

20<sup>th</sup> March 2021

Infrastructure Planning Team  
7th Floor  
2 Bristol Avenue  
Colindale  
London  
NW9 4EW

Savills (UK) Limited  
33 Margaret Street  
London W1G 0JD  
[REDACTED]  
savills.com

Sent via email – [CIL.consultation@barnet.gov.uk](mailto:CIL.consultation@barnet.gov.uk)

Dear Ms. A. Leach,

**London Borough of Barnet Proposed Revised Community Infrastructure Levy Charging Rates Consultation Representation submitted on behalf of The Ballymore Group**

This representation is submitted by Savills (UK) Limited (hereafter known as “Savills”) in respect of the London Borough of Barnet Council’s (“LBB”) consultation on their Proposed Revised Community Infrastructure Levy (“CIL”) Charging Rates, on behalf of The Ballymore Group (“Ballymore”).

**Introduction**

- 1.1 This representation has been prepared by Savills on behalf of Ballymore. Ballymore is a major national and international developer, with considerable experience in delivering sustainable, much sought-after homes and communities. Ballymore is committed to the development of the sites it owns with a multi award-winning portfolio of some of Europe’s largest and most transformative urban development projects and around 10,000 homes currently under construction across the UK and Ireland examples of sites include London City Island (completed) and the Wardian (completed) both in the London Borough of Tower Hamlets, Royal Wharf (completed) in the London Borough of Newham, Embassy Gardens (under construction) in the London Borough of Wandsworth and the Brentford Project (under construction) in the London Borough of Hounslow.
- 1.2 Ballymore acquired the Broadwalk Shopping Centre in 2020 and anticipates delivering a comprehensive redevelopment of this key town centre site. Any forthcoming development will have due regard to the aims, objectives and aspirations of the Edgware Growth Area Supplementary Planning Document (‘EGASPD’) and the Draft Local Plan, which is currently at Regulation 18 stage.
- 1.3 The Draft Local Plan identifies Edgware town centre as a location which can accommodate 5,000 new homes across the various site allocations. The EGASPD identifies the shopping centre and Edgware stations site as the largest site with high development potential in the town centre. The expectation is therefore that it can accommodate a substantial proportion of the 5,000 homes referenced in the draft Local Plan.
- 1.4 The Broadwalk Shopping Centre (site 27: ‘Edgware Town Centre’) abuts the Edgware stations site (site 28: ‘Edgware Stations’) and this presents an opportunity for Ballymore and Transport for London

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

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Commercial Development (TfL CD) to adopt a comprehensive approach to the delivery of both sites to maximise planning benefits and opportunities for coordinated master-planning and design.

- 1.5 In addition to new housing, public realm and commercial floorspace, a fundamental element of the development brief for the site is the provision of new public transport infrastructure including a new bus depot, bus station and bus stops and other upgrades. Investment on this scale aligns with the Mayor’s transport strategy for London which in general terms commits TfL to increasing passenger capacity across its network and reducing emissions through a shift to electrification.
- 1.6 The result of a coordinated approach includes the provision of new transport interchange infrastructure such as redevelopment of the bus garage and the introduction of electric vehicle charging infrastructure. To facilitate the delivery of regeneration at this scale, LBB ought to consider where increases in financial burdens such as CIL have the potential to adversely impact the delivery of new development particularly in a challenging economic climate.
- 1.7 The purpose of this representation is therefore to set out our response to LBB’s proposed revised CIL rates and its supporting evidence base which have been published for consultation from the 18<sup>th</sup> February to 21<sup>st</sup> March 2021. The revised rates are proposed to replace the existing CIL Charging Schedule which was adopted by LBB on 1<sup>st</sup> May 2013. Given the passage of time, the Council has deemed that it is appropriate to formally review the viability evidence and Charging Rates for the Borough.

**Detailed comments**

- 1.8 Ballymore welcomes that the Council has updated its viability evidence, undertaken by BNP Paribas Real Estate (“BNP”) in December 2019<sup>1</sup> and January 2021<sup>2</sup>. This representation therefore responds to the updated viability evidence and results which have informed LBB’s proposed revised CIL Charging Rates.
- 1.9 Ballymore’s interests, and this representation, specifically relate to the DCS rates as illustrated in **Table 1** below.

**Table 1. Current and Proposed CIL Charging Schedule**

<b>Land Use</b>	<b>Current Base Rate</b>	<b>Current Indexed Rate</b>	<b>Proposed New Rate</b>
<b>Residential including C2, C3 and C4 use classes and sui generis HMOs</b>	£135	£202	£300
<b>Hotels (C1)</b>	£135	£202	£202
<b>Retail (former A1-A5 uses)</b>	£135	£202	£202
<b>Leisure (former D2 uses)</b>	£0	£0	£20
<b>Employment (former B use classes)</b>	£0	£0	£20

<sup>1</sup> BNP Paribas, London Borough of Barnet: Community Infrastructure Levy Viability Review, December 2019

<sup>2</sup> BNP Paribas, CIL Viability Review – Update, January 2021

<b>All other uses</b>	£0	£0	£0
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- 1.10 LBB’s CIL charge is levied in tandem with the London Mayoral CIL 2 (‘MCIL2’) which came into effect from 1 April 2019. Additionally, this requires a current charge of £60 (plus indexation) per square metre to be levied in addition to the amount specified above.
- 1.11 Ballymore recognises that development can play in delivering much needed infrastructure. However, we are fundamentally concerned that the proposed revised rates are substantially higher than the adopted Charging Schedule rates and including indexation. The objective of this representation is not to oppose CIL; it merely seeks to ensure a reasonable rate is proposed, which will enable the planned development in the area to come forward.

### Legislation

- 1.12 It should be noted that this representation is made in the context of The Community Infrastructure Levy Regulations 2010 (as amended) (“the Regulations”) and relevant statutory guidance<sup>3</sup>. The most recent amendments to the Regulations and associated guidance came into force on 1<sup>st</sup> September 2019. The CIL consultation will therefore be subject to the requirements of these latest set of Regulations and Guidance.
- 1.13 Given the ongoing COVID-19 pandemic, The Community Infrastructure Levy (Coronavirus) (Amendment) (England) Regulations 2020 (the ‘CIL Coronavirus Regulations’) which came into force on 22<sup>nd</sup> July 2020 are also a consideration, however it is not clear whether they have been referred to within the Council’s evidence base and proposed revised rates. As it is not yet clear how long the CIL Coronavirus Regulations will be enforceable, we therefore suggest that LBB considers how these may implicate proposals for implementing CIL.

### Overview

- 1.14 On behalf of Ballymore, Savills writes to scrutinise the available evidence, viability testing and the proposed revised CIL rates. The objective remains to ensure a reasonable rate of CIL, which allows for the policy requirements for sustainability and affordable housing, anticipated residual Section 106/ 278 and other site specific infrastructure.
- 1.15 We have therefore split our response in to the following sections:
- **Part 1** – The Development Plan Overview and Housing Delivery;
  - **Part 2** - Viability Testing;
  - **Part 3** - Interpretation of Results; and
  - **Conclusions** - Overview of key concerns and proposed CIL rates.
- 1.16 In submitting this representation, we are only commenting on particular key areas of the evidence base. The lack of reference to other parts of the evidence base cannot be taken as agreement with them and we reserve the right to make further comments upon the evidence base at the Examination stage.

### Part 1 – The Development Plan and Housing Land Supply

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<sup>3</sup> September 2019

1.17 LBB's adopted development plan guides development in the borough for the lifetime of the planning documents contained within the plan. LBB's development plan consists of the following documents:

- London Plan (2021);
- Barnet Core Strategy 2012 (September 2012); and
- Barnet Development Management Plan (September 2012).

1.18 The Local Plan is also supported by LBB's Proposals Map, various Action Plans, Planning Briefs and Town Centre Frameworks/Strategies and Supplementary Planning Guidance/Documents.

1.19 LBB also has a number of Supplementary Planning Documents ('SPD'). SPDs which are relevant to the this letter include:

- Planning Obligations SPD (April 2013);
- Affordable Housing SPD (February 2007); and
- Delivering skills, Employment, Enterprise and Training from development through S106 SPD (October 2014).

1.20 LBB's adopted Core Strategy and Development Management Plan were adopted in 2012, meaning the local planning policies were guided by the London Plan (2011) which was superseded by the London Plan (2016) and most recently, the London Plan (2021). All local planning policies must be consistent with the London Plan. The extant London Plan was adopted on 2 March 2021 and includes increased annual housing targets across London.

1.21 The London Plan (2021) sets the borough's targets for housing delivery over the plan period. Table 4.1 of Policy H1 states London's 10-year housing target is 522,870 net additional homes. The 10-year housing target for LBB is 23,640, which equates to an annualised target of 2,364 homes.

1.22 As stated in paragraph 8.1.1 of Barnet's Annual Monitoring Report (AMR) 2018-19, LBB's Local Plan target reflects the target of the London Plan (2011) of 2,225 net new homes per year. This equates to 139 fewer units than per year than the target specified in the London Plan (2021).

1.23 LBB's local planning policy related to the delivery of affordable housing units is found within Core Strategy Policy CS4. Policy CS4 states that the Council will aim to create successful communities in Barnet by:

*"delivering a minimum affordable housing target of 5,500 new affordable homes by 2025/26 and seeking a borough wide target of 40% affordable homes on sites capable of accommodating ten or more dwellings."*

1.24 Supporting paragraph 9.6.12 of the Core Strategy states:

*“In order to calculate our affordable housing requirement the SHMA has broken down the all tenure housing requirement to reflect the proportion of households (18.2%) in North London that reside in Barnet. This generates a figure for 1,826 new affordable homes by 2015/16. To meet our identified housing requirements this equates to a 15 year figure of 5,478 new affordable homes by 2025/26 equal to 366 per annum. This is Barnet’s minimum affordable housing target.”*

1.25 LBB’s AMR 2018-19 reports that a total of 211 affordable homes were completed in 2018-19 which equates to 155 lower number of units than the annual target outlined in the Core Strategy.

1.26 The London Plan (2021) has revised Barnet’s annual housing figure from 2,349 homes to 2,364 net additional homes per year.

1.27 Barnet published its Regulation 18 Draft Local Plan in January 2020 which will replace the current Core Strategy and Development Management Policies. Adoption of the new Local Plan is targeted for Spring 2022.

1.28 In light of the status of LBB’s emerging Local Plan, it is not yet known for certain where the sites will come forward for development within the Borough during the Plan period. However, the emerging Local Plan allocates the Broadwalk Shopping Centre and Edgware Stations sites for the delivery of around 4,000 new homes.

1.29 LBB has a duty to prepare its own Local Plan which is to include strategic housing sites, as well as a Charging Schedule which sets out CIL rates across the Borough. It is therefore vital that the proposed CIL rates are set at an appropriate rate so as not to threaten the deliverability of LBB’s sites which would contribute to meeting LBB’s planned housing supply within the Borough. It We therefore question whether the DCS is premature given the status of the LBB’s emerging Local Plan, emerging EGASPD and the uncertainty of sites that may or may not come forward for development.

### **Impact of LBB’s Housing Delivery**

1.30 LBB’s latest Annual Monitoring Report (2018-19) (the ‘AMR’) assesses whether approved and completed development implements Local Plan policies, contributes to achieving the spatial strategy for the Borough and meets the housing targets set out in the Core Strategy and the London Plan.

1.31 The AMR outlines that the Council delivered 2,229 net dwellings during 2018-19. This is lower than the target of 2,349 outlined in the now superseded London Plan (2016) and lower than the target outlined in the London Plan (2021) of 2,364.

1.32 From the figures stated in the AMR, when measured against the London Plan (2016) and the London Plan (2021), LBB falls short of delivering its housing requirements. This housing shortfall is most recently recorded in the government’s Housing Delivery Test (‘HDT’) figures published 19 January 2021. The HDT notes that Barnet has delivered 94% of its housing requirement over the last 3-year period. Whilst the borough has a good delivery rate according to the HDT, there remains a 6% shortfall from its housing target and this gap will likely continue if LBB imposes such high CIL rates as proposed in the DCS. Notwithstanding, it should be noted that the HDT accounts for previous years’ delivery and

not future rates. Therefore, the imposition of an unreasonably high CIL charging schedule as proposed will impact LBB's rate of delivery over the next 3-year period and beyond.

### Impact on LBB's Affordable Housing Delivery

- 1.33 The AMR states that in 2018-19, 211 affordable homes were completed across the borough. This figure is 155 homes lower than the 366 homes per annum targeted in the Core Strategy. Furthermore, Table 1 below outlines the percentage of affordable units delivered in the context of the boroughs overall housing delivery of 10+ units.

**Table 2. Affordable housing units approved (net)**

	2015/16	2016/17	2017/18	2018/19	Total
<b>10+ Units</b>	1,403	1,920	2,064	1,778	7,165
<b>Number of affordable housing units approved</b>	197	461	341	211	1,210
<b>% of affordable housing delivered</b>	14%	24%	17%	12%	17%

*Source: LBB Annual Monitoring Report 2018/19 (Table 8b)*

- 1.34 Table 1, along with the data included within the Council's AMR, clearly indicates that the Council has fallen short of achieving its target of 40% affordable housing completion over the past six years, having only achieved 17% on average across the borough. This is a significant shortfall of affordable units and must be a significant consideration in terms of the impact of increasing the CIL rates.
- 1.35 Unlike affordable housing and other financial contributions, CIL is non-negotiable. In light of the under-delivery of affordable housing when considered against the current CIL Charging Schedule, any proposal to increase the adopted LBB CIL rates must be considered carefully so as not to negatively impact upon the delivery of the Development Plan overall.
- 1.36 When assessing the viability of any proposed changes to CIL rates, this must be assessed in the context of the relevant Development Plan and the identified housing supply target.
- 1.37 Where under-delivery has occurred, this must be fully considered when proposing any adjustment to an adopted CIL Charging Schedule.

## Infrastructure Funding Statement and Infrastructure Delivery

1.38 The Planning Act 2008 (as amended) defines infrastructure as:

*“(a) roads and other transport facilities,  
(b) flood defences,  
(c) schools and other educational facilities,  
(d) medical facilities,  
(e) sporting and recreational facilities, and  
(f) open space.”*

1.39 Ballymore considers it imperative that the evidence supporting CIL clearly outlines the key infrastructure projects required to support development (this being a key test of the CIL Regs). It is also imperative that the evidence produces an up to date, consistent and well informed evidence base of economic viability in order to test various development typologies against CIL rates.

1.40 LBB’s Infrastructure Funding Statement (‘IFS’) for 2019-20 outlines LBB’s Infrastructure List, which includes:

- Sports and physical activities;
- Strategic open space projects (i.e. those which cannot be mitigated by s106 from adjacent developments);
- Community equipment and assistive technology;
- Early years child place sufficiency;
- Highways Asset Management Network Recovery Plan;
- Colindale Parks and Open Spaces;
- Colindale Highways and Transport; and
- Town Centre Improvements.

1.41 We note that the list does not include site-specific, highways and public transport matters needed to make developments acceptable in planning terms, which may include matters on site, regarding access to the site or off site where the need for such works is identified in a transport assessment or travel plan. In light of the exclusion of site specific transport enhancements on the anticipated Infrastructure List it is imperative that the allowance for Section 106 Agreements to be sought across development sites be realistic within the viability testing. As we highlight in Part 2 of this representation, we do not believe a sufficient allowance has been made.

1.42 Notwithstanding this, an appropriate balance needs to be struck between funding infrastructure and viability. We therefore suggest that the Council carefully considers the items which will remain sought through Section 106 Agreements to ensure that the proposed rates take into account policy requirements. Ultimately, there is a three way trade off with regard to CIL, Section 106 and affordable housing provision. If CIL is set too high and site specific infrastructure is necessary to bring a development forward, this often results in an adverse impact on affordable housing provision.

## CIL Payments-In-Kind: Infrastructure Payments

1.43 According to s73A (1) of the CIL Regulations 2010 as amended (the ‘CIL Regs’), if a charging authority has made Infrastructure Payments available in its area it may accept one or more Infrastructure Payments in satisfaction of the whole or part of the CIL due in respect of a chargeable development.

An Infrastructure Payment is the provision of one or more items of infrastructure by a developer who would be liable to pay CIL on a chargeable development. Similar to financial CIL payments, an infrastructure payment in respect of the chargeable development becomes due upon the commencement of that development, according to s73A (2) of the CIL Regs.<sup>4</sup>

- 1.44 At present, LBB does not currently accept Infrastructure Payments. We understand, however, that the Council is not principally opposed to this mechanism. Infrastructure payments are not a new concept and is already accepted across other London boroughs including Westminster City Council. We are of the view that this type of CIL payment encourages development proposals to provide infrastructure which for the benefit of existing and prospective communities, in addition to contributing to London's wider strategic infrastructure needs.
- 1.45 For the above reasons, LBB should consider introducing Infrastructure Payments as a legitimate CIL payment. LBB accepting this type of CIL payment will allow Ballymore to viably deliver the vast amount of proposed transport infrastructure as part of the site redevelopment. We also consider that if LBB was to accept Infrastructure Payments, this would speed up the delivery of the much needed infrastructure upgrade as the delay between a forthcoming planning consent and the payment of its CIL liability would be reduced.

## **Part 2 – The Viability Testing**

- 1.46 Ballymore is concerned in respect of a number of assumptions that have been adopted within the Viability Study<sup>5</sup> and Update Note<sup>6</sup> which the Council are relying upon to inform its proposed revised rates.
- 1.47 We highlight our concerns and seek further clarification in regards to the justification for adopting a number of the assumptions we discuss below.

### Developer's Profit

- 1.48 BNP has adopted a profit of 18% on Gross Development Value (GDV) for private and 6% on GDV for affordable, which reflects a blended rate of 13.2% on GDV based on the 40% affordable housing policy provision. The minimum profit margin that the lending institutions are currently prepared to accept, on residential development, is a blended 20% on GDV.
- 1.49 Ballymore therefore has serious concerns that this profit margin is not reflective of the current market expectations.
- 1.50 It should be recognised that there are many different types of developer and many different types of site that will affect the appropriate GDV that will see sites delivered. This approach has been supported by an Inspector in relation to two residential development sites in Southend-on-Sea:

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<sup>4</sup> Section 73A and Section 73B were inserted into the CIL Regs by Section 9 of the Community Infrastructure Levy (Amendment) Regulations 2014.

<sup>5</sup> BNP Par bas, London Borough of Barnet: Community Infrastructure Levy Viability Review, December 2019

<sup>6</sup> BNP Par bas, CIL Viability Review – Update, January 2021



*“Most of the risk of development remains and so, although I am aware that in some parts of the country developers are prepared to accept a return of 15%, for this appeal I accept the assertion of both parties’ experts...that a risk reward return of between 20% and 25% is a reasonable expectation for profits whether calculated on GDV or on costs, with expectations for profits calculated on the latter basis being sometimes higher still”<sup>7</sup> (Paragraph 6).*

1.51 The Inspector also acknowledged the outcomes of the following appeal decisions, which supported a higher blended profit rate than currently reflected in BNP’s viability testing for LBB:

- **Land at the Manor, Shinfield<sup>8</sup>** – accepted evidence submitted by six national house builders on their targets and supported a blended rate of 20% on GDV;
- **Land at Lowfield Road, Rotherham<sup>9</sup>** – supported a rate of 22%, made up of 15% profit and 7% overheads.

1.52 We would therefore ask that the Council reviews their viability evidence and includes a blended profit rate of at least 20% on GDV.

#### Build Costs

1.53 Ballymore has significant concerns in respect of the build costs which have been adopted within the Viability Review Update<sup>10</sup>. Costs have increased significantly over the past twelve months with the COVID-19 pandemic contributing with supply chain issues, labour and material shortages. It is anticipated that BREXIT will exacerbate these issues and costs will continue to rise.

1.54 It is essential that the base build costs being modelled are correct to ensure that there is not a significant underestimation of the true costs of development. A number of the other assumptions adopted – contingency, externals and professional fees are based upon the base build costs, therefore a number of cost elements could be vastly underestimating the true costs of delivery.

1.55 We would therefore strongly advise that these figures are further reviewed and remodelled ahead of the proposed revised rates being submitted for Examination.

#### Building Regulations

1.56 Ballymore welcomes that BNP has considered the implications of zero carbon standards by applying an uplift of 1.4% of base build costs. It is not clear, given the modelled build costs have decreased, whether the Government’s proposed changes to Building Regulations Part L and Part F have been reflected appropriately in the viability testing. The Government have advised that an allowance of £4,850 per plot should be made for updates required over the next year with the potential for this allowance to double per plot by 2025 when alternative energy sources are required to replace the gas provision within new homes. Ballymore therefore urges that clarification is provided for whether these additional costs have been modelled within the viability testing.

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<sup>7</sup> Paragraph 6, APP/D1590/Q/14/2228062, P W Clark MA MRTPI MCMI, 7<sup>th</sup> January 2015 and Paragraph 6, APP/D1590/Q/14/2228065

<sup>8</sup> APP/X0360/A/12/2179141, Paragraph 44

<sup>9</sup> APP/R4408/Q/14/2216976, Paragraph 33

<sup>10</sup> BNP Paribas, CIL Viability Review – Update, January 2021

## Section 106

- 1.57 The Council has outlined that the viability appraisals incorporate an assumption of £1,500 per dwelling and £20/ square metre for non-residential however there is no evidence provided which supports this assumption. We are concerned that this assumption on a per unit basis is low given that the Council's Infrastructure List does not include site-specific, highways and public transport matters needed to make developments acceptable in planning terms. We strongly urge that the Council reconsiders this allowance and models a more realistic assumption.

## Exceptional costs

- 1.58 Abnormal costs, referred to as 'Exceptional Costs' within the Viability Study<sup>11</sup>, capture the impact of additional development costs such as archaeological investigation, water diversion, ground remodelling and stabilisation and pumping stations, which may be required on both Brownfield and Greenfield sites. BNP make no allowance for these works within their testing. Given the nature of land likely to come forward for redevelopment within the Borough, we urge that an appropriate allowance is modelled either within a combined cost per dwelling for infrastructure or as a standalone development cost.

## **Part 3 - Interpretation of Results**

- 1.59 Ballymore is concerned that the explanation provided by LBB and its consultants in regards to the methodology for using the results from the viability testing to calculate the proposed revised CIL rates is unclear.
- 1.60 Fundamentally, the residential viability testing results included within the Update note (2021) highlights that the majority of typologies over 100 units are unviable in values area of £6,500/ sq m to £7,000/ sq m when any of the three benchmark land values are applied. The results suggest that the proposed £300 per sq ft CIL charge can only be accommodated once sales values reach nearer £7,500/ sq m across the larger schemes however, even in those value zones, the viability is not consistent.
- 1.61 Furthermore, the viability testing results for non-residential included within the Update note (2021) highlights no viability for the office and leisure typologies and we therefore question how the Council can justify introducing a rate of £20 per square metre across these uses. BNP's Update Note (2021) reiterates this; *'our updated office appraisals show less capacity to absorb CIL contributions than was previously the case'*<sup>12</sup>. The testing results for the retail and hotel typologies also demonstrate diminished capacity for a CIL liability however the proposed revised rates for these uses have also increased beyond the adopted levels.
- 1.62 Ballymore is very concerned with how the Council has interpreted the viability testing results and does not believe they provide appropriate evidence to justify the increase in the proposed revised rates. Careful consideration of all commercial uses and active ground floor occupiers will be required in order for forthcoming development to have a wider regenerative impact for the whole of Edgware Town Centre, to ensure successful placemaking principles are incorporated. Ballymore is concerned with the DCS' proposed CIL charges for leisure, office and hotel uses and the impact this could have on the ability to champion local occupiers and operators or provide leisure and office uses that are affordable for the local community.

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<sup>11</sup> BNP Paribas, London Borough of Barnet: Community Infrastructure Levy Viability Review, December 2019

<sup>12</sup> 7.3, BNP Paribas, CIL Viability Review – Update, January 2021

- 1.63 We would therefore highly recommend that the viability testing results are more clearly analysed and interpreted.

### **Mayoral CIL**

- 1.64 In February 2019, the Mayor adopted a new charging schedule (MCIL2) which came into effect on 1<sup>st</sup> April 2019. The Mayoral CIL rate band (Zone 2) for Barnet therefore increased from £35 per square metre to £60 per square metre with indexation also being applicable (including 2021 indexation, the applicable rate is £60.55).
- 1.65 Cumulatively, the proposed increases to LBB, alongside the increased MCIL2 is significant. This is particularly concerning in light of incorrect value assumptions being applied within the viability testing. Fundamentally, the increased costs to development may risk rendering residential development within certain areas of the Borough unviable.

### **Application of Buffer**

- 1.66 It has not been made clear whether consideration has been made for a viability 'buffer' when interpreting the viability evidence and proposing the increased rates.
- 1.67 Site specific circumstances mean that the economics of the development pipeline will vary across the Borough. This is inevitable given the varied nature of housing and mixed-use land supply and costs associated with bringing forward development within high density, regeneration and brownfield land. It is therefore important to consider these factors when proposing 'one size fits all' rates across a significantly diverse area in terms of market and development characteristics.
- 1.68 Viability buffers are recommended within the CIL Regulation when calculating CIL rates using viability testing results. They are used to mitigate against fluctuations within the market to ensure that the rates are not set at the margins of viability. In times of political and economic uncertainty, changing market assumptions and expectations, alongside the historic under delivery of affordable housing within only 17% affordable housing units approved between 2015 and 2019 across the Borough, it is fundamental that additional leverage is allowed for within the proposed rates.
- 1.69 The proposed revised rates for residential are 49% higher than the adopted rates including the prevailing rate of indexation. This is a significant increase in potential cost for schemes coming forward. Furthermore, the Council are now seeking to apply the proposed revised rates to ancillary car parking-square footage which was previously excluded under the Council's current adopted Charging Schedule. It is not clear whether BNP has taken into consideration this additional burden on schemes when undertaking their viability modelling which would clearly have cost implications.
- 1.70 In addition, as already discussed there are concerns in respect of the assumptions adopted within the viability study. These concerns sit alongside the risks and uncertainties associated with the housing supply across the Borough and for a number of other following reasons:
- i) Uncertainty surrounding LBB's position in regards to their five year housing land supply;
  - ii) Significant history of under delivery of affordable housing required across the Borough;
  - iii) Implications of the ongoing COVID-19 pandemic;

- iv) Uncertainty and implications for development costs due to the 2016 Referendum result to leave the EU; and
- v) Uncertainty in respect of the National Planning Reform and potential removal of CIL.

1.71 The Council has recognised this themselves highlighting that ‘*there is still some uncertainty from the impact of Covid 19 in the longer term*’<sup>13</sup>. We would therefore strongly recommend that a **minimum** viability cushion of **40%** should be adopted and request that the Council confirms that this approach has been undertaken when justifying the proposed CIL Charging Schedule.

#### Viability Evidence

1.72 Based on the above analysis, we remain of the opinion that the Council **cannot** demonstrate that the suggested increased CIL rates are striking a suitable balance or supported by accurate viability evidence. It is therefore essential that additional testing is undertaken (in light of the above) and the CIL rates are reviewed.

#### **Conclusion**

1.73 We strongly advise that additional viability testing be undertaken and the proposed revised CIL rates be reviewed in light of the points raised within this representation.

1.74 We also recommend the Council strongly consider adopting CIL Infrastructure Payments as a legitimate CIL payment method in the borough. This is particularly relevant in this instance where the forthcoming development has abnormal infrastructure costs associated with new public transport infrastructure. Allowing CIL Infrastructure Payments would allow Ballymore to offset some of the net CIL financial liability through infrastructure paid in-lieu, which maintains the scheme’s viability and deliverability.

1.75 We would like to reiterate again that Ballymore and its consultants are not wishing to oppose the implementation of a revised CIL within the Borough but rather wish to ensure a reasonable rate is adopted. Moving forward, Ballymore and its consultants are open to a meeting with LBB and its advisors to discuss the approach taken and to discuss common ground.

1.76 To this end, Ballymore would like to reserve the right to be heard at Examination and to be notified when:

- i) The revised proposed Charging Rates are submitted to the Examiner;
- ii) The recommendations of the Examiner and the reasons for these recommendations are published; and
- iii) The Charging Schedule is approved.

Yours faithfully

**For and on behalf of Ballymore Group.**

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<sup>13</sup> Para. 3.1, LBBC, Charging Schedule Review Barnet Community Infrastructure Levy, February 2021