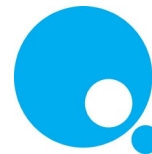


**Our ref:** Q220539  
**Your ref:** Ealing CIL  
**Email:** Ben.ford@quod.com  
**Date:** 19<sup>th</sup> May 2025



CIL examiner Mr Keith Holland  
c/o Paige Gaughan  
Programme Officer  
Ealing CIL  
[localplanprogrammeofficer@ealing.gov.uk](mailto:localplanprogrammeofficer@ealing.gov.uk)

Dear Sir,

**LONDON BOROUGH OF EALING – EALING’S DRAFT CIL CHARGING SCHEDULE  
CONSULTATION  
REPRESENTATIONS SUBMITTED ON BEHALF OF BERKELEY HOMES (SOUTHALL) LIMITED  
COMMUNITY INFRASTRUCTURE LEVY REGULATIONS 2010**

Quod is submitting representations on behalf of Berkeley Homes (Southall) Limited ('Berkeley') to the London Borough of Ealing's ('LBE') Community Infrastructure Levy Draft Charging Schedule ('DCS').

In advance of the hearing scheduled for the 4<sup>th</sup> June 2025, we would like to draw the examiner's attention to several material considerations, arising since the submission of our representations dated 10<sup>th</sup> April 2024 (Council's CIL consultation ran from 28th February 2024-10th April 2024), 2<sup>nd</sup> August 2024 (letter of clarification) and 12<sup>th</sup> November 2024 (Modifications Consultation 15th October 2024-12th November 2024).

- **Legal opinion** dated 19<sup>th</sup> May 2025, identifying two legal flaws in the process thus far to which further information is required for the examination to be undertaken lawfully (**Appendix 1**). These are:
  - **Purpose** - The Council has not addressed its mind to the correct statutory test, nor provided sufficient evidence for the examiner to address his mind to the right statutory questions. The examination does not explicitly review the proposed CIL rates nor indicate how they relate to the infrastructure required / proposed / sought.
  - **Prematurity** - The Charging Authority is not acting rationally in seeking to examine (and, presumably adopt) its Charging Schedule before its emerging Local Plan is finalised. The Infrastructure Delivery Plan ('IDP') Part 2 is explicitly premised on what is in the emerging Local Plan, which formed the basis of Arup's engagement with delivery providers. The IDP has not been through the Local Plan examination process and has not therefore been found to be sound. The Council is proceeding with a CIL examination to raise money to meet infrastructure costs that might not reflect those in the eventual Local Plan.
- **Shared Ownership Value** - The Council is now formally pursuing London Living Rent as its preferred Intermediate tenure, rather than shared ownership. Ealing's Housing Strategy Consultation Draft 2024 states that shared ownership "...does not meet our definition of 'genuinely affordable' across most of the borough". The Local Plan Viability Assessment



(December 2023) (the '2023 Viability Assessment') applies shared ownership values throughout its modelling. The delta between the two tenures is c.£220/sqft, the evidence therefore fails to model the Council's position or indeed the policy which it is predicated upon.

- **Building Safety Levy** – The 2023 Viability Assessment does not consider the significant cost of the Building Safety Levy for Ealing which is £33.24/sqm for previously developed land.
- **Additional financial evidence** has been prepared by Quod to address the points raised and to support Berkeley's representations (**Appendix 2**).
- In light of the *Tameside* obligation, the IDP needs to be properly interrogated and is now out of date. The evidence it includes is obviously material.
- **IDP and Application 234110OUT Duplication** – Resolution to grant reference 234110OUT at The Green Quarter<sup>1</sup>, Southall commits to the delivery of several substantial infrastructure components identified for Southall within the IDP that are to be secured via legal obligations. It appears that duplication of funding may occur (double dipping), with unintended consequences of delivery failure.
- **CIL Relief** – The Council acknowledges that a CIL levy on schemes which provide strategic infrastructure can result in 'double dipping' resulting in challenges to scheme viability. The Council has mentioned the opportunity for payments in kind in this regard. We note that several other authorities have done this as a means to avoid proper scrutiny at examination but in practice Regulations 73 and 73a are difficult to implement and other routes have had to be found which could include Exceptional Circumstances Relief under Regulation 55. In our view it is essential for the examination to consider these issues properly because they go to the heart of the test of risk to viability which the Inspector is required to undertake.

We note that the examiner (17/3/25) indicated *"based on what he has seen to date he will not be requiring the Council or those making representations to submit any further material"*.

We recognise that there is no 'requirement' for further submissions, but because of the materiality of the information, we welcome confirmation that it has been received and admitted as a material consideration for the forthcoming examination.

## 1 Legal Opinion

We enclose a legal opinion from Nick Grant of Landmark Chambers raising serious concern in respect of prematurity and purpose. By way of a high level summary, there are two fundamental matters raised.

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<sup>1</sup> c.5,500 homes and 8,000sqm of commercial & community floorspace (phase 4-9), and a total of c.8,100 homes and c.17,400 sqm of commercial and community floorspace overall (Phase 1-9).



First, it is irrational that the Council is progressing its CIL schedule at this time, given that the emerging Local Plan – which the CIL schedule must support – has not yet been through its own examination. The PPG indicates that draft emerging plans can be used where the plan and CIL schedules are progressing to a joint examination, and that is not the case here.

Second, it appears the Council has not addressed its mind to the correct statutory test, and has not therefore obtained sufficient evidence allowing the examiner to properly answer the statutory questions. The 2023 Viability Assessment only refers to maximising revenue (not the statutory test), and although the Council has now completed an IDP, there is no analysis of how much in total it expects CIL to contribute to the identified infrastructure projects. Moreover, the IDP needs to be properly tested in this examination (as it has not been tested in the Local Plan). It is unclear how the examiner (or anyone else) can reasonably make a decision based upon it. There is an obligation to seek further evidence.

## **2 Shared Ownership / LLR**

Application 234110OUT received a resolution to grant planning permission on 6<sup>th</sup> November 2024 following an officer recommendation to approve. Despite the resolution to grant planning permission, and detailed progress drafting the Section 106 agreement ('s106'), the Council has raised a new legal obligation, not supported by local policy and contrary to the London Plan.

Throughout negotiations on the s106 and indeed prior to determination, Berkeley has consistently proposed as part of their offer 35% affordable housing (by habitable room) with an affordable housing split at 60% London affordable rent and 40% shared ownership. This was never challenged or rebutted during negotiations by the Council.

The Council has advised Berkeley that the intermediate rent tenure must be London Living Rent, not the shared ownership tenure that the applicant proposed. They state that shared ownership is not an affordable housing product in Ealing as opposed to London Living Rent.

Due to this impasse, and the Mayor of London's support for shared ownership tenure, the applicant has requested that a Direction is made pursuant to Article 7 of the 2008 Order and that Ealing Council be advised that the Mayor will act as the local planning authority for the purposes of determining application 234110OUT.

This matter is relevant to the CIL examination because the 2023 Viability Assessment only assumes shared ownership values in its modelling, not London Living Rent. The difference between the value is significant, a delta of c.£220/sqft, which the 2023 Viability Assessment has not considered.

## **3 Building Safety Levy**

The government published its BSL technical consultation response in March 2025. The rate for Previously Developed Land in Ealing is £33.24/sqm, and will be charged on all new dwellings and



purpose-built student accommodation in England (with certain exemptions) which require a building control application. The 2023 Viability Assessment pre-dates the publication of the rates, which amounts to a significant additional cost for schemes as large as The Green Quarter.

#### **4 Additional Financial Information**

The adopted costs and values in the 2023 Viability Assessment are outdated: they are not realistic or aligned to local evidence / the nature of sites within the plan. Further information is submitted which addresses this, and can be summarised as:

- Build costs for comparable schemes shows the assessment is understating costs by at least £70/sqft, as they do not reflect a development of the nature, quality and complexity of The Green Quarter, nor do they account for recent changes in building regulations or design risk;
- Abnormals / infrastructure costs at The Green Quarter amount to c.£42,000 per home, but no allowance beyond arbitrary S106 cost assumptions have been allowed for by BNPP. The assumed position for most strategic sites will therefore be inaccurate;
- Finance costs are significantly understated; and
- Market indicators show the current environment for housing delivery is extremely challenging, and this situation has continued to worsen since 2023/24 to the current day.

Taken together, the above points (including BSL and London Living Rent) result in a £64m worsening of the largest typology tested by BNPP (500 units). The scaled-up difference, on the basis of the 6,832 homes that are yet to be constructed at The Green Quarter, is £880m.

The evidence provided reinforces the fact that viability is not appropriately addressed at plan making stage, which is necessary to ensure policies are realistic and that the total cumulative cost of these will not undermine deliverability of the plan.

#### **5 IDP and Application 234110OUT Duplication**

Application 234110OUT intends to secure through its legal agreement a financial package of £41,502,756 in respect of on and off site infrastructure.

Alongside this, the applicant commits to provide on-site community and commercial infrastructure including a 3-Form Entry Primary School, indoor sports hall facility, and new affordable workspace. This on-site infrastructure has an equivalent value of c.£20,450,000.

This is in addition to a further £22,537,736 committed for Phases 1-3, for infrastructure that has been completed or is currently under construction.

The Ealing Infrastructure Delivery Plan - Part Two: Infrastructure Delivery Schedule (EB84) identifies a range of additional infrastructure components in and around Southall which The Green Quarter collectively delivers the following components:

- 3FE primary school;
- new open space and wetlands;



- indoor sports facility;
- primary health facility;
- reopening and improvement to the Spencer Street underpass; and
- improvements to the Bulls Bridge (A312) roundabout and M4 (Junction 3)

These are in addition to the following improvements identified in the Local Plan and/or IDP:

- 35% affordable housing (60:40 tenure split);
- New parkland including Central Park running east-west through the site, the provision of the new wetlands supported by extensive landscaping, play space and tree planting shall make a significant contribution towards improving green infrastructure and open spaces within Southall as identified by the IDP;
- New footpath and bicycle links improving connectivity within Southall;
- 2 new footbridges connecting to Minet Country Park;
- East-west bus links; and,
- Extending the town centre into the site to broaden the retail and leisure offering in Southall.

Alongside, these significant planning benefits, the applicant has already invested significantly to bring the site forward for development. This includes CPO (supported by the GLA), site remediation, roads and infrastructure, canal side improvements amounting to in excess of £150m.

Should CIL be adopted, and a new planning application submitted or final approval of application 234110OUT takes place after CIL is adopted, it remains unclear how the process will avoid double counting, double funding and not placing an unforgiving burden on development, rendering it undeliverable.

## 6 CIL Relief

There remains a real risk of duplication with application 234110OUT, one of the borough's largest regeneration sites. The Council acknowledges this risk and refers to a reliance on CIL *'in kind relief'* to offset double counting issues.

However, the availability of that depends entirely on the Council's discretion.

We also note that several other authorities have adopted an *'in kind'* policy as a means to avoid proper scrutiny at examination but in practice Regulations 73 and 73a are difficult to implement and other routes have had to be found which could include Exceptional Circumstances Relief under Regulation 55.

It does not, therefore, provide a complete answer to the double counting point. In our view it is essential for the examination to consider these issues properly because they go to the heart of the test of risk to viability which the Inspector is required to undertake.



## 7 Other Matters

**Grand Union** – the Council’s assessors refer to Grand Union as a comparable site, but this scheme delivers a tenure split of 50:50 (LAR: shared ownership), and the delivery of the affordable housing (230 homes) in Phases 1 and 2 were supported with public sector subsidy. In addition, GLA grant funding is being sought for the affordable housing in the next phase of the development which is required to avoid the need to submit an FVA to reduce the quantum of affordable housing. If the site had been zero rated for CIL, this would have been unnecessary.

**Incentivisation** – following the Government’s ambition to get Britain Building; the new Framework and Ministerial Statements; recent “*flips*” of housing consents to industrial/data centre uses in Southall (Quayside Quarter); the Council’s absence of 5YHLS as endorsed via the emerging Local Plan, and poor housing delivery; it seems an unusual approach to further incentivise non-residential uses with low CIL rates, and apply far higher rates to residential use.

Yours sincerely,

Ben Ford  
Senior Director

Enc.

Appendix 1 - Legal Opinion of Nick Grant (Landmark Chambers), dated 19<sup>th</sup> May 2025

Appendix 2 – Quod additional financial information

## IN THE MATTER OF

### LONDON BOROUGH OF EALING COMMUNITY INFRASTRUCTURE LEVY EXAMINATION

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#### OPINION

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#### Introduction and executive summary

1. I am instructed by Quod on behalf of Berkeley Homes (Southall) (“**Berkeley**”) to advise on matters arising in relation to the London Borough of Ealing’s (“**the Council**”) Community Infrastructure Levy (“**CIL**”) examination, taking place later this year. In particular, I am asked whether there are any legal issues arising from the Council’s approach to progressing its charging schedule and, if so, what implications this might have for the examination process and any subsequent decision by the Council to adopt the schedule.
2. In summary, I consider there are two arguable legal flaws in the way the Council has approached its CIL charging schedule so far.
3. **First**, in my view it is irrational for the Council to progress with the examination and adoption of this CIL schedule in circumstances where the emerging Local Plan – which contains the infrastructure the CIL schedule is intended to support – has not yet been through examination or adopted and so remains subject to change.
4. **Second**, it does not look as if the Council has focused its mind on how much it seeks to raise from CIL. BNP Paribas’ viability assessment only refers to maximising revenue (not the statutory test), and although the Council has now completed an infrastructure delivery plan (“**IDP**”) there is no analysis of how much in total it expects the CIL Schedule to contribute to that. As the Council is progressing with CIL ahead of its new plan, that requires testing in examination. In circumstances where the CIL PPG requires the examiner to test not only the infrastructure funding gap but also the *“total target amount that the charging authority proposes to raise through the levy”*,

and where the evidence base provided is somewhat dated and features many many “TBCs”, the evidence base at the moment is arguably sufficient to rationally confirm either.

5. In my opinion, it would be irrational for the CIL schedule to progress to examination at this point in time, whether because (a) it must come after the local plan or (b) the evidence base is insufficient to allow the examiner to rationally test what he needs to. Should the matter proceed to examination and the schedule thereafter be adopted, there are viable grounds for judicial review.

## **Factual background**

### *The CIL process*

6. The Council published an initial draft CIL charging schedule. This was supported by a Local Plan Viability Assessment (December 2023) (the “**2023 Viability Assessment**”). Its purported purpose was to “*test[] the ability of developments in the London Borough of Ealing to accommodate emerging policies in the draft Local Plan alongside a range of potential [CIL] rates*” (§1.1). For the sake of brevity I will not set out material passages here, but I do refer to them below.
7. The Council has also provided an Infrastructure Delivery Plan (Feb 2024) (“**IDP**”) to “*in support of its new Local Plan. The purpose of the IDP is to set out the infrastructure that will be required to deliver planned growth across the borough*” (IDP Part 2 Section 1.1). Part 1 outlines the infrastructure baseline and purports to include other providers investment plans. Part 2 then sets out “*the infrastructure requirements to deliver the development strategy of the Regulation19 Local Plan*” (IDP Part 2 Section 1.2). Part 2 includes a number of assumptions including an overall dwelling quantum of 41,571 over the plan period (p. 4). The infrastructure need had been derived following engagement with providers after details of strategic sites proposed for inclusion in the Local Plan were known (p. 24 section 4.1). I note the delivery schedule (p. 30 and following) includes a large number of “TBCs”.



8. The Council's CIL consultation ran from 28 February 2024-10 April 2024. On 10 April 2024 Quod, on behalf of Berkeley<sup>1</sup>, submitted a representation to that consultation. On 02 August 2024 Quod wrote to the Council asking for a response to its representations and indicating it had further information to discuss.
9. Following information received, the Council made modifications and published a revised CIL charging schedule. Central Ealing rates were retained at £300/m<sup>2</sup>, while "Rest of LPA" rates were reduced from £200m/2 to £150/m<sup>2</sup>. Alongside this, it published a Modifications Statement and undertook a modifications consultation from 15 October 2024-12 November 2025. Quod submitted representations on the modifications on 12 November 2024.
10. The CIL charging schedule has now come on for examination.

## **Legal and policy framework**

### *CIL*

#### *(i) The Planning Act 2008*

11. The authority to levy CIL is found in Part 11 of the 2008 Act. S. 205 allows the Secretary of State to make regulations for the imposition of CIL. S. 205(2) requires the SoS to aim to ensure that the costs of supporting the development of an area can be funded wholly or partly by owners or developers of land "*in a way that does not make development of the area economically unviable*".
12. S. 211 contains the statutory provisions relating to the amount. A charging authority must issue a charging schedule (s. 211(1)). In setting rates, a charging authority must have regard, to the extent and in the manner specified by the CIL regulations, to:
  - “(a) actual and expected costs of infrastructure (whether by reference to lists prepared by virtue of section 216(5)(a) or otherwise);
  - (b) matters specified by CIL regulations relating to the economic viability of development (which may include, in particular, actual or potential economic effects of planning permission or of the imposition of CIL);

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<sup>1</sup> The precise entity being Berkeley Homes (Southall) Ltd

- (c) other actual and expected sources of funding for infrastructure.” (s. 211(2)).

13. A charging authority must use “appropriate available evidence” to inform its preparation of a charging schedule (s. 211(7A)).

14. S. 212(1) requires a draft charging schedule to be formally examined by an independent person (the “examiner”). The examiner must consider whether the “*drafting requirements*” (i.e. the requirements of Part 11 and the CIL Regulations including the matters set out in s. 211(2) and (4)) have been complied with, and must make recommendations under s. 212A and give reasons for those recommendations (s. 212(7)).

15. Pursuant to s. 212A, if the examiner considers there is any respect in which the drafting requirements have not been complied with, he must make a modification to the draft (s. 212A(3)-(4)). If he concludes the issue cannot be remedied by modifications, he must recommend the draft be rejected (s. 212A(2)). An examiner may also recommend other modifications under s. 212A(6)-(7)).

16. A charging authority may not approve a charging schedule if the examiner recommends rejection (s. 213(1A)). If the examiner recommends approval but with recommended modifications under s. 212A(4) a charging authority may only approve a charging schedule with “*modifications that are sufficient and necessary to remedy the non-compliance specified under section 212A(4)(a)*” though these need not be the same modifications recommended by the examiner (s. 213 (1B)). The charging authority need not adopt the recommendations made pursuant to s. 212A(6)-(7) (S.213(1C)).

17. The Secretary of State may give guidance to a charging authority or examiner about any matter connected with CIL and the authority must have regard to the guidance: s. 221.

(ii) CIL Regulations

18. The legal process for setting CIL rates is set out in Part 3 of the CIL Regulations.

19. Reg. 12 sets out the format and content of charging schedules, largely leaving it to Charging Authorities to determine their format and content.

20. Charging Authorities are given the power to set differential rates by reference to different zones, different intended uses, the intended GIA of development, or by reference to the intended number of dwelling or units. This authority includes the ability to set supplementary charges, nil rates, increased rates, or reductions. (Reg. 13).

21. The principles a Charging Authority must follow in setting rates are set out in reg. 14. That provides:

- “(1) In setting rates (including differential rates) in a charging schedule, a charging authority must [...] strike [...] an appropriate balance between—
    - (a) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and
    - (b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.
  - (2) In setting rates in a charging schedule, a charging authority may also have regard to actual and expected administrative expenses in connection with CIL to the extent that those expenses can be funded from CIL in accordance with regulation 61.
- [...]
- (5) For the purposes of section 211(7A) of PA 2008, a charging authority’s draft infrastructure list is appropriate evidence to inform the preparation of their charging schedule.”

22. The process is set out in reg. 16 and following. Before submitting a draft charging schedule for examination the charging authority must consult on it (reg. 16(1)-(1A)). Any person may make representations about the draft charging schedule provide those are made within the consultation period specified by the charging authority (reg. 17(1)-(2)). The charging authority must take those representations into account before submitting a draft charging schedule (reg. 17(5)).

23. The authority must submit to the examiner a draft charging schedule, a statement setting out the representations received and summary of how they were taken into account, copied of any such representations, a statement of modifications (if there were any), and copies of “*the relevant evidence*” (reg. 19(1)).

24. The examiner must consider any representations made (reg. 20). Any person who made a representation has a right to be heard by the examiner (reg. 21(1)). Reg. 23 and following deals with matters after the examination.

(iii) Secretary of State’s Guidance

25. NPPF §35 states

“35. Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.”

26. NPPF §59 provides:

“59. Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning practice guidance, including standardised inputs, and should be made publicly available.”

27. Much more guidance is set out in the Planning Practice Guidance<sup>2</sup> (the “**PPG**”). For the purposes of this Opinion key points are:

- a. The appropriate balance test in reg. 14(1) is “*at the centre of the charge-setting process*”. In meeting this requirement charging authorities “*should be able to*

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<sup>2</sup> <https://www.gov.uk/guidance/community-infrastructure-levy>

*show and explain how their proposed levy rate (or rates) will contribute towards the implementation of their relevant plan and support development across their area” (para. 10).*

- b. Charging schedules are required to be “consistent with, and support the implementation of, up-to-date relevant plans” (para. 11).
- c. Charging schedules and relevant plans “should inform and be generally consistent with one another. Where practical, there are benefits to undertaking infrastructure planning for the purpose of plan making and setting the levy at the same time. A charging authority may use a draft plan if they are proposing a joint examination of their relevant plan and their levy charging schedule.” (para. 12).
- d. Charging authorities should “think strategically in their use of the levy to ensure that key infrastructure priorities are delivered to facilitate growth and the economic benefit of the wider area. This may, for example, include working with neighbouring authorities, Local Enterprise Partnerships and other interested parties and involve consideration of other funding available that could be combined with the levy to enable the delivery of strategic infrastructure, including social and environmental infrastructure, and facilitate the delivery of planned development.” (para. 12). Working with other authorities is repeated as part of the process in para. 13.
- e. The Charging Authority must have an evidence base, which is “examined in public prior to the adoption of the levy”. In preparing it regard must be had to “the actual and expected cost of infrastructure, the viability of development, other actual or expected sources of funding for infrastructure and the actual and expected administrative expenses in connection with the levy.” (para. 16). They “must identify the total cost of infrastructure they wish to fund wholly or partly through the levy. In doing so, they must consider what additional infrastructure is needed in their area to support development, and what other

*sources of funding are available, based on appropriate evidence.” (para. 17). The information on infrastructure needs “should be drawn from the infrastructure assessment that was undertaken when preparing the relevant plan (the Local Plan and the London Plan in London) and their CIL charging schedules. This is because the plan identifies the scale and type of infrastructure needed to deliver the area’s local development and growth needs” (para. 017). Information should be drawn from the Infrastructure Funding Statement (para. 017). Charging Authorities “should focus on providing evidence of an aggregate funding gap that demonstrates the need to put in place the levy. Any significant funding gap should be considered sufficient evidence of the desirability of CIL funding, where other funding sources are not confirmed.” (para. 017).*

- f. What is required at examination is set out at para. 018-019:

**“What infrastructure planning evidence is required at examination?”**

At examination, the charging authority should set out the projects or types of infrastructure that are to be funded in whole or in part by the levy. From December 2020, this should be set out in an infrastructure funding statement. The list of projects or types of infrastructure may already have been examined through a plan examination, in which case the purpose of providing it for the Community Infrastructure Levy examination should be only to evidence the infrastructure funding gap, not to re-examine the list.

Where infrastructure planning work which was undertaken specifically for the levy setting process has not been tested as part of another examination, it will need to be tested at the levy examination. The examiner will need to test that the evidence is sufficient to confirm the aggregate infrastructure funding gap and the total target amount that the charging authority proposes to raise through the levy.

**How should local authorities prepare their evidence to support a levy charge?**

A charging authority should be able to explain how their proposed levy rate or rates will contribute towards new infrastructure to support development across their area. Charging authorities will need to summarise their viability assessment. Viability assessments should be proportionate, simple, transparent and publicly available in accordance with the [viability guidance](#). Viability assessments can be prepared jointly for the purposes

of both plan making and preparing charging schedules. This evidence should be presented in a document (separate from the charging schedule) that shows the potential effects of the proposed levy rate or rates on the viability of development across the authority's area. Where the levy is introduced after a plan has been made, it may be appropriate for a local authority to supplement plan viability evidence with assessments of recent economic and development trends, and through working with developers (e.g. through local developer forums), rather than by procuring new evidence.

The examiner may consider whether any assessment prepared prior to the publication of the viability guidance generally accords with that guidance, applying reasonable judgement so as not to unnecessarily delay examinations. As background evidence, the charging authority should also provide information about the amount of funding collected in recent years through section 106 agreements. This should include information on the extent to which their affordable housing and other targets have been met."

#### (iv) Legal Challenges

28. The adoption of a charging schedule can be challenged by way of judicial review on the standard public law bases (illegality, irrationality, or procedural impropriety): **R (Fox Strategic Land and Property Ltd) v Chorley BC** [2014] EWHC 1179 (Admin) §99; **Oxted Residential Ltd v Tandridge DC** [2016] EWCA Civ 414 at §58.

29. Irrationality is a high threshold. However, it does not require that a claimant has to show "*a decision is so bizarre that its author must be regarded as temporarily unhinged. What the term....'irrationality' generally means....is a decision which does not add up – in which, in other words, there is an error of reasoning which robs the decision of logic*" (**R v Parliamentary Commissioner for Administration ex p Balchin** [1998] 1 PLR 1 at §27). So, for example, a decision will be irrational if it is made without any supporting evidence (**R (Lancashire County Council) v SSEFRA** [2020] 2 WLR 1 at §32), if there was a "*serious logical or methodological error*" in the reasoning (**R (Finch) v Surry County Council** [2024] PTSR 988 at §56), if the decision maker failed to have regard to all material considerations (i.e. those required to be looked at under legislation or so obviously material as to require direct consideration **R (Client Earth) v SSBEIS** [2020] EWHC 1303 (Admin) at §99) or took into account immaterial considerations.

30. A public body also has obligations to take reasonable steps to acquaint itself with relevant materials (***Secretary of State for Education and Science v Tameside MBC*** [1977] AC 1014 at 1065B). This is subject to the following limitations set out in ***R (Balajigari) v SSHD*** [2019] 1 WLR 4647 at §70:

“First, the obligation on the decision-maker is only to take such steps to inform himself as are reasonable. Secondly, subject to a *Wednesbury* challenge, it is for the public body and not the court to decide upon the manner and intensity of inquiry to be undertaken [...] Thirdly, the court should not intervene merely because it considers that further inquiries would have been sensible or desirable. It should intervene only if no reasonable authority could have been satisfied on the basis of the inquiries made that it possessed the information necessary for its decision. Fourthly, the court should establish what material was before the authority and should only strike down a decision not to make further inquiries if no reasonable authority possessed of that material could suppose that the inquiries they had made were sufficient. Fifthly, the principle that the decision-maker must call his own attention to considerations relevant to his decision, a duty which in practice may require him to consult outside bodies with a particular knowledge or involvement in the case, does not spring from a duty of procedural fairness to the applicant but rather from the Secretary of State's duty so to inform himself as to arrive at a rational conclusion. Sixthly, the wider the discretion conferred on the Secretary of State, the more important it must be that he has all the relevant material to enable him properly to exercise it.”

31. In ***Oxted*** the Court of Appeal rejected a challenge to the Tandridge DC CIL schedule premised on the suggestion that it reflected the requirements in an out of date core strategy §§56, 59.

### **Analysis**

32. In my view there are two legal flaws in the process so far, relating to (i) progressing the schedule in advance of the Local Plan and (ii) whether the Council has been asking itself the right question (and whether the evidence now is sufficient for reaching a decision).

*Potential Ground (i) Progressing to examination based on a draft local plan.*

33. **First**, the Council is acting irrationally in seeking to examine (and, presumably adopt) its Charging Schedule before its emerging Local Plan is finalised and adopted.

34. Fundamentally, the purpose of the CIL provisions is to fund infrastructure.



35. The PPG, to which regard must be had (s. 221 2008 Act) makes clear that the infrastructure to be funded is that set out in relevant up to date local plans: see paras 10, 11, 12, and 17 above. Indeed, the PPG only suggests that draft local plans may be used where an authority is progressing to a joint examination: para. 12.
36. The suggestion that CIL is being sought to support the infrastructure requirements of the emerging local plan is also clear from the Council's own documents. The IDP Part 2, for example, is explicitly premised on what is in the emerging local plan. It makes clear that it "*sets out the infrastructure requirements to deliver the development strategy of the Regulation 19 Local Plan*" (p.1 section 1.2).
37. In this case, however, the emerging local plan has not been through the examination process and has not been found sound. Instead, the Council is proceeding with a CIL examination to raise money to meet infrastructure costs that might not reflect those in the eventual plan. That is a serious logical or methodological error. Moreover, the key piece of evidence (what the plan requires in terms of infrastructure) will not be settled until after the CIL examination and the charging schedule is adopted. An emerging Local Plan is being progressed. It would have been open to the Council to proceed with a joint examination (reg. 22). It has chosen not to so do. In the circumstances of this case it is strongly arguable this is not a rational approach.

*Potential Ground (ii) Irrational evidence base*

38. **Second**, and compounded by the first issue, it is strongly arguable the Council's evidence base cannot rationally support the reg. 14 balance that must be undertaken.
39. The PPG is clear that charging authorities are required to show and explain how the proposed rates will contribute toward the implementation of their relevant plan (para. 10), that regard must be had to the actual and expected cost of infrastructure (para. 016), that the total cost of infrastructure to be funded wholly or partly through the levy must be identified (drawing information from the Infrastructure Funding Statement) (para. 17), and that – where an evidence base is to be tested at examination – it is

sufficient to confirm not only the infrastructure funding gap but “*the total target amount that the charging authority proposes to raise through the levy*” (para. 018).

40. This is a case where the evidence base will have to be tested. At the moment, there is a clear evidential lacuna. Nowhere does the Council set out the total target amount it proposes to raise through the levy, contrary to PPG para. 018. The 2023 Viability Assessment does not seek to tie rates back to how much can be raised. Instead it considers the balance to be between “*revenue maximisation*” and potential adverse impacts (§7.4). The IDP (Part 2) looks at the infrastructure needed and its cost and other sources of funding, but again does not look at how much can be raised from the proposed CIL rates. This evidential lacuna means one cannot be sure what “*the total target amount the charging authority proposes to raise through the levy*” is (PPG para. 018). It appears, therefore, the Council has not focused its mind on the correct question and has not adduced sufficient evidence on that point. I also note that the IDP Part 2 is somewhat dated and, contains many “TBCs” on both the infrastructure and sources of funding. This fundamentally undermines the examiner’s ability to properly undertake the reg. 14 balance, which is “*at the centre of the charge setting process*” (PPG para. 10).

41. In my view therefore there is a strong argument that the Council has not addressed its mind to the right question, nor provided sufficient evidence for the examiner to address his mind to the right statutory questions. Accordingly:

- a. There is a clear evidential lacuna (per the **Lancashire County Council** case), such that it would be arguably irrational for the examination to proceed, and charging schedule to be adopted, based on the evidence base at it stands.
- b. This in turn places a **Tameside** duty on the Council and/or examiner to obtain further evidence. It is strongly arguable it would be irrational not to.

## Conclusion

42. My conclusions are set out above in the executive summary. If there are any further questions those instructing should not hesitate to contact me.

**Nick Grant**  
19 May 2025

**Landmark Chambers**  
180 Fleet Street, London, EC4A 2HG



Quod

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# **Ealing CIL Charging Schedule Examination**

Hearing Statement on  
behalf of Berkeley  
Homes (Southall)  
Limited

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MAY 2025

# Contents

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# 1 Introduction

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- 1.1 Quod submitted representations on behalf of Berkeley Homes (Southall) Limited at each stage of the CIL process, with the most recent submission being via the Quod letter dated 12th November 2024.
- 1.2 Berkeley Homes (Southall) Limited is the developer of the Southall Gasworks site (now known as The Green Quarter) which is a significant strategic housing delivery location within Ealing, totalling c.8,100 homes. To date 850 homes have been completed at the site and 418 are in progress. The wider Berkeley group is one of London's largest developers, completing 19,608 homes over the last 5 years.
- 1.3 Whilst the CIL Examiner's confirmation that further representations are not required is acknowledged, it is considered appropriate to (i) highlight continuing concerns about the CIL process and its relationship to the ongoing Ealing Local Plan process (ii) confirm the impact of the recently introduced Building Safety Levy and (iii) provide further up to date evidence which indicates that issues previously highlighted with the viability inputs have only worsened in the period since the previous representations.
- 1.4 As evidenced within this statement, the request made by Quod throughout the process that strategic brownfield regeneration sites should be NIL rated for CIL remains valid. Indeed it is essential to do this (or an alternative financially equivalent approach) to enable such sites to come forward and deliver a large proportion of the local plan housing targets.

## 2 CIL and the Local Plan Process

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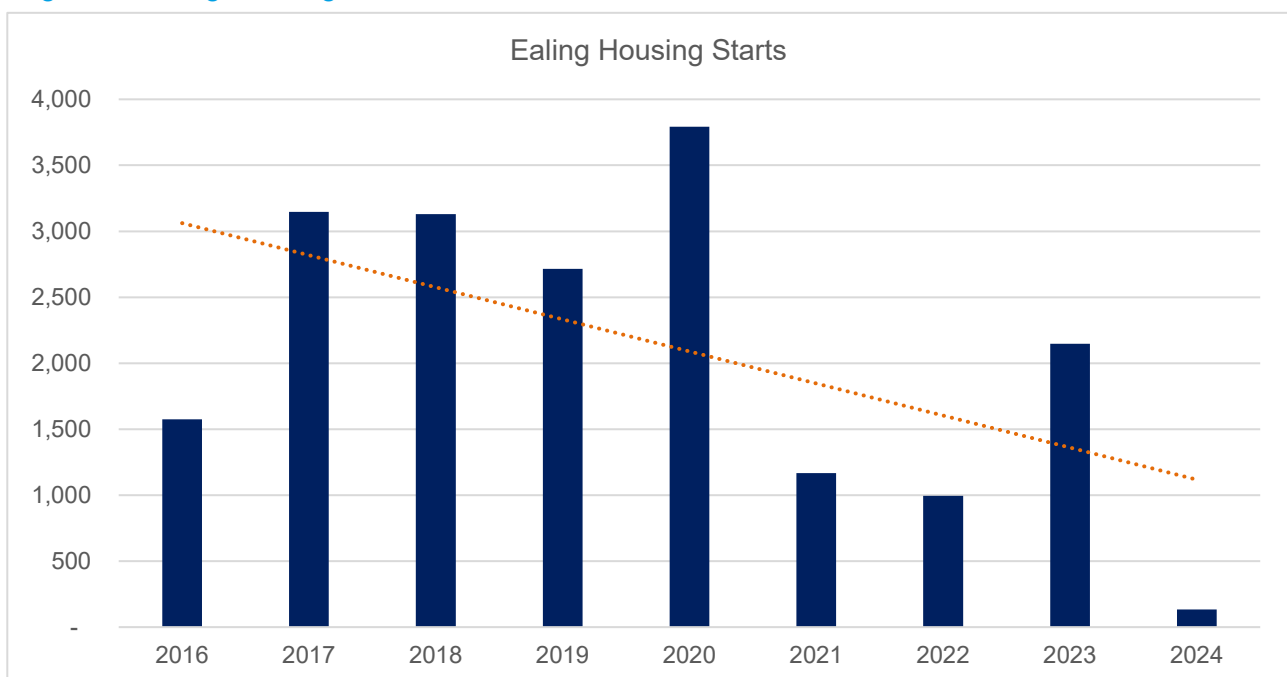
### Timing of the CIL and Local Plan Processes

- 2.1 Ealing is currently progressing a new local plan which is currently at submission (Regulation 22) stage, with an Examiner appointed and examination sessions scheduled through June and September 2025. It is understood that extensive representations have been received on matters including housing, infrastructure and viability (including from Berkeley Homes).
- 2.2 The key purpose of a CIL charging schedule is to fund infrastructure in support of an up to date local plan. National Planning Practice Guidance is clear that:
- *“Charging schedules should be consistent with, and support the implementation of, up-to-date relevant plans” (Paragraph: 011 Reference ID: 25-011-20190901).*
  - *“Information on the charging authority area’s infrastructure needs should be drawn from the infrastructure assessment that was undertaken when preparing the relevant plan (the Local Plan and the London Plan in London) and their CIL charging schedules. This is because the plan identifies the scale and type of infrastructure needed to deliver the area’s local development and growth needs” (Paragraph: 017 Reference ID: 25-017-20190901).*
  - *“The Community Infrastructure Levy examination should not re-open infrastructure planning issues that have already been considered in putting in place a sound relevant plan” (Paragraph: 017 Reference ID: 25-017-20190901).*
- 2.3 Given the above, it is critical that a final and sound local plan is in place as this determines which infrastructure a CIL charging schedule needs to fund. In this case the Ealing Local Plan is some way away from adoption and has not yet been found sound (in fact many objections exist). As such the final infrastructure requirement is unknown and the CIL process should not progress until this is known.

### 3 Viability Context and Market Change

- 3.1 The BNPP viability study supporting the CIL charging schedule is dated December 2023 and necessarily draws on evidence prior to this date. The latest representations submitted by Quod are from November 2024. As has been widely reported, the current environment for housing delivery is extremely challenging and this situation has continued to worsen since 2023/24 to the current day. The following sections briefly evidence the worsening environment and therefore the fact that the BNPP study supporting the CIL charging schedule is out of date.
- 3.2 Housing delivery is at unprecedented lows in London as a result of weakened market conditions; persistently falling since 2022. Construction starts fell to their lowest level in 14 years in 2024 – down 68% from 2015<sup>1</sup> (see Figure 1). The GLA reported that there were over 6,000 homes were under construction but were stalled at the time of reporting in London. This figure included some of the London Borough of Ealing’s own development schemes, as publicised on the Council’s website.

Figure 1: Ealing Housing Starts



- 3.3 Figure 2 illustrates the continuing decline of new build sales in Ealing, now falling to just a handful of units in the most recent period.

<sup>1</sup> Molior January 2025 Quarterly Report



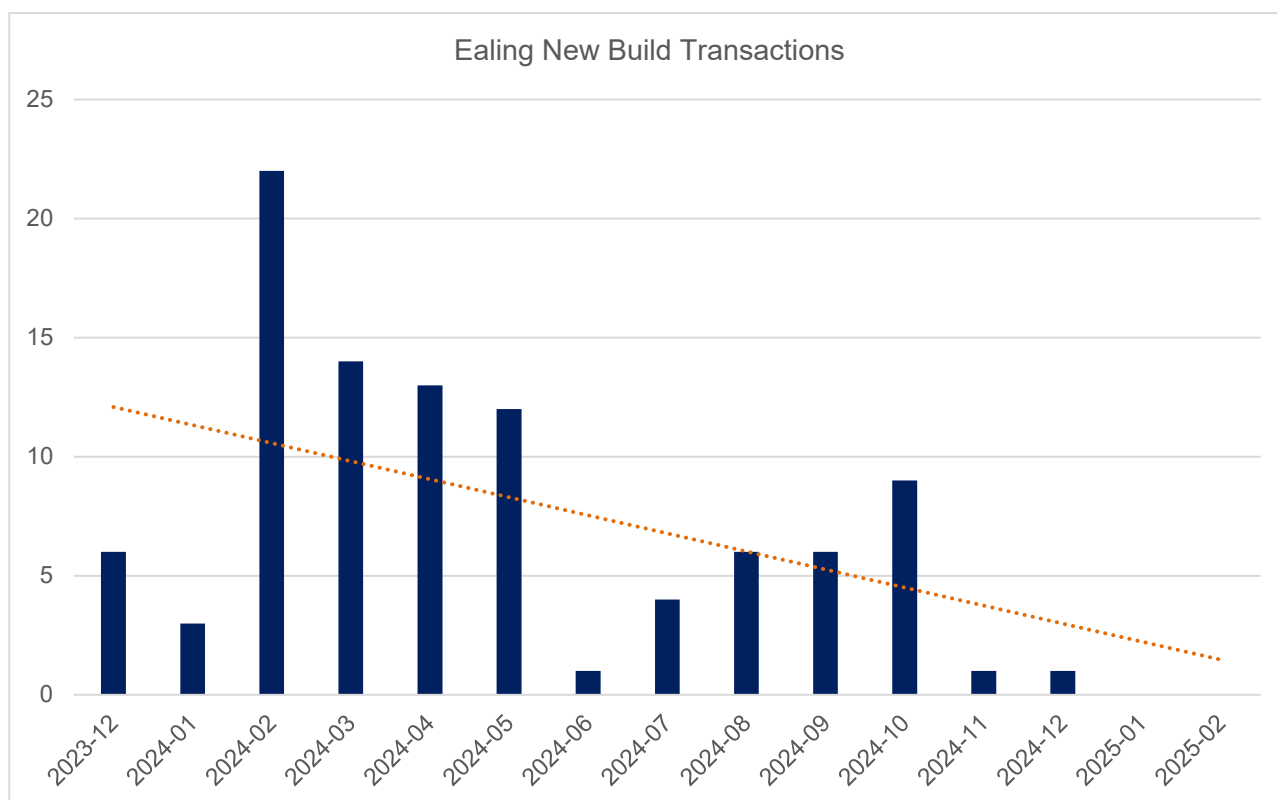


Figure 2: Ealing New Build Sales

3.4 The results of the most recent Housing Delivery Test (for 2023, published in December 2024) are shown in Table 1 below. Whilst neighbouring boroughs have similar or lower CIL rates, Ealing is outperformed by all – in most cases by a significant margin – and is the only borough requiring an action plan to increase delivery going forward. Quod maintain that indicates that Ealing faces unique challenges for development viability and delivery.

Table 1: Housing Delivery Test 2023

LPA	Homes Required 20/21- 22/23	Homes Delivered 20/21- 22/23	Measurement	Consequence
Ealing	5,750	4,847	84%	Buffer
Brent	6,198	8,136	131%	None
Hammersmith & Fulham	3,689	5,258	143%	None
Harrow	2,138	2,169	101%	None
Hillingdon	2,887	2,617	91%	Action plan
Hounslow	4,330	4,694	108%	None

# 4 Viability Evidence

- 4.1 As noted within the Quod representations dated 12<sup>th</sup> November 2024 (and representations at previous stages of the process), Berkeley consider that the BNPP viability study supporting the CIL charging schedule falls significantly short of the requirements set out in Planning Practice Guidance. In particular the adopted costs and values are not realistic / evidence based, The Green Quarter has not been tested despite being a strategic site and the total cost of policy burdens will undermine deliverability of development.
- 4.2 The following sections provide further up to date evidence supplementing that from previous representations in 2023 and 2024 and confirm costs associated with the recently introduced Building Safety Levy.

## Build Costs

- 4.3 The costs included by BNPP in the viability study (£2,745/sqm / £255/sqft for flatted development with 6+ storeys, inclusive of 10% externals) are lower than what is generally achievable for a development of the nature, quality and complexity of the Green Quarter. The figure, based on the BCIS database, does not account for recent changes in building regulations, design risks, or the specific challenges of high-density London developments, and should be treated only as a starting point – not a definitive benchmark.
- 4.4 The table below sets out build costs for a range of schemes in London that have been agreed by BNPP and developers / independent assessors. As can be seen, all of these site-specific assessments for larger brownfield regeneration schemes have concluded figures well in excess of that adopted by BNPP in the Ealing viability study. This provides clear support for the case that BNPPs build costs are unrealistic.

Table 2: Build Costs Agreed by BNPP in Recent Site-specific Assessments

Development	Date	£/sqft all in
<i>BNPP Ealing CIL Study Figure</i>	<i>Dec-23</i>	<i>£269<sup>2</sup></i>
Twelvetreets	Oct-25	£349
Beckton Riverside Ph1	Jan-25	£340
Bromley By Bow	Nov-23	£399
Stag Brewery	Oct-24	£343

- 4.5 Berkeley has also commissioned cost consultants Core5 to prepare a benchmarking report to provide further evidence in support of establishing realistic cost inputs. This uses data from

<sup>2</sup> This is an all-in cost, reflecting the £255/sqft referred to in paragraph 4.3 plus policy costs (Biodiversity Net Gain, Zero Carbon etc.)

comparable schemes and indicates a rate of c.£341/ft<sup>2</sup><sup>3</sup> (including external works), provided at Appendix 1.

- 4.6 Given the above, the CIL study viability would under-state costs by at least c.£70/ft<sup>2</sup> (£340/ft<sup>2</sup> current market figure less £270/ft<sup>2</sup> BNPP input) which would amount to £410m over a development of the scale of The Green Quarter.

## Abnormals / Infrastructure

- 4.7 Quod raised the principle of the abnormal costs omission in April 2024; BNPP's viability assessment excludes abnormal costs, which is a significant omission given the scale and nature of The Green Quarter i.e. a former gasworks site with extensive remediation requirements. This will also apply to other strategic developments. The Plan itself acknowledges the major public benefit of regenerating this contaminated land, recognising the substantial costs involved.
- 4.8 Failure to include any abnormal costs within the assessment means that the assumed position for most strategic sites will be inaccurate, ultimately curtailing the housing delivery aspirations of the emerging Ealing Local Plan.
- 4.9 Quod submitted further evidence in November 2024, showing that the infrastructure, abnormals, and financial contributions to make the development acceptable amount to c.£343m (equating to an approximate figure of £42,000 per dwelling across 8,100 homes).

## Regulatory Costs

- 4.10 The Building Safety Levy rate, published in March 2025, is set at £33.24/sqm for Previously Developed Land in Ealing. The rate is to be applied to all new dwellings and purpose-built student accommodation which require a building control application. The rate would amount to c.£10.9m over the remaining homes to be delivered at The Green Quarter.

## Intermediate Housing Tenure

- 4.11 Ealing's Housing Strategy Consultation Draft states *"the only three genuinely affordable tenures housing for the majority of households on average incomes are Social Rent, London Affordable Rent, and London Living Rent... We recognise the potential value that other tenures, such as shared ownership, can bring to housing markets but this does not meet our definition of 'genuinely affordable' across most of the borough"* (page 15, para 2.5 and page 21, para 3.4).
- 4.12 There is a clear preference for intermediate housing to be delivered as London Living Rent, however BNPP are working on the assumption of Shared Ownership delivery (valued at £435/sqft). As stated by the Council in their draft strategy, London Living Rent is more affordable than Shared Ownership, and this is reflected in a lower achievable capital value

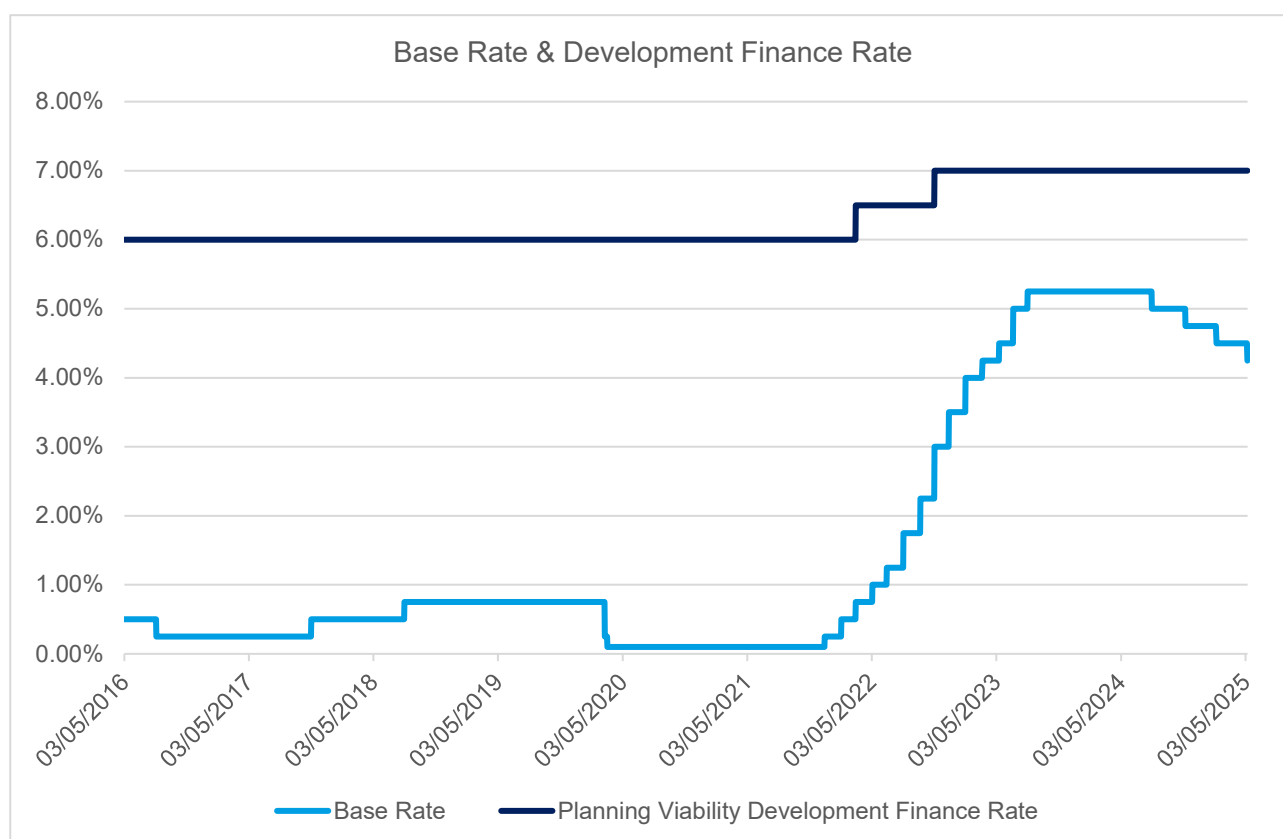
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<sup>3</sup> This reflects the residential value (indexed to current day) adopted by BNPP in their assessment.

(c.£241/sqft). The affordable housing modelled by BNPP does not align to the Council's tenure preference, and is overstating the GDV.

## Finance Costs

- 4.13 BNPP assume that development finance can be secured at a rate of 6%, inclusive of arrangement and exit fees. They contend this is reflective of medium-term funding expectations.
- 4.14 Pre-interest rate growth (starting in 2022) when the base rate was 0.1%, development finance was typically agreed at 6%, equating to a margin in the region of 5-6%. The margin is the additional percentage points a lender adds to the base rate to determine the final interest, which reflects the lender's operating costs, profit, and assessment of risk.
- 4.15 When the Viability Study was first published in December 2023 the rate of 6% left a margin of 0.75% above the base rate, increasing marginally to 1.75% as of 9<sup>th</sup> May 2025 as it has fallen from its peak. This is significantly smaller than the margin that which has been widely accepted by both developers and LPAs in for a sustained period of time preceding interest rate growth.
- 4.16 BNPP state that the 6% rate is reflective of medium-term funding conditions. The Base Rate is expected to stabilise around 3-3.5% in the mid to long term; equating to a margin of 2.5-3%. Such a rate – specifically the margin it implies – is simply not reflective of past, present, or future financing conditions.



4.17 Furthermore, a number of schemes have agreed finance rates well in excess of 6%, which clearly evidences a consensus between developers and LPAs / their independent assessors that the finance rate should be increased beyond 6% to reflect financing conditions. A selection of schemes where viability has been agreed is set out below.

**Table 3: Agreed Finance Rates**

Scheme	Date	Agreed Finance Rate
Friars Close, Bear Lane, Southwark	July 2024	7.5%
Colebrook Court, 75 Sloane Avenue, RBKC	July 2024	8.5%
Bridge House, Bridge Close, North Kensington, RBKC	July 2024	7.5%
28-34 Queensway & Olympia Mews, Westminster	Sept 2023	9.5%
Highwood Farm, Stortford Road, Great Dunmow, Uttlesford	Sept 2023	8.25%
66-68 London Road, Tooting, Merton	July 2023	9.50%
32-44 Keeley Road & 31-57 Drummond Road ('Citiscap'), Croydon	March 2023	7-8.5%

## Risk and Profit

4.18 BNPP have adopted a target return of 17.5% on GDV for private residential housing. The developer return allowed for reflects the level of risk incurred by the developer; PPG states that 15-20% of GDV may be considered a suitable return to developers.

4.19 Schemes of the size, nature, and location of The Green Quarter are fundamentally different from the majority of schemes due to the fact that there is a need to create a new destination and market and an inherent risk in achieving this: 20% on GDV for private residential is the minimum net return for such a scheme.

4.20 The Mayor's Affordable Housing and Viability SPG (2017) also allows for consideration of IRR as an approach to measuring profit, alongside profit as a factor of GDV or GDC. An IRR threshold of 17.5% is necessary to adequately reflect the risk profile and capital exposure associated with this type of development (as set out above). A 17% IRR is consistent with market expectations for schemes of comparable scale, complexity, and risk, for example Greenwich Peninsula which also includes a similar level.

## Viability Testing

4.21 In summary, BNPP's appraisal is unrealistic in a number of areas as identified in previous representations. As evidenced within this note, the position has only worsened recently.

4.22 Quod have tested the lower end of the ranges evidenced within this note to illustrate the scale of the difference between BNPP's assumptions and realistic market levels for larger urban brownfield regeneration in Table 4 below (appraisals provided at Appendix 2).

Table 4: Sensitivity Testing Overview

Input	BNPP Assumption (Dec 23) Underpinning the CIL viability study	Appropriate Input as Evidenced within this Report	Impact on the 500- Unit Scheme Tested by BNPP
LLR / SO	£430/sqft Shared Ownership	£241/sqft London Living Rent	- £7.9m
Build Costs	£270/sqft (all in)	£340/sqft (all in)	- £30m
S106	c.£6,000/unit	£42,000/unit	- £18m
Abnormals, Infrastructure	£0/unit		
Building Safety Levy	Excl	£	-£0.8m
Finance	6%	7.5%	- £7.7m (minimum) <sup>4</sup>
<b>Total</b>			<b>£64.4m</b>

4.23 On the basis of the inputs set out above – which are at the lowest end of the ranges evidenced within those note – there is a £56.5m cost understatement and £7.9m value overstatement in a 500-unit appraisal (totalling a £64.4m worsening in the appraisal output). The scaled-up difference, on the basis of the 6,832 homes that are yet to be constructed at The Green Quarter, is £880m.

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<sup>4</sup> Once the Residual Land Value becomes negative, the finance cost accrued on land value becomes negative (i.e. treated as revenue), therefore the full extent of the finance cost increase is understated in the model.

## 5 Conclusion

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5.1 As evidenced within this note:

- The CIL charging schedule process has been progressed in advance of certainty as to what infrastructure is required to support the Local Plan. This is procedurally incorrect and the CIL rates should be set following adoption of the plan.
- The BNPP viability study underpinning the CIL charging schedule is flawed, does not meet the requirements of PPG and over-states the viability of a site such as The Green Quarter by over £880m.
- Market indicators since the BNPP viability study underpinning the CIL charging schedule and the previous Quod representations have continued to decline. Development and residential sales have stalled in Ealing, indicating worsening viability challenges.

5.2 The above demonstrates that Quod's previous conclusions made in representations to date are correct; the addition of the proposed CIL would seriously threaten the delivery of brownfield regeneration and strategic sites which the local plan is reliant on.

5.3 **The charging schedule should be amended to apply a NIL rate to strategic brownfield regeneration sites within the Borough such as The Green Quarter.**



## Appendix 1

### Core 5 Cost Benchmarking

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## THE GREEN QUARTER, SOUTHALL

Report on Residential Benchmarks

May 2025

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2. Notes, Assumptions & Exclusions	2
<b>Appendices</b>	
A Benchmark Residential Build Cost Rates	A
B Basis of the Report	B

## 1. Executive Summary

This report contains our review of BNP Paribas Real Estate build-cost for Green Quarter based on the reports and information as listed on the schedule of information included in Appendix B of this report.

The below BNP Paribas costs have been adjusted for inflation from Q4 2023 to Q2 2025 to align with the the C5 Benchmark current day costs. The inflation has been calculated using BCIS TPI as below:

BNP Paribas Build-cost dated December 2023		£2,495 /m <sup>2</sup>
BCIS Q4 2023 TPI	386	
BCIS Q2 2025 TPI	401	4%
Adjusted BNP Paribas Build-cost (Q2 2025)		£2,592 /m <sup>2</sup>

The below table summarises the comparative construction build-cost rates between the information provided in BNP Paribas Real Estate report dated December 2023 and the benchmark information in Appendix A of this report.

	BNP Paribas	C5 Benchmark
<b>Build cost (incl. MC Prelims and OH&amp;P) £/m2</b>	<b>£2,592</b>	<b>£3,337</b>
<b>Build cost (incl. MC Prelims and OH&amp;P) £/ft2</b>	<b>£241</b>	<b>£310</b>

When preparing this report a number of assumptions have been made, which are included in Section 2 of this report. It should be noted that the above excludes external works, contingency, professional fees, VAT, and other items listed in Section 2 of this report.

Further detail regarding examples of comparable projects that have been utilised as the source of our benchmarking data and key design metric can be found in Appendix A of this report.

## 2. Pricing Notes, Assumptions & Exclusions

### 2.1 Pricing Notes & Assumptions

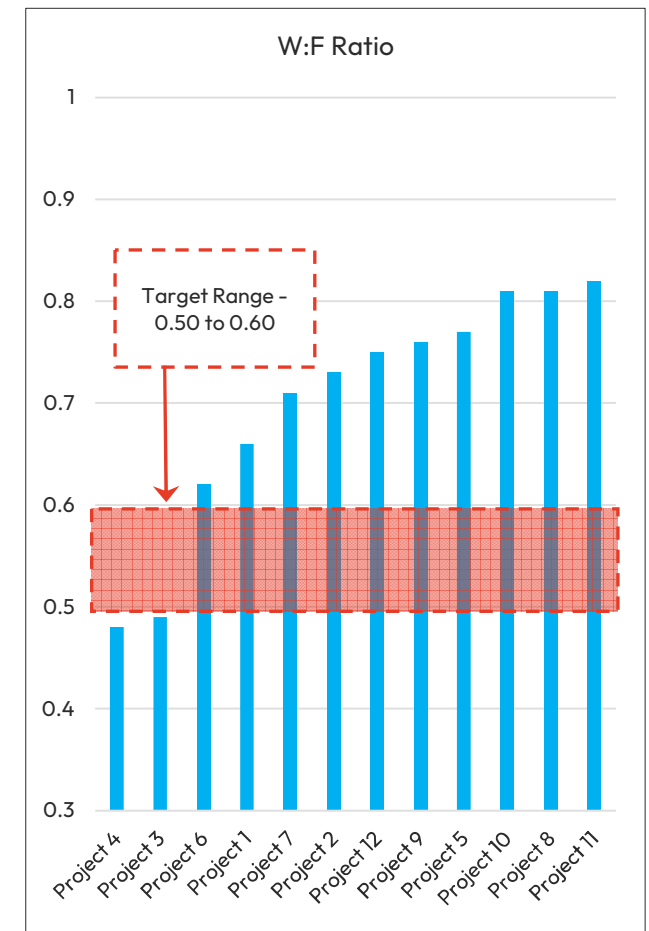
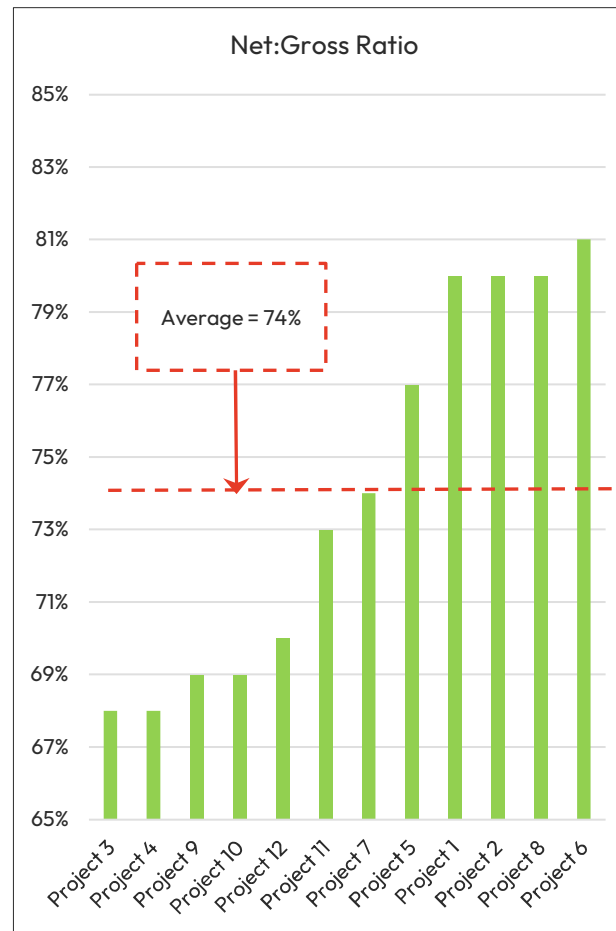
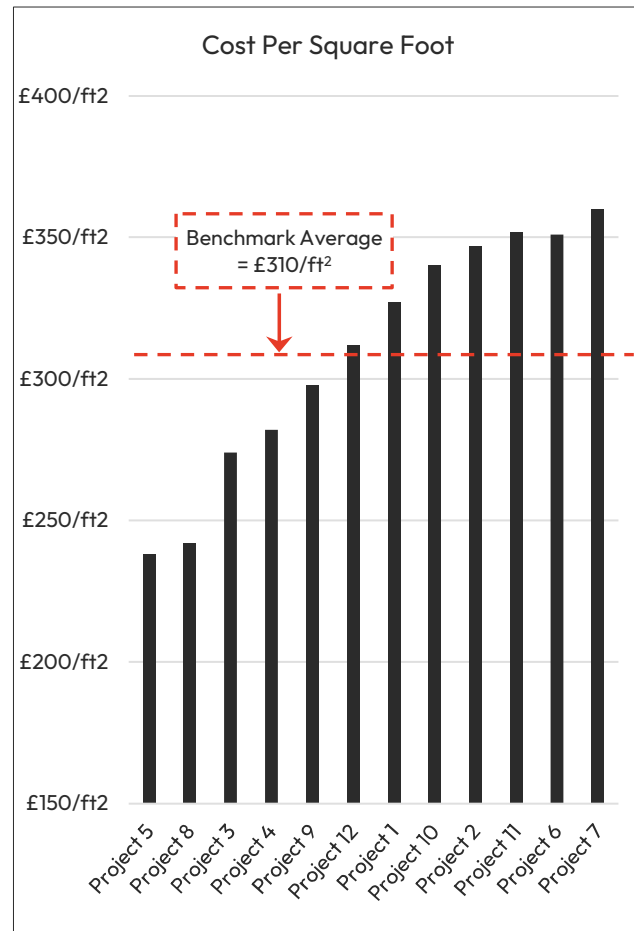
- This report is based upon the information listed in Appendix B of the report.
- The benchmark cost rates have been updated to current day fixed price basis (Q2 2025 price levels) and have been adjusted to a common location factor of Outer London, Southall
- Benchmark cost rates are for residential build costs (above ground shell & core and fit-out) based on a sales value of circa £800 / sqft NSA and include for main contractor on-costs (i.e. preliminaries and OHP), but exclude items as listed in Section 2.2 below.

### 2.2 Exclusions

- Future Inflation to start on site beyond Q2 2025
- External works, landscaping and infrastructure costs
- Site acquisition fees / costs
- Client Finance charges, developer's costs and profit
- Project and other Client insurances
- NHBC / BLP type warranties
- Post completion maintenance agreements
- Planning consultant fees
- Pre-Contract Design & Post Contract Client Monitoring Team Fees
- Third party fees/costs
- Legal advisor fees
- Statutory fees
- Building control fees
- Clerk of works
- Independent Commissioning Management / Validation Engineer
- Site surveys incl. topographical survey
- Monitoring of adjacent buildings/structures over and above standard noise, dust and movement monitoring.
- Wind studies
- Archaeology works (including Consultants fees, investigation and attendance costs or resultant delays/ disruption)
- Flood risk assessment
- Transport plan
- Geotechnical surveys
- Environmental surveys
- Rights of Light Award incl. fees
- Party wall awards
- Pre-application meeting fees
- Planning application fee
- Planning condition discharge fees & costs
- Works & payments associated with Section 106 and 278 agreements; road stopping up, public art, CIL payments etc.
- Local Authority charges, road closures and diversions, etc.
- Value Added Tax
- Non-Recoverable VAT
- Credits for capital allowances or other incentives/grants
- Carbon Tax
- Show floors, show apartments, room mock-ups and marketing suites; any other marketing costs (including brochures, etc.)
- Marketing/letting costs, legal fees, presentation material, tenant contributions.
- Oversailing licences
- Feature cladding to hoarding
- Loose fixtures, furnishings and equipment to apartments such as sofas, beds etc to make them habitable & amenity
- Design and Construction Risk Contingencies
- Any necessary reinforcement / upgrade and diversion of services infrastructure
- Out of hours working, construction voids and the like.
- Changes to statutory authorities or buildings regulations beyond those known at the time of the estimate.

## Appendix A - Benchmark Residential Build Cost Rates

	Project 1	Project 2	Project 3	Project 4	Project 5	Project 6	Project 7	Project 8	Project 9	Project 10	Project 11	Project 12
GIA - ft <sup>2</sup>	34,713	34,735	43,918	44,736	52,252	90,525	99,257	126,242	91,117	59,590	42,367	40,010
Cost Per ft <sup>2</sup>	£327	£347	£274	£282	£238	£351	£360	£242	£298	£340	£352	£312
Net:Gross Ratio	80%	80%	68%	68%	77%	81%	74%	80%	69%	69%	73%	70%
Wall: Floor Ratio	0.66	0.73	0.49	0.48	0.77	0.62	0.71	0.81	0.76	0.81	0.82	0.75





## Appendix A - Residential Benchmarks - Comparable Projects



Grand Union,  
London  
Client: St George



Wandsworth Exchange,  
London  
Client: L&Q



Woolwich Central,  
London  
Client: Meyer Homes



Alpertons Yards,  
London  
Client: Greenstone / Telford Homes



Hale Wharf,  
London  
Client: Muse Developments



Britannia Residential,  
London  
Client: London Borough of Hackney



Woodberry Down,  
London  
Client: Berkeley Homes



Kindred House,  
London  
Client: Meadow Partners

## Appendix B - Basis of Information used for preparation of Report

Source	Document Type		Title	Date Received
	PDF	DWG		
BNP PARIBAS	■		Local_Plan_Reg_19_and_CIL_Viability_Assessment_Dec_2023_acc3	23/04/2025
JTP		Excel	TGQ Revised Masterplan Area Schedule Apr 25	28/04/2025
JTP	■		DESIGN_AND_ACCESS_STATEMENT-4083124	28/04/2025



## Appendix 2

### **BNPP and Quod Appraisals**

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TGQ  
BNPP Inputs

Development Pro Forma  
Quod  
May 14, 2025

TGQ  
BNPP Inputs

### Project Pro Forma for Phase 1

Currency in £

#### REVENUE

Sales Valuation	Units	ft <sup>2</sup>	Sales Rate ft <sup>2</sup>	Unit Price	Gross Sales
Flats (Private)	300	203,438	755.86	512,569	153,770,836
Flats (Social Rent)	140	94,938	194.45	131,862	18,460,694
Flats (Shared Ownership)	60	40,688	434.97	294,964	17,697,842
<b>Totals</b>	<b>500</b>	<b>339,064</b>			<b>189,929,372</b>

#### Rental Area Summary

	Units	ft <sup>2</sup>	Rent Rate ft <sup>2</sup>	Initial MRV/Unit	Net Rent at Sale	Initial MRV
Supermarket	1	1,830	25.55	46,758	46,758	46,758
Light Industry	1	9,149	20.44	187,014	187,014	187,014
<b>Totals</b>	<b>2</b>	<b>10,979</b>			<b>233,772</b>	<b>233,772</b>

#### Investment Valuation

##### Supermarket

Market Rent	46,758	YP @	4.7500%	21.0526	
(6mths Rent Free)		PV 6mths @	4.7500%	0.9771	961,797

##### Light Industry

Market Rent	187,014	YP @	5.0000%	20.0000	
(1yr Rent Free)		PV 1yr @	5.0000%	0.9524	3,562,166

#### Total Investment Valuation

**4,523,963**

#### GROSS DEVELOPMENT VALUE

**194,453,335**

## TGQ

## BNPP Inputs

## TOTAL PROJECT REVENUE

194,453,335

## DEVELOPMENT COSTS

## ACQUISITION COSTS

Residualized Price (1.44 Acres @ 1,508,933.09 /Acre)

2,172,864

2,172,864

## CONSTRUCTION COSTS

## Construction

ft² Build Rate ft²

Cost

Supermarket 2,153 214.98 462,852

Light Industry 10,764 128.30 1,381,021

Flats (Private) 271,251 231.79 62,873,269

Flats (Social Rent) 126,584 231.79 29,340,905

Flats (Shared Ownership) 54,250 231.79 12,574,607

**Totals 465,002 ft² 106,632,655**

S106 - Resi 500 un 5,000.00 /un 2,500,000

S106 - Commercial 12,917 ft² 2.32 29,967

S278 - Resi 500 un 1,000.00 /un 500,000

S278 - Commercial 12,917 ft² 2.32 29,967

BCIL - Resi 271,251 ft² 29.22 7,925,954

BCIL - Supermarket 2,153 ft² 33.87 72,922

BCIL - Industry 10,764 ft² 12.96 139,501

MCIL2 284,168 ft² 6.00 1,705,008

119,535,976

## Other Construction Costs

External Works 10.00% 10,663,266

Zero Carbon and BREEAM 5.00% 5,331,633

M4 (2) accessible and adaptable 1.15% 1,205,071

M4 (3) (a) wheelchair adaptable 583,463

M4 (3) (b) wheelchair accessible 396,940

Biodiversity Net Gain 0.20% 213,265

**PROJECT PRO FORMA****QUOD****TGQ****BNPP Inputs**

Affordable Workspace Contribution		46,848	
Urban Green Factor / green roof		48,730	
			18,489,216

**PROFESSIONAL FEES**

Professional Fees	10.00%	10,663,266	
			10,663,266

**MARKETING & LEASING**

Resi Marketing & Agent Fees	2.50%	4,748,234	
Resi Legal fee	0.25%	474,823	
Commercial Sales Agent Fee	1.00%	45,240	
Commercial Sales Legal fee	0.50%	22,620	
Commercial Letting Agent & LegalFee	15.00%	35,066	
			5,325,983

**MISCELLANEOUS FEES**

Profit - Private	17.50%	26,909,896	
Profit - Affordable	6.00%	2,169,512	
Profit - Commercial	15.00%	678,594	
			29,758,003

**TOTAL COSTS BEFORE FINANCE****185,945,306****FINANCE**

Debit Rate 6.000%, Credit Rate 0.000% (Nominal)			
Land		266,569	
Construction		6,901,536	
Other		1,339,923	
Total Finance Cost			8,508,028

**TOTAL COSTS****194,453,335**

TGQ

BNPP Inputs

PROFIT

0

**Performance Measures**

Profit on Cost%	0.00%
Profit on GDV%	0.00%
Profit on NDV%	0.00%
Development Yield% (on Rent)	0.12%
Equivalent Yield% (Nominal)	4.95%
Equivalent Yield% (True)	5.10%
IRR% (without Interest)	4.66%
Profit Erosion (finance rate 6.000)	N/A

TGQ  
Input Sensitivity

Development Pro Forma  
Quod  
May 14, 2025

TGQ  
Input Sensitivity

Project Pro Forma for Phase 1

Currency in £

REVENUE

Sales Valuation	Units	ft <sup>2</sup>	Sales Rate ft <sup>2</sup>	Unit Price	Gross Sales
Flats (Private)	300	203,438	755.86	512,569	153,770,836
Flats (Social Rent)	140	94,938	194.45	131,862	18,460,694
Flats (LLR)	<u>60</u>	<u>40,688</u>	241.00	163,428	<u>9,805,688</u>
<b>Totals</b>	<b>500</b>	<b>339,064</b>			<b>182,037,217</b>

Rental Area Summary

	Units	ft <sup>2</sup>	Rent Rate ft <sup>2</sup>	Initial MRV/Unit	Net Rent at Sale	Initial MRV
Supermarket	1	1,830	25.55	46,758	46,758	46,758
Light Industry	<u>1</u>	<u>9,149</u>	20.44	187,014	<u>187,014</u>	<u>187,014</u>
<b>Totals</b>	<b>2</b>	<b>10,979</b>			<b>233,772</b>	<b>233,772</b>

Investment Valuation

**Supermarket**

Market Rent	46,758	YP @	4.7500%	21.0526	
(6mths Rent Free)		PV 6mths @	4.7500%	0.9771	961,797

**Light Industry**

Market Rent	187,014	YP @	5.0000%	20.0000	
(1yr Rent Free)		PV 1yr @	5.0000%	0.9524	3,562,166

**Total Investment Valuation**

**4,523,963**

GROSS DEVELOPMENT VALUE

**186,561,180**

**PROJECT PRO FORMA****QUOD**

TGQ

Input Sensitivity

**TOTAL PROJECT REVENUE****186,561,180****DEVELOPMENT COSTS****ACQUISITION COSTS**

Residualized Price (Negative land)

(58,909,287)

(58,909,287)

**CONSTRUCTION COSTS****Construction**

	<b>ft²</b>	<b>Build Rate ft²</b>	<b>Cost</b>	
Supermarket	2,153	214.98	462,852	
Light Industry	10,764	128.30	1,381,021	
Flats (Private)	271,251	340.00	92,225,340	
Flats (Social Rent)	126,584	340.00	43,038,560	
Flats (LLR)	<u>54,250</u>	<u>340.00</u>	<u>18,445,000</u>	
<b>Totals</b>	<b>465,002 ft²</b>		<b>155,552,773</b>	<b>155,552,773</b>

Infrastructure / Abnormals / S106

500 un 42,000.00 /un 21,000,000

BCIL - Resi 271,251 ft² 29.22 7,925,954

BCIL - Supermarket 2,153 ft² 33.87 72,922

BCIL - Industry 10,764 ft² 12.96 139,501

MCIL2 284,168 ft² 6.00 1,705,008

30,843,386

**Other Construction Costs**

Affordable Workspace Contribution 46,848

Building Safety Levy 271,251 ft² 3.08 835,453

882,301

**PROFESSIONAL FEES**

Professional Fees 10.00% 15,555,277

15,555,277



**PROJECT PRO FORMA****QUOD****TGQ****Input Sensitivity****MARKETING & LEASING**

Resi Marketing & Agent Fees	2.50%	4,550,930	
Resi Legal fee	0.25%	455,093	
Commercial Sales Agent Fee	1.00%	45,240	
Commercial Sales Legal fee	0.50%	22,620	
Commercial Letting Agent & LegalFee	15.00%	35,066	
			5,108,949

**MISCELLANEOUS FEES**

Profit - Private	17.50%	26,909,896	
Profit - Affordable	6.00%	1,695,983	
Profit - Commercial	15.00%	678,594	
			29,284,474

**TOTAL COSTS BEFORE FINANCE****178,317,873****FINANCE**

Debit Rate 7.500%, Credit Rate 0.000% (Nominal)			
Land		(8,074,643)	
Construction		14,622,053	
Other		1,695,900	
Total Finance Cost			8,243,310

**TOTAL COSTS****186,561,182****PROFIT****(2)****Performance Measures**

Profit on Cost%	0.00%
Profit on GDV%	0.00%
Profit on NDV%	0.00%

## TGQ

## Input Sensitivity

Development Yield% (on Rent)	0.13%
Equivalent Yield% (Nominal)	4.95%
Equivalent Yield% (True)	5.10%
IRR% (without Interest)	6.28%
Profit Erosion (finance rate 7.500)	N/A