-storey building comprising 94 co-living units on the site at nos. 131-137 in November 2023. There is also a currently pending application which includes no. 139 within the application site boundary (ref: 235015FUL), also at 9-storeys in height. On this basis, the site allocation should be updated to reflect that a minimum of 9-storeys in height should be acceptable. The 'Proposed Use' section and 'Design Principles' sections should also be updated to reflect the above permission.

3.11. Allocation 20EA – Downhurst Care Home

- 3.11.1. We note that Downhurst Care Home has been identified under allocation 20EA for redevelopment. It however should be of note that part of the above allocation includes a section which has been granted permission by our client. Louisa Chilton Court, towards the east of the site allocation, was granted planning permission on the 17 August 2023 under planning permission reference 232370FUL for "*the demolition of 2 existing buildings (Class C3) and erection of 3 new buildings (Class C3) comprising 4 residential units with associated amenity space, car parking, refuse and cycle storage and landscaping*".
- 3.11.2. On this basis, the site allocation should be updated to either remove the consented site area from the allocation, or to update the text in relation to the relevant planning permissions, timescales for delivery and the text within the 'contextual considerations' and 'design principles' section to take the above consent into consideration.

4. CIL Charging Schedule

- 4.1.1. Quod's report also provides further analysis with respect to Ealing's proposed CIL Charging Schedule and the associated supporting evidence, and the Council is kindly requested to refer to this for a full analysis, however a brief summary is provided below.
- 4.1.2. Quod's analysis finds that insufficient evidence has been submitted as part of this consultation in order to determine the potential effects on the viability of development, in line with the guidance contained within the NPPF and PPG. First, it finds that the inputs adopted in the viability study are not realistic and accurate in the current market, including build costs, finance costs and projected sales revenues. When the inputs are adjusted to more realistic levels, this has a significant impact on the results of the viability study.
- 4.1.3. The report also finds that an insufficient number of scenarios and typologies of residential development have been tested as part of the submitted evidence, which does not provide a broad enough picture of the range of variables that can impact the viability of large-scale residential schemes, including but not limited to building height, shape, efficiency and wall-to-floor ratio.
- 4.1.4. Finally, it undertakes an assessment of the impact of CIL on both currently pending schemes and recently consented schemes within the Borough. Analysis was undertaken for the currently pending scheme at 99-113 Broadway, West Ealing (240012FUL) as referenced above, and finds that the introduction of CIL would result in the cost of delivering the scheme to increase by approximately £1.6m, which would result in the scheme being no longer viable to deliver. The report and the supporting viability assessment produced the BNP Paribas finds that should CIL be introduced, the level of affordable housing delivery within schemes could be reduced by 6-7%.
- 4.1.5. The report also presents a number of recent schemes in the Borough where the Council's assessors have agreed that these schemes would not be able to viably deliver any affordable housing or securing a maximum payment in lieu equivalent to circa. 10% affordable housing. The viability position of these schemes would clearly worsen should CIL be introduced.
- 4.1.6. Overall, the report suggests that the draft Charging Schedule and associated supporting viability assessment prepared by BNP Paribas should be comprehensively reviewed, to ensure that the inputs are robust and up-to-date and that the results are verified against recent application assessments and current applications. This will provide further justification as to the impact of the introduction of CIL on the viability of schemes in the borough, in line with the requirements as set out within the NPPF and PPG.

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5. Conclusion

- 5.1.1. Under the above points, the Local Plan is considered to fail the test of soundness through not being prepared in a positive manner as to set realistic, achievable minimum standards and rather conflict with national planning policy.
- 5.1.2. We trust the above representations will be taken into account prior to the submission of the Plan for examination stage, and look forward to reviewing following stages of the Plan to ensure that the representations have been taken into consideration.
- 5.1.3. We would welcome the opportunity for further discussion and engagement with the Council to discuss the representations in this letter and how the next iteration of the Plan could respond to the requested changes and issues raised.
- 5.1.4. If there are any queries, please do not hesitate to contact myself or my colleagues Fergus Wong or Gabriella Dyche. Please note that as we are currently acting on behalf of Luxgrove Capital Partners in respect of 13EA and 14EA, and we request that all future correspondence for matters concerning these sites be directed to Savills.
- 5.1.5. It would be appreciated if you would acknowledge receipt of this letter of representation. We reserve the right to supplement this letter at a later date, if required. We also reserve the right to right to represent Luxgrove Capital Partners at any future Examination Hearing.





MEMO

To: [REDACTED] obo Luxgrove Homes
From: Icen Projects, Built Heritage and Townscape team
Date: April 2024
Title: **Heritage and Townscape Addendum to Representations to Ealing Regulation 19 Local Plan Consultation**

a. Introduction

1. This note is prepared as an addendum to the letter of representations to the Regulation 19 Draft New Local Plan Consultation submitted on behalf of Luxgrove Capital Partners. It considers heritage, townscape and design matters in particular.
2. Icen Built Heritage and Townscape are currently supporting two proposals for Luxgrove Capital Partners in West Ealing: one live application for the Kwik Fit site at 131-139 Broadway (235015FUL); and one live application at 99-113 Broadway (240012FUL). We have provided heritage and townscape inputs to both these applications, as well as to the recently consented application for the Kwik Fit site at 131-137 Broadway (225080FUL) for redevelopment of this site for a 4-9 storey co-living scheme. We also previously submitted representations to the Regulation 18 Draft New Local Plan on behalf of the same client.
3. This note assesses both the Regulation 19 Draft New Local Plan ('NLP') and the evidence base documents prepared by Allies and Morrison to support the NLP, including the Ealing Tall Building Strategy, Main Report, Appendix Part 1 and Appendix Part 2 (December 2023).

b. Regulation 19 Local Plan

Introduction

4. To preface this, we would like to note that we are somewhat disappointed with the lack of amendments to the Regulation 19 NLP and the Tall Building Evidence Base following representations made on the Regulation 18 NLP, particularly as a number of concerns were raised with the approach to tall buildings and site allocations which have not been addressed, or even acknowledged. Given some of these points are fundamental points of concern about the robustness of the Plan approach when it comes to height, massing, and site capacity, this is particularly concerning and disappointing.
5. We continue to welcome the generally positive approach to growth within the borough achieved by the Regulation 19 NLP, in line with London Plan's approach to 'good growth'. We are also supportive of the character-led approach to development which follows London Plan Policies D3 and D4. This is reflected in the spatial dimensions underpinning Ealing's spatial strategy set out paragraph 3.6: *'(i) Focus growth in opportunity areas and growth corridors; (ii) Focus growth within town centres first; and (iii) Prioritise strategic and local regeneration areas'*. As such, we welcome the approach to managing growth set out in Draft Policy SP4.1.

6. In particular, we agree with the policy approach of supporting the urban hierarchy of the borough by directing growth and intensification towards Ealing Metropolitan District Centre. In terms of place interventions, this spatial strategy would lead to *'(i) Significant levels of development at Ealing Metropolitan Town Centre'* which includes 'significant, high density residential and employment growth' (para 3.62). This is reflected in Draft Policy E2: Ealing Metropolitan Town Centre. From a townscape and urban design perspective, increasing density in the well-connected Metropolitan Town Centre is a sensible approach to accommodating necessary growth in a sustainable way. We welcome that this Draft Policy E2 includes a specific focus on West Ealing in Part G: *'Strengthening the local character and distinct offer of West Ealing, including food offer, retail, convenience and leisure while realising the potential of identified Development Sites to improve the quality of built environment and deliver new houses and jobs'*.
7. However, we do not believe that these fundamental principles are reflected in the approach to height and density set out in the Draft Development Sites, particularly in the case of West Ealing. We are also concerned that the issues that we have identified with the Draft Development Sites indicate that, as a whole, the Borough is at risk of unnecessarily stymying its future development potential. While the issues we work through below are specific to the sites in which our client has an interest, they are, as a result of the Plan's consistent approach to sites, repeated across the borough.
8. While clearly, the Plan is based on detailed analysis of the Borough's ability to deliver new homes on the basis of current housing targets, these numbers could change, as we have seen in recent years; we are concerned that a clearly pro-active authority is at risk of holding itself back from responding flexibly to changing strategic and national housing demands through an unduly inflexible approach to height in Site Allocations. In our analysis below, we take account of the Supporting Text to Policy D9 (Local Variation), which states that: *'Heights listed in site allocations are the product of detailed design assessment, nevertheless they remain subject to a full design assessment at the point of application against the impact policies set out in London Plan Policy D9 C.'*
9. While the above clearly recognises that site allocation heights are not 'fixed', the inclusion of this text within Supporting Text, as set against specific identified acceptable heights *within Site Allocation Policies themselves* creates a position where this caveat can be overridden in favour of the Policy text itself in individual Development Sites. This may also lead to inconsistency and potential flaws being built into the plan itself. As we will show below, we are concerned that the overall approach overstates how 'detailed' the approach taken to identifying heights for Development Sites within the Plan is, and accordingly, more flexible policy wording is required around heights.
10. As it stands, West Ealing is noted as being within the Ealing Metropolitan Town Centre and a Strategic Area of Regeneration. Therefore, it is a natural place to accommodate some of the significant growth planned for the borough, much of which is to be focussed in the Metropolitan Town Centre. Its role becomes especially important in the context of Figure E1 which shows the number of conservation areas in Ealing and Ealing Broadway, compared with very few in the vicinity of West Ealing. Thus, within the Ealing Metropolitan Town Centre, West Ealing can both accommodate growth whilst also meeting the statutory and policy tests of preserving and enhancing the significance of heritage assets (sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990; NPPF paragraphs 197 & 199) which may be more sensitive to increasing height, scale and massing.

Development Sites 13EA and 14EA

11. In terms of the site allocations, the two sites owned by Luxgrove Homes (99-113 Broadway and 131-137 Broadway) remain allocated sites as they are currently, and the Ealing Spatial Strategy identifies the two allocated sites as 'suitable for tall buildings' (Figure E3). However, the approach to height, density and design guidance on these sites does not reflect the intended urban hierarchy of the borough and their role in the Metropolitan Town Centre. Nor do they take into account the practicalities of delivering these constrained sites without height.

- Draft site allocation 13EA: 99-115 Broadway identifies that: *'The site is in principle suitable for a tall building. Design analysis indicates a maximum height of 12 storeys (42 metres).'*
 - Similarly, draft site allocation 14EA: Western Gateway, 131-141 Broadway identifies that: *'The site is in principle suitable for a tall building. Design analysis indicates a maximum height of 6 storeys (21 metres).'*
12. In both cases, the heights are identified as “maximum” heights, as a result of design analysis in the Tall Building Strategy Appendices Parts 1 and 2. However, neither of these Evidence Base studies can properly be considered to be so detailed as to permit the introduction of *maximum* heights and they introduce a number of contradictions and errors which are then carried forward in the Draft Development Sites and Tall Building Policy. More specifically, we would note the following:
- Firstly, Draft Policy D9 ‘Tall Buildings London Plan - Ealing LPA – local variation’ provides a definition of tall buildings per individual area of borough, apparently following *‘rigorous assessment’* (para 5.12). A definition of a tall building is helpful and adds colour to the existing loose definition (Development Management Policy 7.7, part H). However, the application of varied definitions seems inconsistent and does not match the definitions in the Evidence Base (i.e. area E14 is 21 storeys in Table DMP1, but 9 storeys in the Tall Building Strategy Main Report). Both Draft Development Sites 13EA and 14EA are within area E10 which identifies tall buildings as 7 storeys or 24.5m. Despite this and site 14EA being identified as “suitable for a tall buildings”, it is indicated for a ‘maximum height’ of 6 storeys which would not actually meet the tall building threshold. This is particularly confusing when this site is already consented for up-to 9 storeys. The Council’s decision to grant consent at 9 storeys clearly indicates that following genuinely detailed analysis, a maximum height 30% in excess of the indicated maximum height in the current draft of the Plan is acceptable. This goes some way to demonstrating the limitations of the assessment within the Tall Building Strategy Appendices. **We would encourage the Council to revisit the Tall Building Strategy Appendices and Policy D9, in order to ensure that it is consistent in its approach, and does not create unintended outcomes which stymy development. We would specifically ask the Council to revisit the allocation for 14EA, which is clearly contradictory.**
 - Secondly, Draft Policy D9 also states that *‘F. Tall buildings above defined thresholds are exceptional and should be located upon specified Development Sites defined in the Development Plan.’* While we recognise that London Plan Policy D9 advocates a plan-led approach, restricting tall buildings to allocated sites does not recognise the judgement of Master Brewer Case [R (London Borough of Hillingdon) v Mayor of London, 15 December 2021] that while boroughs need to identify suitable locations for tall buildings under Parts A and B, tall buildings can come forward outside of allocated sites providing they meet the impact requirements of Part C. **We would encourage the Council to revisit this text, such that it can continue to show consistency with D9 B of the London Plan, but also recognise that sites which are not allocated can be appropriate for tall buildings, perhaps, “only where the criteria set out in London Plan Policy Part C are met”.** Such an approach would permit greater flexibility, clearly setting out an ‘allocated sites first’ approach to tall buildings, and an accordingly plan-led approach, but with a flexible approach which will not lead to unintended consequences which restrict growth in the future.
 - Thirdly, the neighbouring allocation 11EA: Sainsbury’s & Library has a maximum height of 16 storeys indicated. It is unclear why 13EA is then capped at 12 as both sites occupy the same place in the urban hierarchy (in the Metropolitan Town Centre, fronting Broadway and near emerging height). We believe this issue stems primarily from the Tall Building Strategy Evidence Base which is investigated further in next section.
 - **We feel there is a fundamental issue with the use of “maximum” heights and “indicative ranges” for site allocations.** Such an approach suggests a level of detailed assessment for study sites which in our view, as we shown below (and above, in relation to Allocation D9), is not sufficient to restrict development through ‘maximum’ heights. When the two approaches are combined, as they are in the context of West Broadway and the proximity of site allocations 11EA and 13EA, they also create an uneven approach, which might prevent the creation of balanced, high-quality tall building clusters in townscape terms. **We would therefore ask the**

Council to revisit its use of language for maximum heights or ranges for Development Sites. While we appreciate the maximum height is 'indicated', we would suggest that this is reworded as '*design analysis indicates heights of X to X storeys, but this should be subject to detailed design and townscape assessment*' or equivalent.

c. Evidence Base

13. We should note that the approach taken by Allies & Morrison to the Tall Building Strategy is a well-considered one, and is also a well-trodden path. We concur with its general findings in relation to where height is most appropriate and commend the Council and A&M for the thoughtful and careful approach to locating height which has been taken. We are also supportive, furthermore, of the Tall Building Strategy's approach in principle to 'testing' heights. We want to be clear that our criticisms of the Study Site analysis below are not critical of the general methodology, or of A&M's general approach to locating height, and identifying appropriate heights.
14. Our very real concern, however, is that the approaches outlined are but one designer's necessarily high-level assessment to testing height and massing, without the detailed knowledge and analysis that comes with a specific application, and through a lengthy, engaged pre-application process. It cannot properly be said that the Site Studies are 'detailed' in Development Management terms, as is stated in the Appendix itself: '*The development scenarios and capacities presented in this appendix are indicative only. They reflect a townscape and character-led approach to optimising the capacity of study sites that have not been subject to detailed design or viability testing*'. The Tall Building Strategy as a whole, should be taken for what it is, as a high-level indication of development potential. If used to define maximum parameters, or even to guide development parameters generally, they potentially prevent the creation of creative alternative solutions. They should not, under any circumstances, be used to create definitive or limiting site allocations.
15. The Tall Building Strategy Main Report by Allies & Morrison advocates a 'plan-led' approach and identifies potential areas suitable for tall buildings using 'suitability' and 'sensitivity' analysis. In addition, in terms of suitability analysis, West Ealing is considered to be one of the more sustainable locations for tall buildings in the borough as a whole, alongside Ealing and Ealing Broadway. We would agree with the assessment that West Ealing is suitable for tall buildings (and this is reflected in the identification of suitable Development Sites for tall buildings in Figure E3). However, the subsequent guidance in Appendix Parts 1 and 2 does not seem to reflect the outcome of the suitability analysis in the Main Report in terms of the distribution of height and massing.
16. Despite being dated December 2023, there does not appear to be any change to Appendix Part 1 from the previous Appendix which supported the Regulation 18 NLP. Therefore, the analysis is not up-to-date and mapping of consented heights does not include recent consents (i.e. at 131-137 Broadway for up to 9 storeys). Additionally, the naming of the site allocations reflects the old numbering, not the revised numbering in Regulation 19 which makes this confusing. As such, this Appendix should be reviewed and the updated context taken into account as it would have an important effect on the overall analysis, particularly at site 14EA.
17. There is no more detailed analysis from the Regulation 18 NLP Evidence Base, despite the lack of detail being raised as an issue in informing draft Development Site design parameters at the time, and there are several discrepancies between the Evidence Base itself and the Regulation 19 NLP (which also appear to have been carried forward from the Regulation 18 NLP). While a Part 2 has been introduced to analyse further development sites, this appears to introduce further inconsistencies between Part 1 and Part 2, as well as with the Regulation 19 NLP. Confusingly, both Part 1 and Part 2 assess the Sainsbury's site and 59-65 Broadway (their EA18 and EA17, now 11EA and 10EA) and come to different conclusions on height for EA18 – one says 13 storeys and the other 16 storeys. Furthermore, Part 2 also takes a 'masterplan' approach to Ealing Clusters, but in doing so, includes sites which are assessed in Part 1 – it is unclear and confusing why these are separated, but this cements the fundamental issue of a combined approach to redeveloping several sites without detailed masterplan analysis (not necessarily expected at this

stage) which then is taken forward in Development Sites as 'maximum heights' and 'design principles'.

d. Conclusion

18. In summary, while we agree with the general approach to the spatial policies and townscape analysis, we do not believe this has wholly translated into the strategies for the Draft Development Sites and approach to tall buildings in the borough. As a result of the issues identified, we would suggest the following changes to the Regulation 19 Draft Local Plan:

- **Reconsider the maximum height and prevailing height of all Development Sites to include all consented developments coming forward, with particular reference to West Ealing where consented sites already exceed 13 storeys and there is recent consent at 131-137 Broadway (site 14EA) for 9 storeys.**
- **Reconsider how the proposed tall building strategy can better tie in with the spatial policies of good growth, in terms of urban hierarchy, densification, supporting 20-minute neighbourhoods and optimising the capacity of sites.**
- **Instead of maximum height limits suggested by Allies and Morrison, broader height ranges for draft allocated sites are adopted to guide development. In the absence of a more detailed study by Allies and Morrison to justify the heights proposed, the onus would then be on the applicant to provide the detailed design justification of what height might be appropriate, in line with the requirements of Part C of London Plan Policy D9. This can then be assessed by the borough during the application process.**
- **Review and clarify the discrepancies between Tall Building Strategy Appendix Part 1 and Part 2, and between the Tall Building Strategy and the Regulation 19 NLP.**

Appendix 2 – Viability Study Analysis and CIL Representations prepared by Quod



Note

EALING LOCAL PLAN & CIL REPRESENTATIONS VIABILITY STUDY ANALYSIS (10.04.23)

1 Purpose

- 1.1 This note provides viability evidence in support of representations submitted on behalf of Luxgrove Capital Partners in response to the Ealing Draft Local Plan Regulation 19 Consultation and the Ealing Draft CIL Charging Schedule Consultation.

2 Respondent

- 2.1 The respondent is Luxgrove Capital Partners. The respondent is an experienced property developer who is progressing plans to deliver hundreds of homes across several sites within the London borough of Ealing. This includes medium/ large scale schemes on sites including 99 Ealing Broadway and several smaller schemes of less than c.20 homes.

3 Context

- 3.1 The National Planning Policy Framework (NPPF) and National Planning Practice Guidance (PPG) sets out how Local Authorities should use proportionate financial viability evidence to support Local Plan policy requirements and CIL charging schedule rates. It expands on the statutory requirements set out in the Town and Country Planning Act (1990), Planning Act (2008), Localism Act (2011) and CIL Regulations (2010) as amended.
- 3.2 In respect of Local Plans, the NPPF and PPG confirms in setting local policy requirements and site allocations, an authority must:
- Ensure the plan is 'justified' (based on proportionate evidence) and 'effective' (deliverable over the plan period) (NPPF Paragraph 35);
 - Use a viability assessment to ensure that policies and allocations are realistic, and that the total cumulative cost of all relevant policies will not undermine deliverability of the plan (Ref ID: 10-002-20190509); and
 - Be informed by a proportionate assessment of viability (ID: 10-001-20190509).
- 3.3 In respect of CIL levy rates, the NPPF and PPG confirms that when setting levy rates, an authority must:
- Ensure they are fairly and reasonably related in scale and kind to the development (NPPF, Paragraph 57);
 - Do not undermine the deliverability of the plan (NPPF, Paragraph 34)
 - Strike an appropriate balance between additional investment to support development and the potential effect on the viability of developments. (ID: 25-010-20190901);
 - Show how their proposed levy rate (or rates) will contribute towards the implementation of their relevant plan and support development across their area (ID: 25-010-20190901).



Note continued

- Be consistent with, and support the implementation of, up-to-date relevant plans.” (PPG Ref: 25-011-20190901);
- Ensure they are informed by a proportionate assessment of available viability evidence (ID: 25-019-20190901); and
- Avoid setting a charge at the margins of viability (ID: 25-019-20190901);

3.4 Overall, the NPPF and PPG is clear that new policy requirements and CIL levy rates must be evidence based and, critically, strike an appropriate balance with the potential effects on scheme viability.

3.5 The LBE Regulation 19 Draft Local Plan seeks to impose policy requirements including reduced heights and affordable housing requirements for small sites. The LBE Draft CIL Charging Schedule seeks to introduce various CIL Levy rates including a rate of £300 SQM Class C3 residential uses in Central Ealing and £200 per SQM for outside of Central Ealing.

3.6 The LBE Regulation 19 Draft Local Plan and LBE Draft CIL Charging Schedule is supported by a borough wide viability assessment prepared by BNP Paribas Real Estate (BNNPRE) dated December 2023.

4 Representations

4.1 The respondent strongly supports LBE’s overall objectives to deliver much needed new homes and social infrastructure across the Council’s area.

4.2 It is however the respondents view that the policy requirements set out in Regulation 19 Draft Local Plan and the rates within the Draft CIL Charging Schedule do not presently strike an appropriate balance between the approach to development of the council’s areas and the potential effects on scheme viability.

4.3 They therefore risk inhibiting the delivery of development across the council’s area including much needed new homes and affordable homes. This would undermine implementation of the key objectives of the relevant emerging Local Plan (including the delivery of new housing). Further details of these concerns are set out below.

Submission 1: The respondent submits that the viability evidence which has been prepared to support the Reg 19 Draft Local Plan and Draft CIL charging schedule is insufficient to determine the potential effects on the viability of development. The reasons for this are set out below.

a) Viability Study Inputs

4.4 Firstly, the inputs and assumptions are not considered to be realistic in the current market and are not supported by proportionate evidence. Table 1 below provides our commentary against each of the key appraisal inputs adopted in the study.



Note continued

Table 1 – BNPPRE Viability Study Input Review

Input	Commentary
Private Residential Revenues	No evidence is provided in the study to support the range of sales values adopted and, in particular, revenues of more c.£1,000 PSF being achieved in Ealing in recent months. Achievable residential revenues have reduced considerably as a result of increased interest rates which have reduced mortgage affordability and increased investment yields.
Build Costs	The build costs tested for large scale residential (£2,745 PSF) appear to be significantly lower than achievable for most forms of large scale residential development. While the RICS BCIS is widely used for these types of study, it is increasingly being acknowledged that the database suffers from challenges including a very small sample size and limited categorisation. They also exclude contractors design risk contingency which would form part of any present day tender price. It is for these exact reasons BNPPRE do not rely on the BCIS database for the assessment of application stage viability. The costs which have been verified as part of application stage viability assessment should be analysed and used to adjust the BCIS database.
Abnormal Build Costs	No allowances have been included for any abnormal costs. The majority of sites coming forward in the borough are on previously developed land. These sites typically have significant abnormal enabling costs (e.g the need to deliver a podium structure to rehouse existing uses within and support development above). It is unrealistic to assume no abnormal costs would be incurred in a typical large scale residential development.
Other Allowances	Many of the other costs allowances made are considered to be at the extremely optimistic end of the potential range.
S106 Costs	The S106 cost allowance is significantly lower than has been required by LBE on other schemes. It is not clear which S106 costs will be replaced by CIL.
Finance Costs	The BNPPRE study adopts a 6% finance rate inclusive of all fees. This is significantly lower than the current cost of development finance which is typically in excess of 8.5%. The cost of finance has increased in recent months as a result of increased interest rates and risk associated with development.
Profit Margin	The BNPPRE study notes at para 2.25 that returns of 15% are required for BTR and at 3.4 that 17.5% is required for private sale. As a consequence of increased risk and uncertainty the minimum risk adjusted return (profit) required by investors and funders has increased.

4.5 The above comments suggest that the viability testing conducted seeks to illustrate the most optimistic potential scenario. It is however not appropriate for policy requirements and/or CIL to be set at the margins of viability. This approach risks development becoming stalled where economic circumstances adjust (as presently being experienced in the market).



Note continued

- 4.6 Our analysis illustrates that where the above inputs are adjusted to more realistic levels the output of the viability study results could change significantly.
- 4.7 For example, in respect of the smaller typologies tested to inform the small sites affordable housing policy. We have tested a scenario which adopts at the borough wide median value referenced in the BNPPRE Study (£9,012 SQM) but have adjusted the build costs and finance rate to more realistic rates. The output is that none of the affordable housing levels tested are financially viable. The viability of small schemes under 10 units are particularly constrained.

Table 2 – Revised Small Sites Results

Typology	5%	25%	50%
7 Units (Flats)	Not Viable	Not Viable	Not Viable
10 Units (Flats)	Not Viable	Not Viable	Not Viable
20 Units (Flats)	Not Viable	Not Viable	Not Viable

- 4.8 This evidences the results of the Local Plan viability study cannot be relied upon for informing policy unless the inputs are supported by robust evidence, particularly in respect of the build costs.

b) Viability Study Typologies

- 4.9 Secondly, insufficient scenarios and typologies have been tested. In respect of residential schemes, the study only tests a small number of residential typologies.
- 4.10 There are however a huge number of variables that impact on the typology and consequently the viability of a large scale residential schemes including but not limited to building height, shape, efficiency & wall to floor ratio.
- 4.11 It is not possible to draw any useful conclusions by analysing such a small sample of development typologies. The respondent recommends a wider range of large scale schemes and typologies be modelled including those which better reflect schemes which are presently in the planning pipeline (including the respondent's site Ealing Broadway).

c) Viability Study Results Sense Checks

- 4.12 Finally, the outputs of the viability study have clearly not been verified against the recent findings of local planning application stage viability assessments and/or any actual case study schemes informed by more detailed assessment of design efficiencies, construction costs and achievable values.
- 4.13 Analysis of planning application in LBE evidences that many of the schemes are unable to afford to deliver in excess of 20-35% affordable housing prior to the introduction of any additional cost burden relating to CIL.
- 4.14 For example, the respondent submitted a planning application to LBE on the 21st December 2023 for the demolition of the existing buildings and replacement with a mixed-use



Note continued

development including new homes (LBE Reference: 240012FUL). The application, which is presently under determination, proposes 144 homes originally proposed 17% affordable housing.

- 4.15 An application stage viability assessment was therefore submitted with the planning application. It has been independently reviewed by Affordable Housing Solutions (AHS) on behalf of the Council. The independent review clearly evidences that the applicant's offer of 17% affordable housing is the maximum viable.
- 4.16 The independent findings of the AHS viability review are clearly contradictory to the results of the BNPPRE Local Plan & CIL viability study which appears to suggest upwards of 40-50% affordable housing would typically be viable for a site of this scale (c.100-200 homes) in this location (£8,136 SQM) without any positive market growth. The AHS viability review is however substantially more detailed and informed by a site specific cost review. Its conclusions are therefore more robust.
- 4.17 With the introduction of the proposed draft LBE CIL charging schedule, the cost of delivering the scheme will increase by c.£1.6m. The analysis set out in Table 3 below illustrates that where 17% affordable housing becomes marginally viable with growth, the introduction of CIL would render it unviable and would require the affordable housing to be reduced substantially to maintain a viable scheme.

Table 3 – Financial Viability Analysis (LBE CIL)

Metrics	17% Affordable Housing No CIL	17% Affordable Housing LBE Draft CIL	12% Affordable Housing
Affordable Housing	17%	17%	12%
CIL	NIL	c.£1.6m	c.£1.6m
Profit	c.17%	c.12%	c.17%
Viability	Viable	Not Viable	Viable

- 4.18 Notwithstanding the impact of CIL, the analysis set out in Table 4 below illustrates that the introduction of a higher 40% threshold for Fast Track compliance would not be financially viable.

Table 4 – Financial Viability Analysis (LBE 40% FT Threshold)

Metrics	40% Affordable Housing No CIL
Affordable Housing	40%
CIL	NIL
Profit	c.5%
Viability	Not Viable

- 4.19 The above analysis therefore evidences that the introduction of the CIL charging schedule and/or a higher Fast Track Threshold of 40% would render the scheme undeliverable and



Note continued

could result in the loss of hundreds of much needed new homes including new affordable homes.

4.20 Other recently prepared application stage viability reports, independently commissioned by the London Borough of Ealing, which directly contradict the findings of the BNPPRE Local Plan study include:

- **114 Broadway, W13 (April 2024 Determination)** – 13 Residential Units & Commercial. The DVS concluded NIL Affordable Housing was viable.
- **131-137 Broadway, W13 (Nov 2023 Determination)** - 94 Co-Living Units. The Gerald Eve report concluded NIL Affordable Housing was viable (with a deficit of over £3.7m); and
- **East Acton Road, (Mid 2022 Determination)** - 37 Residential Units. The DVS concluded a payment of £601k was the maximum viable (equivalent to c.10% affordable housing).

4.21 The full independent application stage viability reports are provided at Annex 1.

d) Viability Study Conclusions Sense Check

4.22 The results of the viability assessment do not appear to have been sense checked against any market indicators. For example, it has been widely reported that as a result of weakened market conditions housing delivery is at unprecedented lows in London. The GLA's most recent market report notes that starts are 36% down in 2023 and there are current 6,000 homes stalled. This includes the London Borough of Ealing's own development scheme as publicised on the Council's website.

4.23 The results of the BNPPRE study which indicate many forms of development should be viable with 40% affordable housing and could support an increased cost burden with the introduction of CIL payment. This is clearly out of kilter with actual market conditions. This further suggests the methodology used in the BNPPRE study needs to be reviewed.

Submission 2: The respondent submits that results of the viability study do not demonstrate how the proposed policies of the Regulation 19 Plan and/or draft levy rates will contribute towards implementation of the relevant emerging Local Plan to achieve its objectives. The reasons for this are set out below.

a) Viability Study Results

4.24 The emerging Local Plan identifies a pressing need to support the delivery of housing and affordable housing in the borough and sets a target for 2,157 homes per year (in line with the London Plan) of which 1,079 are targeted to be affordable housing (50%).

4.25 The GLA's Datahub evidences that in 2022/23 only 783 homes were completed (36% of the annual target) of which just 169 were affordable homes (21% of those delivered and just 15.6% of those targeted). This highlights the financial challenges already facing the delivery of housing and affordable housing in LBE.



Note continued

- 4.26 The results of the BNPPRE viability study itself appear to show that many larger residential schemes (300 units +) would not be viable with more than c.10-25% affordable housing on brownfield sites in all areas with average values less than £8,136 SQM. The study also shows at Table 7.17.1 that the introduction of the proposed LBE Draft CIL rates alone could reduce the viable levels of affordable housing by up to c.6-7%.
- 4.27 On this basis, many schemes which have recently been consented (but not yet delivered) either with the maximum viable level of affordable housing or via the 35% Fast Track route will almost certainly become undeliverable as a result of the new CIL charges.
- 4.28 Moving forward, while there is flexibility in policy for a lesser amount of affordable housing to be provided (where supported by an application stage viability assessment) the BNPPRE study itself evidences the viable level of affordable housing is unlikely to exceed c.10-20% in many cases. This is less than the c. 21% average achieved in 2022/23 which was already substantially less than the 50% strategic target due to financial constraints.
- 4.29 Critically, these schemes may also fail to obtain local planning consent if, as a result of reductions in viability and affordable housing, they are perceived to have insufficient benefits to outweigh their impacts in the overall planning balance. This would further reduce the total number of both private and affordable homes delivered contrary to the objectives of the local plan.
- 4.30 The introduction of a higher 40% threshold for Fast Track compliance (40%) may also inhibit some sites from coming forward where their funders are unable to accept a viability review mechanism due to the level of risk and uncertainty it creates.
- 4.31 Historically the council has not achieved its housing targets due to a number of factors including financial viability constraints. The proposed policies and site allocations set out in the Regulation 19 Local Plan and the proposed CIL charge will further reduce the ability of sites to meet these targets and of the council to implement the relevant emerging local plan to achieve these objectives.

b) Viability Study Conclusions

- 4.32 It is not clear how the results of the BNPPRE viability assessment have been used to inform the Regulation 19 policies and/or the Draft CIL charging schedule. In particular how the results have informed the proposed building heights across the borough.
- 4.33 This policy requirement alone will have a significant negative impact on the viability of many schemes due to the fact many of the costs associated with constructing a scheme will not reduce proportionally in line with the reduction in height/ floor area. This includes costs such as the land acquisition cost and/or the below ground enabling works.
- 4.34 It is also not clear, in the absence of any new policies that would positively impact viability, how introduction of the height restrictions set out in the policies of the Regulation 19 Plan, introduction of the height restrictions, and the introduction of CIL could support the council in meeting the objectives set out in the relevant Plan (which it is evidently already finding extremely challenging to meet) noting the increased cost burden.



Note continued

5 Reocmmednations

- 5.1 In view of the above the following recommendations are made:
- 5.2 **Recommendation 1:** The viability study underpinning the Reg 19 Local Plan a Draft charging schedule should be reviewed in detail to ensure that: i) the inputs are robust and up-to-date; ii) the results are verified against recent application assessments and current applications; ii) the results are sense checked against market indicators.
- 5.3 **Recommendation 2:** The introduction of CIL should be delayed until Reg 19 has been adopted and the impact of policies on viability have been determined through application stage assessments. Introduction of CIL ahead of this would be premature.
- 5.4 **Recommendation 3:** The threshold for Fast Track compliance should not be increased above the London Plan to 40%. The policy should also be explicit that where this threhsold cannot be met there is flexibility for schemes to progress down the viability tested route.
- 5.5 **Recommendation 4:** Policy requirements for height should be flexible to reflect site specific circumstances including townscape analysis and viability evidence;
- 5.6 **Recommendation 5:** Policy requirements for tenure mix should be flexible to reflect site specific circumstances including local housing need analysis and viability evidence;
- 5.7 **Recommendation 6:** Policy requirements for small sites to contribute to affordable housing should be removed to support the delivery of small sites.

6 Summary

- 6.1 The respondent strongly supports Council's overall objectives to deliver much needed new homes and social infrastructure across the Council's area.
- 6.2 It is however the respondents view that it has not been evidenced that the policy requirements set out in Regulation 19 Draft Local Plan and the Draft CIL Charging Schedule would strike an appropriate balance with the potential effects on scheme viability. They therefore risk frustrating the delivery of development across the council's area which would undermine implementation of the Local Plan's objectives (critically the delivery of much needed new housing).
- 6.3 The respondent would welcome the opportunity to work with LB Ealing to address these issues before the Regulation 19 Draft Local Plan and Draft CIL Charging Schedule are submitted for Examination. In the meantime, they would like to reserve the right to be represented at any Examination Hearing.