45 Welbeck Street
Z
[redacted]

hghconsulting.com

FAO Planning Team
7 h Floor,
2 Bristol Avenue,
Colindale
London, NW9 4EW
Email: CIL.consultation@barnet.gov.uk

8 h April 2021

Dear Sir / Madam

**Re: Community Infrastructure Levy (CIL) Rate Review Consultation (Publication of Draft Charging Schedule) Representations on behalf of Notting Hill Genesis (NHG)**

Further to our letter of 19 h March 2021, on behalf of our client Notting Hill Genesis (NHG), we are writing to make further representations to the Council's proposed draft CIL Charging Schedule. This is again in the context of the current regeneration programme at Grahame Park, which NHG is progressing in partnership with the Council.

As you will be aware outline planning permission for the redevelopment of Plots 10 – 12 of Grahame Park (with a detailed scheme for Plot A) was granted in July 2020. This planning permission includes a significant package of benefits and improvements in both the physical and social infrastructure for the area, which goes beyond mitigating the impact of the development proposed. This benefits package carries a substantial capital cost, which will be met by NHG, a full breakdown of which is provided at Appendix 1, but also summarised in the table below.

| **Public Benefits and Regeneration Costs** | |
|---|---|
| *Public benefits delivered by the scheme:* | |
| - Infrastructure requirements (PDA) | £10.2m |
| - S106 Infrastructure Requirements | £6.7m |
| - NHG Social and Economic Projects | £2.4m |
| Sub-total | £18.9m |
| *Estate Regeneration Costs* | £24.8m |
| **Total Benefits and Regeneration Costs** | ***£44.2m*** |

The Viability Report submitted in support of the planning application demonstrated that the scheme is in significant financial deficit and ordinarily would not be able to proceed. However, as an exceptional measure, NHG has agreed to inject an additional £35 million of capital into the project arising from an internal cross-subsidy from other projects and it is this investment that is bridging the financial gap to enable the regeneration to proceed. It is essential to note that even with this additional funding, the financial viability of the scheme remains finely balanced and it cannot withstand any additional burdens.

In the knowledge of the foregoing, NHG has worked closely with the Council to calculate the amount of CIL that the proposed development would generate based on the current CIL rates. The total CIL that would be liable from the redevelopment of Plots 10 – 12 is in the order of £17.5 million of which around £13.4 million is for payment of the Barnet CIL.

The draft CIL Charging Schedule proposes an increase in the CIL rate for residential uses from £135 per sqm (currently indexed at £202 per sqm) to £300 per sqm. The rate for retail uses is proposed to be increased from £135 per sqm to the current indexed rate of £202 per sqm and new CIL rates are introduced for leisure (former D2 uses) and employment (former B uses) at £20 per sqm.

An analysis of the proposed new CIL rates and their impact on the viability of the Grahame Park regeneration scheme is attached at Appendix 2 to this letter. This confirms that the total CIL liability for the recently approved development would increase to approximately £24 million of which around £19.9 million would be for the Barnet CIL. This substantial uplift of 48% would impose a very onerous additional financial burden, increasing the viability gap by 17%. Set against the background of an already very challenging financial equation, such an increase in CIL is likely to stall progress with the delivery of this important regeneration project.

***BNP Paribas Viability Review***

The supporting evidence for the proposed CIL rates in the draft Charging Schedule has been provided by BNP Paribas who undertook a CIL Viability Review (December 2019), followed by a 2021 update report to consider evidence that has become available over 2020. However, the evidence base prepared by BNP Paribas is not considered to be sound as it does not take into account the impact of compliance with policies in the adopted London Plan on estate regeneration schemes such as Grahame Park.

As part of the 2019 report BNP Paribas tested the ability of developments to accommodate alternative amounts of CIL to the rates in the Council's adopted Charging Schedule alongside policies in the London Borough of Barnet's Local Plan and other emerging planning policy documents. The study compared the residual land values of 50 different development typologies reflecting different densities and the different types of development expected to come forward in the Borough over the plan period.

The 2019 study noted that to be able to assess the ability of schemes to absorb higher CIL rates than those in the adopted Charging Schedule it was necessary to factor in the pre-existing requirements in adopted planning policies. A review of Barnet planning policies and how those policies might affect the viability of proposed developments is included at Appendix 1 of the BNP Paribas report. However, no comprehensive review of policies in the draft London Plan (as it was at that time) was undertaken.

Paragraph 2.40 of the BNP Paribas report provides a summary of policies identified as having cost implications for developments. This includes adopted Barnet Local Plan policies on affordable housing that require 40% affordable housing on sites with 10 or more units, or 0.4 hectares or more with a tenure split of 60% rent and 40% intermediate housing. Some policies from the draft London Plan as it was at the time of the drafting of the report are also included.

The 50 different theoretical development scenarios were tested with the quantum of affordable housing to be delivered ranging from 40% to 20%. In respect of Estate Regeneration schemes, BNP tested a small scheme of 50 units and a large scheme of 250 units. BNP concluded that for all of the scenarios that were tested any increase in CIL could be offset by a reduction in affordable housing of circa 3%. The 2021 update report does not change this conclusion.

The BNP Paribas report and the testing of different scenarios does not however take into account policies in the now adopted London Plan (2021) that impact the ability of estate regeneration schemes in particular to absorb higher CIL rates than those in the adopted CIL Charging Schedule.

These policies include London Plan Policy H4 where there is a requirement for public sector land to deliver at least 50% affordable housing on each site and more significantly London Plan Policy H8 (Loss of existing housing and estate regeneration) which requires affordable housing floorspace to be reprovided on a like for like basis. Part D of the policy states:

> *"Demolition of affordable housing, including where it is part of an estate redevelopment programme, should not be permitted unless it is replaced by an equivalent amount of affordable housing floorspace. Affordable housing that is replacing social rent housing must be provided as social rent housing where it is facilitating a right of return for existing tenants. Where affordable housing that is replacing social rent housing is not facilitating a right of return, it may be provided as either social rent or London Affordable Rent housing. Replacement affordable housing should be integrated into the development to ensure mixed and inclusive communities."*

The types of developments that are required to comply with these two adopted development plan policies, namely estate regeneration schemes such as Grahame Park, have not been tested by BNP Paribas in their viability review of the proposed CIL Charging rates.

As explained above the uplift in the proposed CIL rate, especially that proposed for residential floorspace will result in a very challenging requirement for the redevelopment of Grahame Park. It is therefore important that the position at Grahame Park, which has differing policy requirements from general development sites in the remainder of the Borough, is properly considered in the proposed new CIL Charging Schedule.

**<u>Need for an alternative CIL zero rate to be applied to development at Grahame Park</u>**

Guidance in relation to CIL set out in the NPPG (ID:25-010-20190901) advises that when deciding CIL rates, an authority must strike an appropriate balance between additional investment to support development and the potential effect on the viability of developments. Charging authorities should be able to 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.

The CIL regulations (section 13) enable local authorities to set differential rates (including zero rates) for different zones within which development would take place. Guidance in the NPPG clarifies that the CIL regulations permit charging authorities *to "apply differential rates in a flexible way, to help ensure the viability of development is not put at risk…….Differences in rates need to be justified by reference to the viability of development".* The NPPG advises that differential rates may be appropriate in relation to geographical zones within the charging authority's boundaries. It goes on to state:

> *"If the evidence shows that the area includes a zone, which could be a strategy 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".*

The analysis of the impact of the proposed new CIL rates on the viability of the Grahame Park attached at Appendix 2 is based upon the financial viability assessment that was submitted with the planning application. However, it has been updated with the increased CIL estimate plus the knock on additional financing costs.

The impact of the proposed changes to the Barnet CIL rates will increase the amount of CIL that the scheme is liable for by £6.5 million, equivalent to a 48% uplift. The viability gap increases by £6.7 million or 17%, which is not sustainable for a scheme as finely balanced as Grahame Park. The Council as landowner is not receiving any land payments; all of the value of the private housing is being used to cover the costs of providing 50% affordable housing including full reprovision of social rent on-site and the Council has a long term Development Agreement with NHG.

Given this evidence, it would seem appropriate for Barnet to consider setting a zero levy rate to cover Grahame Park as suggested by the guidance in the NPPG. This is what other Boroughs in London have done in similar circumstances. One such example is Roehampton in the London Borough of Wandsworth that has a zero rate for all development types within the regeneration area as shown on the CIL Charge Zone map. Other examples in London include the Meridian Water Masterplan area in LB Enfield (Council regeneration project); The Earls Court & West Kensington Opportunity Area (residential led regeneration area in the LB of Hammersmith and Fulham) and LB Hackney (Woodberry Down Regeneration Area).

Grahame Park already has outline planning permission for its redevelopment which includes the considerable s106 and other regeneration benefits package set out at Appendix 1. Future phases of the development will also be required to mitigate any impacts from development in the area through planning obligations towards the significant amount of infrastructure on the Estate that will required to successfully deliver the regeneration programme. It would seem sensible to therefore ring fence what little funding is available for the essential infrastructure required as part of the estate regeneration scheme.

Should the Council agree a zero CIL rate for Grahame Park, NHG would be willing to consider diverting some of this funding into providing additional benefits to the local area. For example, this could include additional contributions to community infrastructure (e.g. Heybourne Park improvements, Community Centre) or bringing forward demolition of future phases of the regeneration to meet Council aspirations for earlier demolition of the Concourse.

We trust that the Council will take into account the foregoing comments and recognise the impact that the proposed new CIL rates would have on the deliverability Grahame Park. NHG is keen to continue working in partnership with the Council to deliver the regeneration scheme and would welcome the opportunity to discuss this with you further. In the meantime, should you require any further information in the meantime please contact my colleague Sarah Ballantyne-Way or myself.

Yours faithfully

[redacted]

**Patrick Grincell**

**Director**

## Appendix 1: Grahame Park Public Benefits and Regeneration Costs

| | |
|---|---|
| **Infrastructure requirements (PDA)** | |
| Community Centre | £3,226,655 |
| Nursery & Children’s Centre | £1,872,915 |
| Health Centre | £2,762,792 |
| Recruitment, Employment and Training | £2,355,389 |
| ***Sub-total*** | ***£10,217,751*** |
| **S106 Infrastructure Requirements** | |
| Heybourne Park improvements | £2,000,000 |
| Realignment of Lanacre Avenue (Full cost TBC, but estimate included) | £2,460,000 |
| Public Transport Contribution | £900,000 |
| Off-Site Cycle/Pedestrian Improvements | £150,000 |
| Highways Adoption/S278 | £500,000 |
| Travel Plan | £731,400 |
| ***Sub-total*** | ***£6,741,400*** |
| **NHG Social and Economic Project** | |
| Programme Over 20 Years @ £120,000 | £2,400,000 |
| ***Sub-total*** | ***£2,400,000*** |
| **Estate Regeneration Cost** | |
| Site Assembly (inc Buy Backs) | £20,082,511 |
| Council Costs met by NHG for rehousing/project support etc @ £200,000 a year | £4,000,000 |
| CPO Costs | £750,000 |
| ***Sub-total*** | ***£24,832,511*** |
| **Total** | ***£44,191,662*** |

## Appendix 2: Impact of LBB proposed new CIL charging schedule (March 2021) on Grahame Park viability

*1. Current calculation of estimated CIL liability*

The current estimate of CIL liability for the scheme is £17.6m, of which £13.3m is Barnet borough CIL. This estimate has been verified by LBB Planning and was included in Financial Viability Assessment submitted with the hybrid planning application.

| | | Mayoral CIL | | Barnet CIL | | Notes |
|---|---|---|---|---|---|---|
| | *Applies to:* | *All floorspace excluding health and education* | | *Residential and retail* | | |
| | Chargeable floorspace (sq m GIA): | | | | | |
| i. | Retail (A1-A3) | | 1,425 | | 1,425 | |
| ii | Bar (A4) | | 238 | | 238 | |
| iii | Workspace (B1) | | 1,005 | | - | |
| iv | Community Centre (D1/D2) | | 880 | | - | |
| v | Residential (including parking podiums for MCIL) | | 192,075 | | 184,406 | |
| vi | Total new chargeable floorspace (sq m GIA) | | 195,622 | | 186,069 | Total of i to v above |
| vii | Total new floorspace including non-chargeable (sq m GIA) | | 195,622 | | 195,622 | |
| A | Floorspace to demolish (sq m GIA) | | 58,899 | | 58,899 | |
| B | Demolished floorspace as proportion of total floorspace | | 30.1% | | 30.1% | A divided by vii |
| C | Reduction in chargeable floorspace due to demolition | | 58,899 | | 56,023 | vi x B |
| D | Net chargeable floorspace | | 136,723 | | 130,046 | vi - C |
| E | Proposed new affordable housing floorspace | | 96,037 | | 90,582 | |
| F | Affordable floorspace not eligible for relief | | 28,915 | | 27,273 | B x E |
| G | Affordable floorspace eligible for relief | | 67,122 | | 63,309 | E - F |
| H | Floorspace eligible for CIL | | 69,601 | | 66,737 | D - G |
| J | CIL rate | £ | 59.643 | £ | 201.295 | |
| K | **CIL payable** | **£** | **4,151,225** | **£** | **13,433,731** | H x J |
| | **Total Mayoral and Borough CIL payable** | **£** | | | **17,584,955** | |

Assumptions:
All existing floorspace can be fully discounted as part of the calculation
Parking podium floorspace is chargeable for MCIL but not Barnet CIL

*2. Updated CIL estimate using LBB's proposed new CIL charging schedule*

Applying the proposed LBB charging schedule increases the LBB borough CIL payable to £19.9m (an increase of £6.5m, equivalent to a 48% uplift). Adding MCIL, the total CIL liability rises to £24.1m.

| | | Mayoral CIL | | Barnet CIL | | Notes |
|---|---|---|---|---|---|---|
| | *Applies to:* | *All floorspace excluding health and education* | | *A1-A5, B2/D2 and residential* | | |
| | Chargeable floorspace (sq m GIA): | | | | | |
| i. | Retail (A1-A3) | | 1,425 | | 1,425 | |
| ii | Bar (A4) | | 238 | | 238 | |
| iii | Workspace (B1) | | 1,005 | | 1,005 | |
| iv | Community Centre (D1/D2) | | 880 | | 880 | |
| v | Residential (including parking podiums for MCIL)* | | 192,075 | | 184,406 | |
| vi | Total new chargeable floorspace (sq m GIA) | | 195,622 | | 187,953 | Total of i to v above |
| vii | Total new floorspace including non-chargeable (sq m GIA) | | 195,622 | | 195,622 | |
| A | Floorspace to demolish (sq m GIA) | | 58,899 | | 58,899 | |
| B | Demolished floorspace as proportion of total floorspace | | 30.1% | | 30.1% | A divided by vii |
| C | Proportion of new floorspace chargeable | | 69.9% | | 69.9% | 1 - B |
| D1 | Net chargeable floorspace - A1-A5 uses | | 1,162 | | 1,162 | (i + ii) x C |
| D2 | Net chargeable floorspace - B1/D2 uses | | 1,317 | | 1,317 | (iii + iv) x C |
| D3 | Net chargeable floorspace - residential | | 134,244 | | 128,884 | v x C |
| E | Proposed new affordable housing floorspace* | | 96,037 | | 90,582 | |
| G | Affordable floorspace eligible for relief | | 67,122 | | 63,309 | E x C |
| H | Residential floorspace eligible for CIL | | 67,122 | | 65,575 | D3 - G |
| J1 | CIL rate: A1-A5 uses | £ | 59.643 | £ | 202.000 | |
| J2 | CIL rate: B1/D2 uses | £ | 59.643 | £ | 20.000 | |
| J3 | CIL rate: residential | £ | 59.643 | £ | 300.000 | |
| K1 | CIL payable: A1-A5 uses | £ | 69,302 | £ | 234,713 | D1 x J1 |
| K2 | CIL payable: B1/D2 uses | £ | 78,556 | £ | 26,342 | D2 x J2 |
| K3 | CIL payable: residential | £ | 4,003,367 | £ | 19,672,412 | H x J3 |
| L | **CIL payable** | **£** | **4,151,225** | **£** | **19,933,467** | K1+K2+K3 |
| | **Total Mayoral and Borough CIL payable** | **£** | | | **24,084,692** | |

Assumptions:
All existing floorspace can be fully discounted as part of the calculation
*Parking podium floorspace is chargeable for MCIL but not Barnet CIL

hgh

*3. Impact of proposed CIL charging schedule on Grahame Park scheme viability*

Updating the financial viability assessment (as submitted with the planning application) with the increased CIL estimate (and the knock on additional financing costs) increased the viability gap on the scheme by £6.7m or 17%.

| | With current CIL rates | With proposed CIL rates |
|---|---|---|
| | (£,000) | (£,000) |
| **Scheme Revenue** | | |
| Private Sales | £471,515 | £471,515 |
| Affordable Housing | £272,075 | £272,075 |
| Commercial | £5,742 | £5,742 |
| Car parking sales | £5,045 | £5,045 |
| **Gross Development Value (GDV)** | **£754,377** | **£754,377** |
| **Scheme Costs** | | |
| Site Assembly | £20,083 | £20,083 |
| Build Cost (including post-contract design fees) | £556,657 | £556,657 |
| Professional fees | £35,250 | £35,250 |
| Community Infrastructure Levy | £17,585 | £24,085 |
| Section 106 and Section 278 obligations | £14,499,142 | £14,499,142 |
| Regeneration costs | £7,150 | £7,150 |
| Sales & Marketing | £15,645 | £15,645 |
| Finance costs | £21,817 | £22,019 |
| **Total Scheme Cost incl Finance Costs (TSC)** | **£688,686** | **£695,388** |
| **Appraisal** | | |
| **Developer Return (GDV - TSC)** | **£65,691** | **£58,989** |
| **Return as proportion of GDV** | **8.71%** | **7.82%** |
| **Target Return (14% of GDV)** | **£105,613** | **£105,613** |
| **Viability Gap** | **£39,922** | **£46,624** |
| **Increase in viability gap if proposed CIL rates introduced** | **17%** | |