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Date: 19 March 2021



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

By Email

Dear Sir/Madam,

Barnet CIL Draft Charging schedule

1 Introduction

I am writing on behalf of Pocket Living in response to your Community Infrastructure Levy (CIL) Draft Charging Schedule (DCS).

Pocket Living (Pocket) is an innovative small developer established in 2005 to deliver grant-free affordable homes to purchase for those on moderate incomes.

Pocket Living was granted planning permission in August 2020 (19/4293/FUL) for 86 homes on the Woodside Park site to the west of Woodside Park underground station. The development will provide 100% affordable homes in the context of the established affordable housing need within Barnet and wider London. This will help contribute towards achieving LB Barnet's proposed target of 46,000 new homes over a fifteen-year period in the recently published Regulation 18 Draft Local Plan.

You will be aware that Pocket's 100% affordable housing model can be challenging in viability terms, particularly where CIL is concerned because its product is not eligible for mandatory Social Housing Relief under Regulation 49 of the CIL regulations, despite meeting the definitions of affordable housing in the National Planning Policy Framework and London Plan. This means that whilst being 100% affordable housing a Pocket scheme receives no mandatory CIL relief on its overall CIL Liability, whereas a scheme that delivers 35% affordable at 70% of market value would benefit from relief on 35% of its area.

For the Woodside Park project Pocket Living has applied for Exceptional Circumstances Relief for part of its liability for LB Barnet CIL because it is not viable to pay it in full. This was at the current rates of £135 per square metre for residential uses, which, with indexation equates to £200 per square metre.

The Council is currently proposing, in its Draft Charging Schedule a charge of £300 per square metre, on top of the Mayor's CIL which is £60 per square metre.

Pocket Living wishes to continue to be active in Barnet and an increased CIL charge will clearly pose a significant challenge to delivery of affordable housing for middle-income Londoners that Pocket is experienced in

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delivering across London. This type of affordable housing doesn't qualify for Mandatory Relief. One solution to this issue would be to set a zero or lower rate for NPPF compliant affordable housing sold at a discount to market rates that does not qualify for Social Housing Relief.

Alternatively the Council could adopt a policy to allow for Discretionary Social Housing Relief under CIL Regulation 49a which applies to dwellings sold for no more than 80% of market value.

Pocket wishes to work collaboratively with the Council to ensure that CIL in the Borough is set in a way that allows it to continue to deliver this type of affordable housing viably in the Borough.

2 Background on Pocket affordable homes

Pocket provides an innovative form of social housing that is sold at a 20% discount to local prices, as verified by an independent valuer, to eligible purchasers, defined by income and where they live or work. This enables purchasers to buy and stay in their community.

One of the benefits of this type of affordable home, as supported by LB Barnet and set out in the Officer's assessment for the Woodside Park development, is that compared to conventional shared ownership and shared equity products Pocket buyers own 100% of the equity and the value of their home from day one.

Pocket's homes are restricted on resale to buyers with eligible household income (as designated by the Mayor of London) through Pocket's bespoke Section 106 legal agreement and this restriction is also enshrined in lease covenants. Priority is given to those who already live or work in the relevant borough; people on any intermediate nominations list operated by the Council; or who are otherwise approved by the Council.

The discount, the eligibility criteria and the restrictions on resales make Pocket homes compliant with the definition of affordable housing within the NPPF. The Council has also been openly supportive of this type of affordable housing.

3 Guidance on Setting CIL Rates

The Government publishes guidance on setting CIL rates as part of its Planning Practice Guidance. This sets out the following:

- 1 When deciding the levy rates, an authority must strike an appropriate balance between additional investment to support development and the potential effect on the viability of developments. (Paragraph: 010 Reference ID: 25-010-20190901)
- 2 Authorities should show how "their proposed levy rate (or rates) will contribute towards the implementation of their relevant plan and support development across their area". In the Case of LB Barnet the relevant Local Plan is the London Plan (2021), the Barnet Core Strategy DPD (2012) and Barnet's Development Management Policies (2012)



- 3 The regulations allow charging authorities to apply differential rates in a flexible way, to help ensure the viability of development is not put at risk. (Paragraph: 022 Reference ID: 25-022-20190901)
- 4 If the evidence shows that the area includes a zone, which could be a strategic site, which has low, very low or zero viability, the charging authority should consider setting a low or zero levy rate in that area. The same principle should apply where the evidence shows similarly low viability for particular types and/or scales of development. (Paragraph: 022 Reference ID: 25-022-20190901)

4 Delivering the Relevant Plan

The need to deliver housing, and particularly affordable housing, is central to planning policy at the National, London and local (LB Barnet) levels.

Policy H1 of the London Plan requires Boroughs to “optimise the potential for housing delivery on all suitable and available brownfield sites through their Development Plans and planning decisions”. Policies H4 and H5 set the Mayor’s approach to securing his strategic target of 50% affordable housing including his ‘threshold’ approach.

Table 4.1 of the London Plan sets a 10 year target of 23,460 homes for Barnet. The Council’s Regulation 18 Draft new Local Plan proposes an ambitious target of 46,000 new homes between 2021 and 2036, exceeding its London Plan target. Barnet’s Strategic Housing Market Assessment Update (October 2018) states that there will be a need to provide additional affordable housing for 17,600 dwellings over the 25 year period 2016 to 2041 (an average of 704 per year), of which 3,900 dwellings needed are intermediate. Pocket Living homes would all contribute directly to this challenging target, rather than a small proportion as in conventional market led schemes.

For these reasons the provision of a development with 100% affordable homes was given very substantial weight by officers in its Committee Report on the Woodside Park proposal. A continued pipeline of developments of this type will be essential if the Council and Mayor of London are to deliver their targets and therefore the Council, in setting CIL, should be careful not to put their viability at risk.

5 Viability Evidence: Community Infrastructure Levy Viability Review

The Council has published a ‘Community Infrastructure Levy Viability Review’ (December 2019) alongside an update ‘CIL Viability Review – Update January 2021’ that together are the key piece of the evidence supporting the DCS. This is intended to provide the context for judging the impact of CIL and other obligations on development and in striking the right ‘balance’ to ensure that the delivery of the sites and scale of development in the plan are not put at risk.

The residential component of the viability review assesses 27 development typologies ranging from 1 to 2,500 homes. These assessments use a range of cost assumptions as inputs including £1,500 per dwelling of S106 obligations for developments (paragraph 4.23). Each appraisal for typologies with more than ten homes incorporates the following levels of affordable housing in line with the requirements of Policy CS4: 40%



affordable housing; 35% affordable housing; 30% affordable housing; 25% affordable housing; and 20% affordable housing.

Although the Review includes a typology that is of a similar scale in terms of number of homes (Type 12: Large Residential Flats, 100 units) it differs significantly from the actual circumstances of the Pocket Living development model. The table below sets out some key assumptions:

	CIL Viability Review Type 12	Pocket Living Model
Affordable Housing	25% to 40% affordable split 60% affordable rent and 40% intermediate	100% affordable at 80% of market value
Average Dwelling Size	84 sqm (GIA)	39 sqm (GIA)
Site Size	0.13 HA	0.25 ha
Density (SQM of GIA/HA)	64,615/HA	13,228/HA

The assumptions in the Viability Assessment are very different from the Pocket Model and therefore the findings of the assessment cannot be seen as representative of this type of housing development. In particular, typology 12 is of very high density which reduces the land take and increases the sales area and therefore value of the development.

This is unsurprising because one would not expect this type of high-level assessment to provide for every circumstance. However we would note that even with a conventional development model the large flat typologies at 100 and 250 homes face challenging viability despite very high density assumptions. When one layers in the specific challenge of a 100% affordable model like Pocket Living's the challenges become harder.

The CIL Guidance suggests that authorities should collaborate with developers to ensure that charging schedules are reasonable and supplement their viability work with evidence from them. Such information would constitute 'Appropriate Available Evidence' as defined in the section 211(7A) of the Planning Act 2008, which authorities are required to consider.

Pocket Living has (separately) provided viability information to the London Borough of Barnet as part of its claim for Exceptional Circumstances Relief at Woodside Park, which has been reviewed by an independent assessor. This has confirmed, based on detailed scheme specific evidence, that the development cannot viably pay the full LB Barnet CIL liability (£135/sqm, £201/sqm for a Planning Permission granted in 2020).



Although this information is site specific it does demonstrate the risks posed by the proposed increase to a £300/sqm rate to such development. The Viability Study does not consider any typologies that include the type of product produced by Pocket Living to provide appropriate available evidence for the proposed increase in rates. Pocket Living has experience of the specific costs and challenges posed for this type of development and would be happy to engage with the Council and its advisers in testing an appropriate typology.

The Council currently offers Exceptional Circumstances Relief, which Pocket Living supports. However it is a bureaucratic process with no certainty of outcome, and which is only confirmed immediately before commencement of development. It also incurs unnecessary costs for the parties in securing viability and legal advice.

Pocket Living is therefore of the view that it would be better to either set a separate CIL rate for developments which provide 100% affordable housing but are not eligible for Social Housing Relief, or to adopt a policy allowing for Discretionary Social Housing Relief.

In the case of the former the evidence discussed above suggests a rate of less than £100 per square metre, and if a buffer is included to account for site differences probably between £0 or £50 per square metre.

Alternatively, Discretionary Social Housing Relief could be made available. As you are aware, for discretionary social housing relief to be claimed a charging authority must follow the notification requirements set out in Regulation 49B:

(1) A charging authority which wishes to make discretionary social housing relief available in its area must—

(a) issue a document which—

(i) gives notice that discretionary social housing relief is available in its area,

(ii) states the date on which the collecting authority will begin accepting claims for relief, and

(iii) to the extent that the charging authority is responsible for allocating the housing to be granted relief, includes a policy statement setting out how that housing is to be allocated in its area;

(b) publish the document on its website;

(c) make the document available for inspection—

(i) at its principal office, and

(ii) at such other places within its area as it considers appropriate; and

(d) send a copy of the document to the collecting authority (if it is not the charging authority).



Further to this, to be eligible a dwelling needs to meet the criteria set out in Regulation 49A (2) of the CIL Regulations (2010, as amended):

(2) For the purposes of this regulation a dwelling is a qualifying dwelling if all of the following criteria are met—

- (a) the dwelling is sold for no more than 80% of its market value (where the market value at any time is the price which the dwelling might reasonably be expected to fetch if sold at that time on the open market);*
- (b) the dwelling is sold in accordance with any policy published by the charging authority under regulation 49B(1)(a)(iii); and*
- (c) the liability to pay CIL in relation to the dwelling remains with the person granted discretionary social housing relief.*

Pocket Living's affordable product meets the criteria set out above. Therefore, the introduction of discretionary social housing relief in the borough would ensure that more schemes like Woodside Park can come forward, increasing the overall provision of affordable housing. It is unlikely that such relief would have a wide take up, given that most affordable housing products are already eligible for Mandatory Relief and Pocket Living is the only developer in London experienced in delivering this type of affordable housing.

As you will be aware it is a priority of the current Government to promote affordable home ownership, and to this end it is currently promoting First Homes (the successor to Starter Homes). It is fair to say that such an approach to date hasn't resulted in significant delivery of new homes. At the same time Pocket Living has developed its proven, successful model which without subsidy has delivered more than 700 affordable homes across London since 2008. The new First Homes, which will typically be cross subsidised by market for sale homes, following amendments to the Regulations in 2020 are eligible for mandatory relief. Discretionary Social Housing Relief would allow products like Pocket's to compete on a level playing field and continue to be delivered in a viable way.

We note that Barnet Council collects around £10 million in CIL each year. A development like Woodside Park, if required to pay full CIL liability would currently pay £890,000, which would increase to around £1.3 million, for a development providing 100% affordable housing. This would be around 10% of total CIL collected in any one year in Barnet which does not appear equitable.

6 Summary and Conclusions

Pocket Living welcomes the opportunity to respond to Barnet's consultation on its CIL DCS. It has led the way in London in using innovative methods to deliver affordable home ownership and wishes to work with the Council to ensure that more sites can be brought forward.

As we have demonstrated such developments are essential to delivering the 'relevant plan' and 'appropriate available evidence' suggests that a lower or zero rate should be set for developments including intermediate

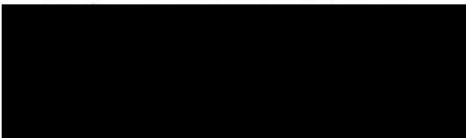


affordable housing products that are not eligible for social housing relief. As an alternative the Council could adopt a policy allowing for Discretionary Relief.

Pocket Living is keen to explore these approaches with the Council before the Charging Schedule is submitted for Examination. In the meantime they would like to reserve the right to be represented at any Examination Hearing.

If you require further information please do not hesitate to contact me.

Yours sincerely



Tom Dobson
Director

cc.
Alex Shillito, Pocket Living
Zachary Bacon, Quod