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CIL CONSULTATION
Strategic Planning Team
Perceval House
14-16 Uxbridge Road
London
W5 2HL

Via E-mail: localplan@ealing.gov.uk

Dear Sir/Madam,

**Reference: ACTON GARDENS MASTERPLAN, ACTON, W3
REPRESENTATIONS TO THE LB EALING DRAFT CIL CHARGING SCHEDULE**

These Representations have been prepared on behalf of Acton Gardens LLP in response to consultation on the London Borough of Ealing's Draft Community Infrastructure Levy (CIL) Charging Schedule, dated February 2024, which runs from 28 February 2024 to 10 April 2024.

As the Council is aware, Acton Gardens LLP have had a long-term involvement in the redevelopment of the Acton Gardens estate, having secured a number of planning permissions on the site, and having built out multiple phases to deliver new commercial and residential uses on the site. The LLP intends to reach the significant milestone of delivering its 1,000th affordable home on the Acton Gardens Estate in 2024.

The draft Ealing CIL Charging Schedule currently shows the Acton Gardens site as falling with the 'Rest of LPA' area (i.e. areas not falling within Central Ealing), which sets the following rates for uses (amongst others):

- *Residential*: £200/sqm;
- *Student*: £350/sqm;
- *Large-Scale Shared Living*: £350/sqm;
- *Industry*: £100/sqm;
- *Hotel*: £50/sqm;
- *Data Centres*: £150/sqm; and
- *Other Uses (not identified)*: £25/sqm.

Whilst the site currently benefits from outline permission which will not be subject to any new CIL Charging Schedules, potential future planning applications which do not fall under the original outline would be subject to CIL following its adoption.

The addition of CIL liability within the Acton Gardens Masterplan area is considered to be unduly onerous and will detrimentally impact on the viability of the Acton Gardens scheme, resulting in potential barriers to housing delivery, including affordable housing. Accordingly, the Acton Gardens Masterplan should be enclosed within its own nil-rate zone, to maximise the development and the site's potential. This approach has been used in London LPAs including the Royal Borough of Kensington and Chelsea, London Borough of Hammersmith and Fulham, and London Borough of Wandsworth, and is therefore considered to be

Reference: ACTON GARDENS MASTERPLAN, ACTON, W3

acceptable. Copies of CIL Charging Schedules for the aforementioned boroughs are provided in **Appendix B**.

This letter sets out the background and rationale for including a nil-rate zone for Acton Gardens.

Background & Rationale

Original Outline Planning Permission (Ref: P/2012/0708)

The Site was included within the 2012 Outline Planning Permission (Ref: P/2012/0708) for the original Acton Gardens Masterplan, which was approved on 13th August 2013. The proposal sought the phased delivery of up to 2,350 units (7,779hr). Subsequent to this permission, a full application for Phase 7.1 was granted on 9th December 2016 (ref: 2015/3558), which increased the total home provision across the Masterplan area by a further 90 units - from 2,350 to 2,440.

A total of 1,346 units were delivered pursuant to the Outline Application (Ref: P/2012/0708), and 1,094 units were therefore remaining to be delivered, in Phases 7 and 8, part of Phase 9, and Phases 10 and 11 of the Masterplan.

Subsequent Hybrid Outline Application (Ref: 182579OUT)

Following the delivery of these 1,346 units, however, it was decided, through discussions with Ealing officers, that Acton Gardens would be able to deliver more units than consented.

Accordingly, the decision was taken to revise the Remaining Masterplan Area with a view to identifying opportunities to deliver additional homes and make a more efficient use of the land, whilst ensuring the key design and quality principles of the original Masterplan were progressed and enhanced. This culminated in the compilation and submission of the Hybrid Outline Application (Ref: 182579OUT) that was permitted by the Council on 24th December 2018.

The Hybrid Outline Application permitted a total of 195,396sqm of new residential floorspace, equating to 1,950 residential units (an uplift of 856 units above that originally permitted in this area), or 6,156 habitable rooms.

As part of the Hybrid Outline Application, there is a commitment within the associated S106 legal agreement to deliver 50% affordable housing across the Masterplan, of which 80% is to be affordable rent homes, and 31% of all affordable homes are to be family dwellings. This equates to approximately 1,300 social rent homes across the Masterplan.

This level of affordable housing was agreed with officers and supported through a Financial Viability Assessment and Addendum, prepared by BNP Paribas and dated June/November 2018, respectively. These viability assessments were independently reviewed by the consultants DVS (the property arm of the Valuation Office Agency/ HMRC which acts exclusively for Local Authorities and other public sector clients) and GLA officers.

Through review, it was determined that the scheme was in a financially constrained position; the proposed offer of Affordable Housing by the applicant did not meet the minimum level of developer's profit to be considered viable at the time, and the use of grant funding would still not result in a scheme which meets target profit levels. The profit level (with grant funding) was calculated at 5.11% on GDV by DVS, and 0.67% on GDV by BNP Paribas, falling well short of the minimum level of 17.28% profit on GDV.

Reference: ACTON GARDENS MASTERPLAN, ACTON, W3

As such, it is evident that the development was already in a difficult financial position at the time. The existing and anticipated future development conditions are considered to be worse than when planning permission was granted, as elaborated upon below, which only serves to further exacerbate viability concerns.

CIL Status at Grant of Permission

At the time permission for the Hybrid Outline Application was granted, the scheme was only liable for MCIL1, which set a rate of £35/sqm; since then, MCIL2 has been adopted and increased the rate to £60/sqm. No Ealing CIL had been adopted at the time of permission.

As noted above, the draft CIL Charging Schedule now includes significant CIL liability for the site, far in excess of MCIL or MCIL2. CIL Liability is considered as part of Financial Viability Assessments, and therefore draws money away from other matters, such as affordable housing.

Evolving Context & Market Constraints

It is also important to note the evolving development context since the grant of permission.

As you are aware, the government has been progressing a new requirement for residential buildings above 18 metres to be designed and built with two staircases; amendments to Approved Document B were published on 29 March 2024, which confirm that the transitional period concludes on 30 September 2026. A significant amount of the masterplan will be affected by this requirement going forward, and will therefore lose a proportion of residential units/floorspace in order to incorporate the additional fire safety requirements; in-turn, this will impact on the financial viability of the scheme, and consequently the level of affordable housing that can be delivered.

Additionally, general increases to construction costs and materials have impacted on development viability in the past few years and is expected to continue to do so in the years to come.

Affordable Housing Review Mechanisms

The permission also includes affordable housing review mechanisms as part of the associated S106 legal agreement. Schedule 6 (Affordable Housing) of the S106 Legal Agreement requires a further financial viability appraisal at 75% occupation, as well as completion of the development, in order to understand whether the development is more profitable than expected.

As is standard practice, we would expect than any forthcoming applications not falling within the Hybrid Outline Application would be subject to similar requirements, if applicable. This would then enable the Council to monitor the scheme's viability, and recoup funds if appropriate, and negating any potential benefits the developer could secure from the removal of CIL liability on the site.

Acton Gardens LLP have been committed to providing high-quality affordable housing across the masterplan, and the continued delivery of affordable housing is considered both a significant benefit generated by the scheme, and a strategically important source of affordable housing for Ealing.

Proposed Amendments

As a result of the above considerations and the importance of Acton Gardens in delivering affordable housing, it is proposed that a nil-rate zone be introduced, covering the Acton Gardens masterplan and omitting any CIL liability for any use classes.

Reference: ACTON GARDENS MASTERPLAN, ACTON, W3

The exact boundary for this area is enclosed in **Appendix A** of this letter and follows the red-line boundary of the Hybrid Outline Application (ref: 182579OUT).

Conclusion

In conclusion, the addition of CIL liability within the Acton Gardens Masterplan area is considered to be unduly onerous and will detrimentally impact on the viability of the Acton Gardens scheme, resulting in potential barriers to housing delivery, including affordable housing. Accordingly, the Acton Gardens Masterplan should be enclosed within its own nil-rate zone, to maximise the development and the site's potential. This approach has been used in other areas and is therefore considered to be acceptable.

The scheme's financial position at grant of permission was already constrained, and with market conditions having worsened since permission was granted, this has only been exacerbated.

A proposed nil-rate zone for Acton Gardens would greatly assist with delivery of this strategically important site, allocated in the emerging Regulation 19 Local Plan (Allocation 02AC) and identified in draft policies as a key focus for development.

Acton Gardens LLP are committed to continuing the regeneration of Acton Gardens, which will benefit from the proposed removal of CIL liability; however, this will not result in developer profits being unduly increased, given there are other mechanisms available to ensure that a scheme maximises affordable housing delivery and is not overly profitable.

We look forward to receiving acknowledgement of these representations, and if there are any queries, please do let us know.

Yours sincerely,

STANTEC UK LIMITED

[Redacted signature block]

[Redacted contact details block]

APPENDIX A

PROPOSED ACTON GARDENS NIL-RATE CIL AREA



Acton Gardens Masterplan: London Borough Of Ealing :
SITE LOCATION PLAN
FOR APPROVAL
16250-00-07-100

SCALE 1 : 2000 @A1
 SCALE 1 : 4000 @A3

All Intellectual Property Rights

All Intellectual Property Rights Reserved

APPENDIX B

CIL PRECEDENTS

Community Infrastructure Levy (CIL) Charging Schedule

The Charging Authority

The Charging Authority is the London Borough of Wandsworth

Date of Approval

This Charging Schedule was approved by the Council on 11 July 2012

Date of Effect

This Charging Schedule will become effective on 1 November 2012

Scope of CIL

CIL will be chargeable on the net additional floorspace (gross internal area) of all new development apart from those exempt under Part 2 and Part 6 of the Community Infrastructure Levy Regulations 2010 (as amended by the Community Infrastructure Levy Regulations 2011). Those exempt from the charge are as follows:

- Developments where the gross internal area of new build on the relevant land will be less than 100 square metres (does not apply where development will comprise one or more dwellings)
- Buildings into which people do not normally go, or go into only intermittently for the purpose of inspecting or maintaining fixed plant or machinery
- Buildings owned by charities used for a charitable purpose

Applications for social housing relief will also be accepted in accordance with Part 6 of the Community Infrastructure Levy Regulations 2010 (as amended by the Community Infrastructure Levy Regulations 2011).

CIL Rates

The rate at which CIL will be charged shall be:

Within the area designated as 'Nine Elms Residential Area A' on the "Community Infrastructure Levy Charge Zones" Map:

Residential Development	£575 per square metre
Office (All B1a) or Retail (All A use classes) Development	£100 per square metre
All other Development	£0 per square metre

Within the area designated as 'Nine Elms Residential Area B' on the "Community Infrastructure Levy Charge Zones" Map:

Residential Development	£265 per square metre
Office (All B1a) or Retail (All A use classes) Development	£100 per square metre
All other Development	£0 per square metre

Within the area designated as 'Roehampton Charging Area' on the "Community Infrastructure Levy Charge Zones" Map:

Residential Development	£0 per square metre
Office (All B1a) or Retail (All A use classes) Development	£0 per square metre
All other Development	£0 per square metre

Within all other areas of the London Borough of Wandsworth;

Residential Development	£250 per square metre
Office (All B1a) or Retail (All A use classes) Development	£0 per square metre
All other Development	£0 per square metre

As per Regulation 14 of the Community Infrastructure Levy Regulations 2010 (as amended by the Community Infrastructure Levy Regulations 2011), the Council is designated as the 'Collecting Authority' for the Mayor of London CIL. This requires a charge of £50 per square metre to be levied in addition to the amounts specified above.

Calculation of CIL Charge

CIL will be calculated on the basis set out in Part 5 of the Community Infrastructure Levy Regulations 2010 (as amended by the Community Infrastructure Levy Regulations 2011).

For ease of interpretation, this shall mean that CIL is charged on the net additional floorspace created (gross internal area), taking into account any existing buildings on the site which were in lawful use at the time of the grant of planning permission and due to be demolished before completion of the chargeable development.

Inflation and indexation

As set out in Part 5 of the Community Infrastructure Levy Regulations 2010 (as amended by the Community Infrastructure Levy Regulations 2011). The above CIL rates shall be tied to the Royal Institute of Chartered Surveyors "All In Tender Price Index"; the rate of CIL charged will therefore alter depending on the year planning permission for the chargeable development is first granted.

Further Considerations

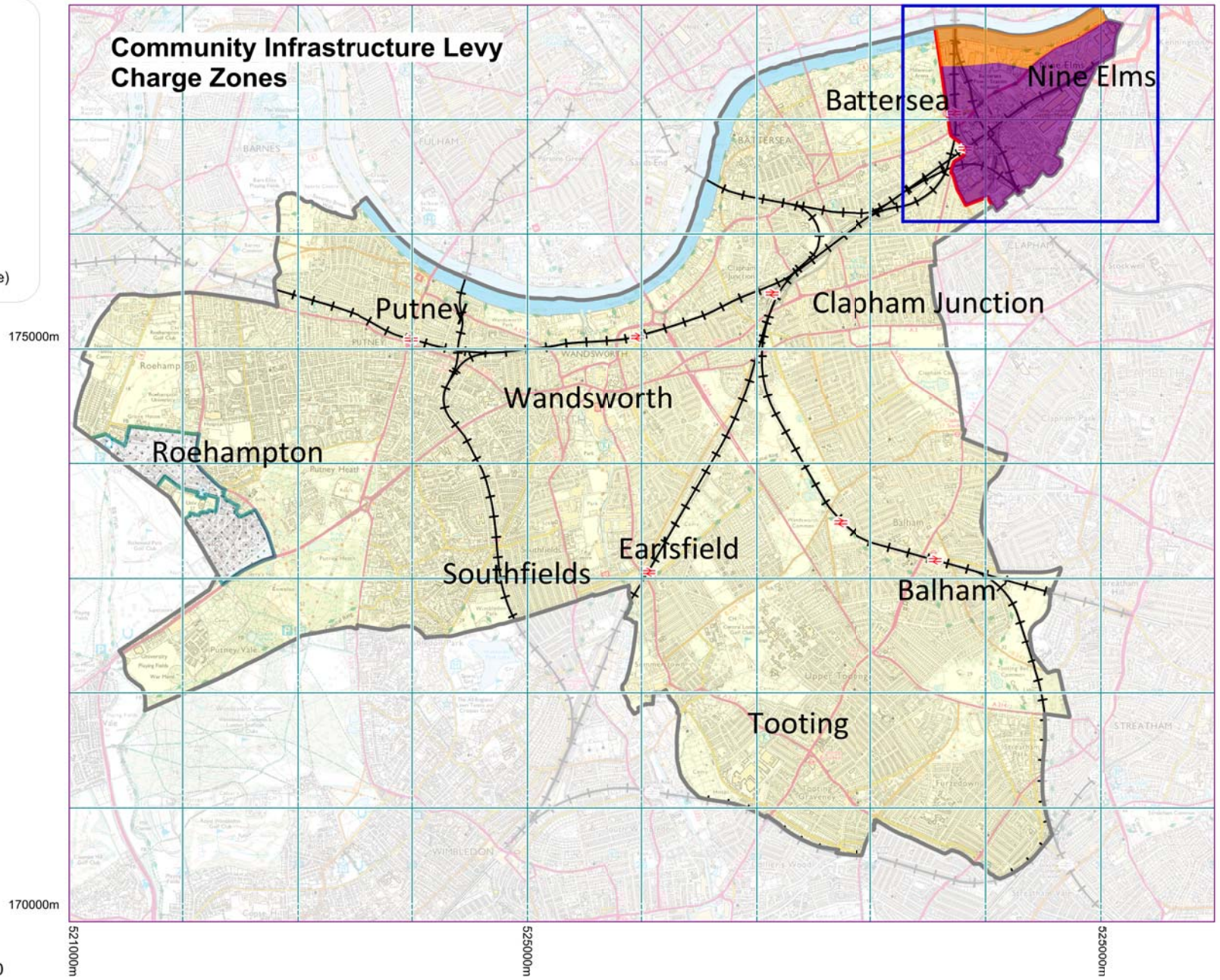
The Council has set out its policies on payment by instalments, discretionary charitable relief and exceptional circumstances relief on its website at www.wandsworth.gov.uk/cil.

Statutory Compliance

This Charging Schedule has been issued, approved and published in accordance with the Community Infrastructure Levy Regulations 2010 (as amended by the Community Infrastructure Levy Regulations 2011) and Part 11 of the Planning Act 2008.

KEY

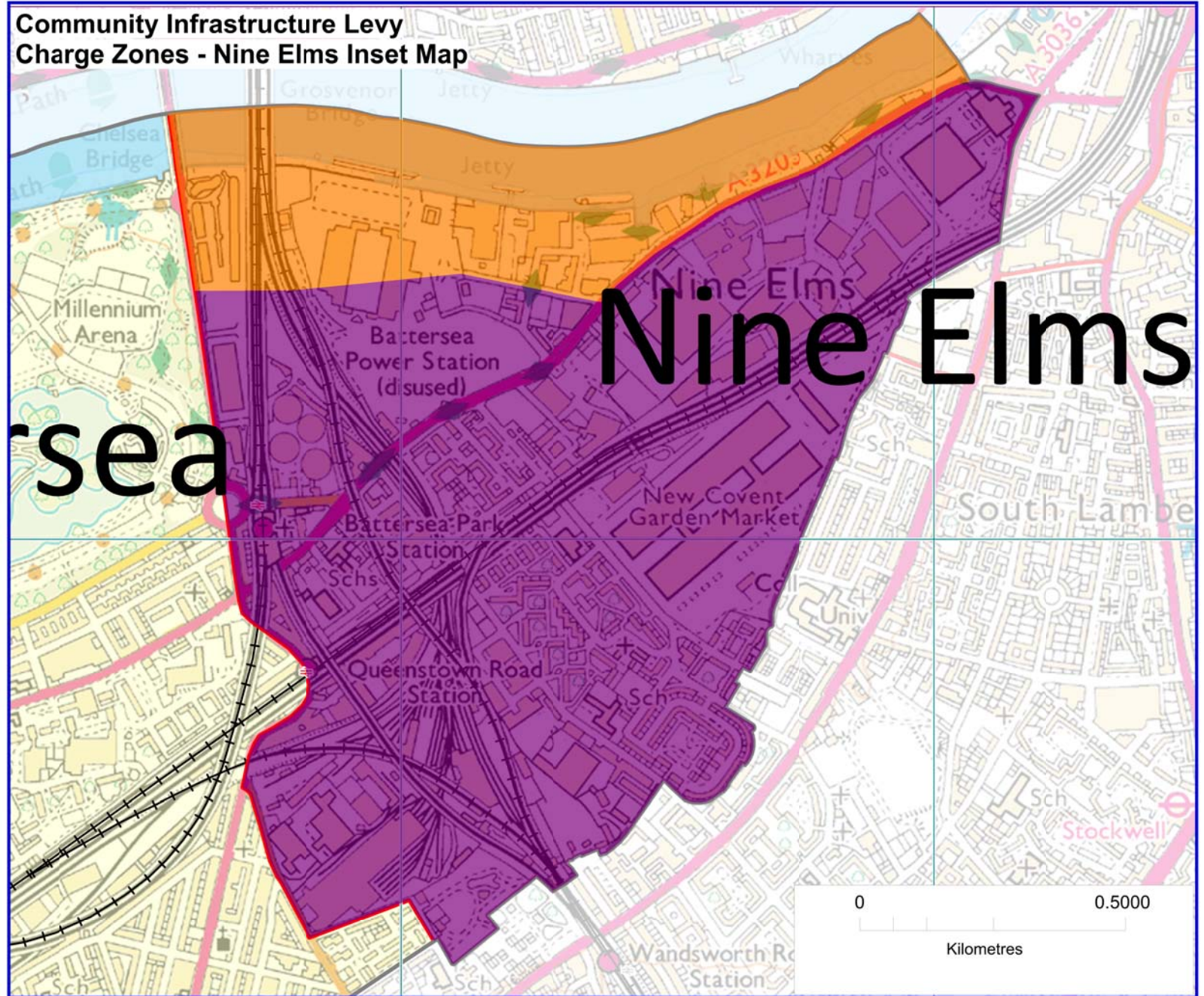
- Nine Elms Charging Area
- Nine Elms Residential Area A
- Nine Elms Residential Area B
- Wider Wandsworth Charging Area
- Roehampton Charging Area
- Nine Elms Inset Map (see over page)



KEY

- Nine Elms Charging Area
- Nine Elms Residential Area A
- Nine Elms Residential Area B
- Wider Wandsworth Charging Area

Community Infrastructure Levy Charge Zones - Nine Elms Inset Map





Community Infrastructure Levy (CIL) Charging Schedule

January 2015



THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

Section 211(1), Planning Act 2008 (as amended)
Part 3, CIL Regulations 2010 (as amended)

Charging authority

The charging authority is the Royal Borough of Kensington and Chelsea.

Date of approval

The Charging Schedule was approved by the Council on 21 January 2015.

Date of effect

The Charging Schedule will become effective on 6 April 2015.

Calculation of CIL charge and indexation

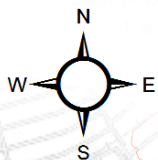
The 'Chargeable Amount', including indexation to take into account inflation, will be calculated in accordance with Part 5 of the Community Infrastructure Levy Regulations 2010 (as amended).

Statutory Compliance

The Charging Schedule has been issued, approved and published in accordance with the CIL Regulations 2010 (as amended) and Part 11 of the Planning Act 2008 (as amended).

Use Zone	Residential (C3 & short term lets)	Extra Care Housing	Hotels	Student Accommodation	Industrial / Warehousing
					Offices (B1)
					Retail Uses
					D1 and D2 Uses
					All Other Uses
Zone A	£750	£510	£160 (all zones)	£125 (all zones)	Nil (all zones)
Zone B	£590	£230			
Zone C	£430	£300			
Zone D	£270	£160			
Zone E	£190	Nil			
Zone F	£110	Nil			
Zone G (Earl's Court)	Nil (all uses)				
Zone H (Kensal Strategic Site)	Nil (all uses)				

Further information is available at www.rbkc.gov.uk/cil






Charges:

Zone	Residential (C3 and short term lets)	Extra Care	Hotels (Borough Wide)	Student Accommodation (Borough Wide)
A	£750	£510	£160	£125
B	£590	£230		
C	£430	£300		
D	£270	£160		
E	£190	Nil		
F	£110	Nil	Nil	Nil
G	Nil	Nil		
H	Nil	Nil		

Charges are per square metre of development.

Legend

-  CIL Residential Charge Zone area and designation letter.
-  Royal Borough of Kensington and Chelsea Boundary
-  Postcode District area with Postcode



THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

Job ID: 4218

Date: 08/01/15

Author: Plat@rbkc.gov.uk

0 250 500 1,000
Metres

Community Infrastructure Levy (CIL) Charging Schedule



Introduction

The London Borough of Hammersmith & Fulham ('the Council') is a charging authority for the purposes of Part 11 of the Planning Act 2008 and may therefore charge a Community Infrastructure Levy(CIL) on development carried on in the area within which it exercises planning powers. The Council will not charge CIL for development carried on within the boundaries of the Old Oak and Park Royal Development Corporation, part of which lies within the north of the borough as from 1 April 2015 it will no longer be the local planning authority for this area.

The documentation can be viewed at www.lbhf.gov.uk/cil.

Charge rates

Charging zones	Uses			All other uses
	Residential (C3)	Office (B1a/b)	Student accommodation	
	HMO (C4)		A class uses (including retail clubs)	
			Health and fitness leisure centres	
			Hostels	
			Night clubs	
			Laundrettes	
			Taxi businesses	
			Amusement centres & Casinos	
			North	
Central A†	£200/m ²	£80/m ²		
Central B		Nil		
South	£400/m ²	Nil		
White City East‡				
Earls Court & West Kensington Opportunity Area‡				

† The Central A Charging Zone boundary is the same as the Hammersmith Town Centre boundary on the council's adopted Proposals Map.

‡ It should be noted that, whilst a £0/m² (nil) rate is proposed at White City East and Earls Court & West Kensington Opportunity Area, this does not mean that the council will not receive significant financial contributions from developments in these areas as S106s will continue to be used.

Charging authority

The charging authority is the London Borough of Hammersmith & Fulham.

Date of approval

The Charging Schedule was approved by the council on 20 May 2015 .

Date of effect

The Charging Schedule will become effective on 1 September 2015.

Calculation of CIL charge & indexation

The 'Chargeable Amount', including indexation to take into account inflation, will be calculated in accordance with Part 5 of the Community Infrastructure Levy Regulations 2010 (as amended).

Statutory compliance

The Charging Schedule has been issued, approved and published in accordance with the CIL Regulations 2010 (as amended), Part 11 of the Planning Act 2008 (as amended) and Part 6 of the Localism Act 2011 (as amended).

London Borough of Hammersmith & Fulham

COMMUNITY INFRASTRUCTURE LEVY ZONES

