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TfL Ref: CD/Barnet CIL – BH/RS/CR

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Dear Sir / Madam,

## **RE: LB BARNET COMMUNITY INFRASTRUCTURE LEVY DRAFT CHARGING SCHEDULE**

Thank you for providing the opportunity to comment on the LB Barnet Community Infrastructure Levy Draft Charging Schedule.

Please note that our representations below are the views of the Transport for London Commercial Development (TfL CD) planning team in its capacity as a significant landowner in the borough only and are separate from any representations that may be made by TfL in its statutory planning role and / or as the strategic transport authority for London. Our colleagues in TfL Spatial Planning have provided a separate response to this consultation in respect of TfL-wide operational and land-use planning / transport policy matters as part of their statutory duties.

### **Introduction to Transport for London Commercial Development**

TfL CD is working with Barnet Council to deliver mixed-use developments and new homes across the borough, with high levels of provision of genuinely affordable housing (50% across our London portfolio and between 40% and 100% on our sites in Barnet). Our projects are focussed on delivering optimal, high-quality housing within schemes that relate to and strengthen their neighbourhoods, which make places that people are proud to live in, and which are founded on transparent engagement and best practice.

Key housing sites for which we already have planning permission or where we are exploring development potential include:

- Colindale (Permitted in Outline)
- Beechwood Avenue (Permitted in Full)
- Woodside Park (Permitted in Full)
- Edgware
- Finchley Central
- High Barnet
- Totteridge and Whetstone

TfL CD is keen to continue to work positively with LB Barnet to help address the need for housing



and deliver development that benefits the communities of the borough. We recognise that CIL is crucial to providing the infrastructure that the borough needs but that there is a delicate balance that needs to be achieved which delivers infrastructure without unintentionally constraining development.

## **Barnet CIL Draft Charging Schedule**

TfL CD are concerned that proposed CIL amounts set out in the CIL Draft Charging Schedule could have adverse implications for the viability of our housing-led development schemes which provide high proportions of affordable housing and other public benefits and could therefore compromise the delivery of residential development within the borough.

Policy DF1 of the London Plan 2021 encourages Boroughs to give priority to the delivery of certain elements when setting CIL, particularly affordable housing and public transport improvements:

*“D) When setting policies seeking planning obligations in local Development Plan Documents and in situations where it has been demonstrated that planning obligations cannot viably be supported by a specific development, applicants and decision-makers should firstly apply priority to affordable housing and necessary public transport improvements, and following this:*

*“1) recognise the role large sites can play in delivering necessary health and education infrastructure; and*

*“2) recognise the importance of affordable workspace, and culture and leisure facilities in delivering good growth.*

*“E) Boroughs are also encouraged to take account of the infrastructure prioritisation in Part D in developing their Community Infrastructure Levy Charging Schedule and determining the infrastructure that will be funded through borough CIL.”*

## **Affordable Housing**

TfL CD notes that the proposed Barnet CIL Draft Charging Schedule “*is supported by evidence on viability of development in the borough and the need to charge CIL to fund infrastructure to support development*”. However, having reviewed the Barnet CIL Viability Reviews (December 2019 and January 2021) it would appear that appraisals have only considered provision of between 20% – 40% affordable housing. As such, the appraisals do not account for London Plan 2021 Policy H4 which requires 50% affordable housing on public sector land. There are several other public sector landholdings allocated in the draft Local Plan Regulation 18 in addition to TfL’s, including Council owned sites, so the 50% affordable housing would also apply to those sites as well. London Plan policy H4 also requires 50% affordable housing on industrial land where a scheme would result in a net loss of industrial capacity.

It would be unfortunate if an increase to CIL jeopardised the delivery of affordable housing (and housing in general) on public sector land in the borough. The implications for housing development on public land should therefore be fully assessed.

## **TfL Development Requirements**

As a public sector body, TfL CD seeks to lead the way in terms of housing delivery, sustainable development and high-quality design. Working with our development partners, our projects



incorporate:

- High quality design and place making facilitated by our [Design Principles](#) and review by the Mayoral Design Advocates, as well as LPA and GLA officers and Design Review Panels. This approach is supported by the increasing focus in national policy on good design and 'beautiful' places.
- A strong focus on sustainable development informed by TfL's Sustainable Development Framework which combines ambitious visions and a well-designed strategy, with focused performance metrics and quantitative targets, to achieve optimum sustainability solutions for our developments. The Framework sets out a clear mechanism for the definition and optimisation of goals, evaluating project performance and actively seeking opportunities for the improvement of performance with subsequent implementation. The framework spans nine dimensions of sustainability across the triple bottom line (this being environmental, social and economic). Each dimension contains a set of Key Performance Indicators (KPI), and each KPI has corresponding minimum and aspirational performance levels. This is a continuously evolving methodology in line with policy, best practice and lessons learned. This framework demonstrates TfL's aspirations to deliver development which capitalises on opportunities for environmental, social and economic sustainability to a greater degree than other developers may. This can have some cost implications but ultimately will help deliver more cohesive and successful communities and places, and whilst this is relevant to all new development it is particularly key with the larger scale schemes that TfL is looking to bring forward in the borough.
- Supporting delivery of the Mayor's Transport Strategy and Healthy Streets approach. Our schemes are usually at or adjacent to transport infrastructure and so we need to take the opportunity to improve e.g. public transport access and interchange; walking and cycle routes and other facilities to promote active, healthy travel; and measures to reduce reliance on private vehicles.

These aspirations for well designed, sustainable development can have implications for scheme viability. However, the benefits that this can bring are significant and all of these elements play a strong role in supporting sustainable, healthy and well-connected communities. It would be unfortunate if the increased CIL jeopardised high-quality development on public land which has the potential to provide such a high degree of local social, environment and economic benefits.

## **TfL Operational and Infrastructure Constraints and Requirements**

In addition, for the majority of TfL sites there will be infrastructure and operational constraints and requirements which will result in significant abnormal costs for our developments. For example, there may be the need to relocate existing transport operations to other site/s; there will usually be a need to protect, safeguard, upgrade or replace existing infrastructure to enable the development; and there are often engineering and operational requirements that will need to be taken into account, such as building at or adjacent to cuttings and embankments, and in general building adjacent to railway lines which will require e.g. higher standards of sound and vibration insulation.

We have already noted above that as a transport operator, our schemes will seek to improve public transport and active travel at and in the vicinity of our sites.

There are also abnormal costs associated with the timing and methodology for demolition and construction of our schemes. For example, development over or close to our railway tracks will require robust protective measures to maintain service operations and the health and safety of the network and passengers; this will include track closures for some work which has significant costs



including lost fare revenue and implementation of replacement bus services.

These constraints and requirements create substantial additional costs which can have viability implications. On pg. 28 of the CIL Viability Review 2019 there is reference to abnormal costs and how they have been accounted for:

*“Exceptional costs can be an issue for development viability on previously developed land. These costs relate to works that are ‘atypical’, such as remediation of sites in former industrial use and that are over and above standard build costs. However, in the absence of details site investigations, it is not possible to provide a reliable estimate of what exceptional costs might be. Our analysis therefore excludes exceptional costs, as to apply a blanket allowance would generate misleading results. An ‘average’ level of costs for abnormal ground conditions and some other ‘abnormal’ costs is already reflected in BCIS data, as such costs are frequently encountered on sites that form the basis of the BCIS data sample.”*

It is appreciated that there will be a breadth of abnormal costs associated with sites and an average level of abnormal costs is already reflected in BCIS data. However, TfL’s abnormal costs associated with the operational and infrastructure requirements and constraints are in addition to the average level of abnormal costs and have not been accounted for in the assessment of impacts on viability. As set out below, TfL landholdings comprise a substantial proportion of the sites allocated in the draft Local Plan (Regulation 18) and which will deliver a significant amount of new housing; the abnormal costs associated with these sites will generally be significantly higher than for the majority of other sites largely due to infrastructure and operational requirements.

## Potential Implications

A number of TfL schemes in the borough, such as the approved Colindale project (which delivers a new station as well as new homes) and pre-app-stage Finchley Central, are already at the margins of viability. There is a major risk that the proposed significant increase in CIL will affect our ability to deliver the quality of scheme we aspire to (or at all). If the requirements and abnormal costs mentioned above do not render a scheme unviable, they are at least likely to impact on the ability of a scheme to deliver additional scheme benefits. Two examples are as follows:

- Finchley Central – this is a project with significant viability challenges partly due to the abnormally high costs associated with developing on and adjacent to operational land including cuttings; it may be unable to support the provision of a public realm decked over the railway and new play space should the Barnet CIL Draft Charging Schedule be adopted (please also see below).
- Edgware – there will be significant costs associated with redevelopment of the existing bus garage to provide increased capacity for bus growth as well as the introduction of electric vehicle charging infrastructure, and the provision of new bus passenger and transport interchange infrastructure. This is likely to impact on the viability of the scheme.

The table below shows the site allocations from the draft Local Plan (Regulation 18) consultation which are within TfL ownership. It highlights the level of ambition TfL have in the borough, the number of sites we have available for development, and the proposed uses and associated housing capacity that could be delivered by TfL over the Plan period:



Site no.	Site name	Proposed uses	Indicative no. units
9	Colindeep Lane	Residential only	138
24	East Finchley Station Car Park	Residential-led with 30% retail and public car parking	135
25	East Finchley substation	Residential only	31
28	Edgware Underground and Bus Station (TfL only site)	Residential with 30% mixed uses (transport, retail/, office and community).	2,317
30	Finchley Central Station	Residential-led with 50% mixed uses (transport, retail, offices, car parking)	556
31	Brentmead Place	Residential only	46
44	High Barnet Station	Residential with 25% mixed uses (public car parking and employment).	292
47	Mill Hill East Station	Residential with 40% mixed uses (retained rail infrastructure, car parking).	127
50	Watford Way and Bunns Lane	Residential only	105
53	Allum Way (site comprises land in three different ownerships, including TfL land).	Residential-led with 20% mixed uses (office, B1c and community).	296  (total for whole site is 888 units, so this is a rough pro rata for TfL land)
55	Woodside Park Station East	Residential with 20% re-provision of car parking.	95
56	Woodside Park Station West	Residential only	356

There are 67 site allocations in total in the Regulation 18 draft Local Plan, with the capacity to provide 16,632 new homes. TfL owns the whole or part of 12 of these site allocations with the capacity to deliver 4,494 homes. TfL land therefore accounts for 27% of the housing delivery from site allocations and around 13% of the 15-year housing target set out in the London Plan<sup>1</sup>. This is along with other significant community and public benefits including new and upgraded transport infrastructure, public open space and playspaces, new and upgraded foot and cycleways, community

<sup>1</sup> Extrapolated from the 23,640 ten-year housing target in the London Plan to calculate what a target would be for a 15-year period.



facilities, shops, workspaces and leisure facilities. As such, if the viability constraints associated with TfL landholdings are not carefully considered in the CIL review, this could jeopardise the delivery of a significant amount of housing, as well as other uses and public benefits.

TfL CD requests that due consideration is given to the impact that this increase in CIL would have on the delivery of TfL sites, which make up some of the bigger sites in the borough. TfL CD consider that it would be worthwhile to treat the TfL sites as their own subset which should be given additional analysis to ensure that CIL would not compromise the delivery of these sites. 50% affordable housing should also be used as a sensitivity test in the viability appraisal. This is considered necessary to ensure consistency with the London Plan 2021 Policy DF1.

## Regulation 73B

In order to maintain the viability of schemes which deliver significant infrastructure benefits, we suggest that the CIL Charging Schedule should explain that the Council will consider and accept, in appropriate circumstances, land or infrastructure in lieu of a CIL contribution. This is appropriate where a development is going above and beyond what it needs to do to make the development acceptable in planning terms and is instead providing strategic infrastructure (at its own cost). This is set out in [Section 73 of the CIL Regs](#). We have indicated above that the abnormal costs of development at Finchley Central cause significant viability challenges for any housing-led scheme and this is compounded by possible infrastructure costs such as widening the bridge over the railway and junction improvements which benefit the whole town centre. It would be helpful for us to have confirmation that these elements of town centre infrastructure can be included in the Infrastructure Delivery Plan (Finchley Central Town Centre Improvements on page 49) and that a commensurate reduction in the CIL contribution could therefore be applied. The estimated £10m costs of the infrastructure improvements in Finchley Central would need to be increased to allow for this.

## Timing of CIL Review

Planning practice guidance states the following with regard to CIL reviews:

*“The law does not prescribe when reviews should take place. However, in addition to taking account of market conditions and infrastructure needs, charging authorities should also consider linking a review of their charging schedule to any substantive review of the evidence base for the relevant plan (the Local Plan and the London Plan in London). Even if the original charging schedule was not examined together with the relevant plan, there may be advantages in coordinating the review of both.”* (Paragraph: 045 Reference ID: 25-045-20190901)

Whilst it is appreciated that the CIL charging schedule is being prepared alongside the emerging Local Plan this is not necessarily a legal requirement. As such, TfL CD suggest that this is not the right time for this review for the following reasons:

- **Stamp Duty Holiday** – The CIL Viability review update January 2021 considers that the impact of the SDLT holiday on demand is unlikely to be as significant in London as elsewhere in England as many properties are transacting above the £500,000 threshold, below which a nil rate currently applies. The stamp duty holiday is still relevant in London even if many properties are sold above the threshold. Take for example a house which is sold for £600,000 – the stamp duty to be paid under the current stamp duty regime would be £5,000 and under the previous stamp duty regime the requirement would have been £20,000. We understand that this stamp duty saving is often being reflected in the asking prices and as such is creating an artificial context which should not be used to base viability assessments on.





- **Covid-19 Pandemic** – The Policy and Resources Committee report February 2021 states the following regarding Covid-19:

*“3.1 There is the option of not reviewing the rate at this time. BNP were commissioned to undertake the review of the rates in Summer 2019 and it was originally anticipated that the Draft Charging Schedule would be considered by committee in June 2020. However, because the impact of Covid 19 on the property market was so uncertain in March / April 2020, the decision was taken to delay until the Autumn when better information was available. A review and update of the evidence has been undertaken and the evidence indicates that it is still appropriate to consult on an increase to the rates. Given that it was anticipated that the rate would be reviewed after 3 years when adopted in 2013 and it is now nearly 8 years later, it is considered appropriate to review the rate now even if there is still some uncertainty from the impact of Covid 19 in the longer term. The BNP review and update of evidence allows for a buffer to accommodate fluctuations in viability over the medium term.*

*3.2 If a new charging rate is not brought in, the Council will have limited funding available to fund the infrastructure required to support development in the borough. The Infrastructure Delivery Plan which has been prepared to support the charging schedule and the Local Plan Review indicates that there is circa £1,069,316,172 of unfunded infrastructure required in the borough.”*

Whilst it is appreciated that a review is required, it is considered that there is still a high degree of uncertainty over Covid-19 and its impacts on housing (and wider commercial property) markets and transport. The committee report does note there is a buffer to accommodate fluctuations in viability over the medium term, but it is not clear what these buffers are, particularly for the residential narrative in the CIL Viability review update January 2021.

TfL CD recognises that the schedule does need review and is not suggesting a lengthy wait for things to settle down following the impacts of Covid-19. However, it is considered that this point in time of 'lockdown', where the vaccination is being rolled out but Covid-19 is still very much an issue and this is combined with the impacts of the Stamp Duty holiday, is not the right time for the review of the CIL charging schedule. It might be better to wait until after the Stamp Duty 'holiday' finishes, in autumn this year, for this review. In the meantime, indexation will still continue to ensure that CIL amounts are adjusted to account for the time that has passed since the CIL schedule was first introduced in 2013.

## **Future CIL expenditure**

TfL CD supports the comments made by our colleagues in TfL spatial planning in their representations regarding the future spend of CIL expenditure and in particular the anticipation to fund transport projects through CIL, such as improvements in the Colindale area. However, we also note that there is a lack of clarity with regard to the specific projects CIL will fund, the timescale of implementation, and anticipated project costs.

With regard to Colindale, TfL CD supports CIL funding towards Colindale station as a mix of S106 and CIL contributions.

## **Concluding Remarks**



In summary, we have concerns that the implications of the draft CIL Charging Schedule need to be more fully assessed in respect of the viability of development on TfL and other public sector land. Should viability be compromised, this could have negative implications including:

- Underused land will not be redeveloped and put to beneficial use, including public access and amenity.
- Housing delivery on sustainable, brownfield sites will be reduced, putting pressure on achieving London Plan and Government targets. This will also increase pressure on the Green Belt for housing development.
- Affordable housing delivery will be significantly undermined.
- Linked environmental improvements, public realm delivery etc will not happen.
- Other community and public benefits of development will be put at risk.

We hope that these representations are helpful but if you need any further information or would like to discuss any of the issues raised in our representations, please do not hesitate to contact me. Alternative contacts in my absence are:

- Brendan Hodges ( [REDACTED] )
- Rosanna Sterry ( [REDACTED] )

We look forward to being kept up to date with the Local Plan and CIL programme going forwards.

Yours faithfully,

Chris Ridout

**Assistant Planner, Transport for London Commercial Development**

Cc. Rosanna Sterry  
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