

17th March 2021
FHPL388834

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Dear Sir/ Madam

London Borough of Barnet Proposed Revised Community Infrastructure Levy Charging Rates Consultation Representation submitted on behalf of Hill Residential Ltd

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

Purpose

- 1.1 This representation has been prepared by Savills on behalf of Hill Residential, a major national house-builder, with considerable expertise in delivering high quality and sustainable homes.
- 1.2 Hill Residential are in the process of promoting land interests across the Borough and are therefore keen to see that a reasonable rate of CIL is adopted, which helps deliver infrastructure, but does not put at risk the delivery of development.
- 1.3 The purpose of this representation is therefore to set out our response to the proposed revised rates and supporting documents, which have been published for consultation from the 18th February to 21st March 2021. The revised rates are proposed to replace the existing CIL Charging Schedule which was adopted by LBBC on 1st May 2013. Given the passage of time, the Council have deemed that now it is appropriate to formally review the viability evidence and Charging Rates for the Borough.
- 1.4 Hill Residential welcome that the Council has updated their viability evidence, undertaken by BNP Paribas Real Estate (“BNP”) in December 2019¹ and January 2021². This representation therefore responds to the updated viability evidence and results which have informed LBBC’s proposed revised CIL Charging Rates.
- 1.5 Hill Residential would like to highlight that they are supportive of the principle that development helps to deliver needed infrastructure. However, fundamentally, they are concerned that the proposed revised rates are substantially higher than the adopted Charging Schedule rates and including indexation. The

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

² BNP Paribas, CIL Viability Review – Update, January 2021



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.

1.6 Fundamentally, Hill Residential question if the revised, increased rates are evidence based and can be justified. Our particular comments in regards to this consultation can be summarised as follows:

- **National Planning Reform**– The Government have recently undertaken consultation on the reform of the planning system within the Planning White Paper³ with a proposal to abolish Section 106 and CIL. In light of this uncertainty, it is not clear whether CIL will remain applicable;
- **COVID-19 and Brexit** – The on-going COVID-19 pandemic presents significant market uncertainty in respect of values and build costs upon the planned development across the Borough. Brexit is also having significant effects in respect of the supply chain and material costs. The Council should consider this alongside the implications of introducing an increased financial burden upon development;
- **Incorrect Assumptions** – A number of the key inputs adopted in the updated viability evidence undertaken by BNP are not reflective of the industry standards, which in our opinion results in an over-estimation of viable CIL levels across the Borough;
- **Risk to Housing Supply** – LBBC’s position in regard to their five year housing land supply remains precarious. The Council have inconsistencies for meeting the objectively assessed housing requirements over recent years and more fundamentally, have failed to deliver policy compliant affordable housing levels over the last 10 years. If London’s and Barnet’s housing needs are to be met there needs to be a significant uplift in affordable housing delivery and increasing the rate of CIL is unlikely to enable that to be achieved;
- **Removal of Ancillary Car Parking Exclusion from Rates** – The proposed revised rates no longer excludes ancillary car parking from the CIL liability which immediately increases the cost burden on schemes. It is not clear whether BNP have factored this into their Viability Study and appropriate modelling has been undertaken to understand the implications.

1.7 These points are discussed in greater detail in the following sections.

Legislation

1.8 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 guidance⁴. The most recent amendments to the Regulations and associated guidance came into force on 1st September 2019. The CIL consultation will therefore be subject to the requirements of these latest set of Regulations and Guidance.

1.9 Given the ongoing COVID-19 pandemic, The Community Infrastructure Levy (Coronavirus) (Amendment) (England) Regulations 2020 (the ‘CIL Coronavirus Regulations’) which came into force on 22nd 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

³ Ministry of Housing, Communities & Local Government – Planning for the Future, White Paper, August 2020

⁴ September 2019

Coronavirus Regulations will be enforceable, we welcome therefore that LBBC consider how these may implicate their proposals for implementing CIL.

Overview

- 1.10 On behalf of Hill Residential, Savills write 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.
- 1.11 We have therefore split our response in to the following sections:
- **Part 1** - The Development Plans Housing Supply and PPG Guidance;
 - **Part 2** - Viability Testing;
 - **Part 3** - Interpretation of Results; and
 - **Conclusions** - Overview of key concerns and proposed CIL rates.
- 1.12 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 Plans and Housing Land Supply

- 1.13 LBBC’s Local Plan guides development in the borough for the lifetime of the planning documents contained within the Framework. LBBC’s development plan (the Local Plan) comprises:
- The London Plan (March 2021);
 - Barnet’s Local Plan: (Core Strategy) Development Plan Document (September 2012) (“the Core Strategy”); and
 - Barnet’s Local Plan: (Development Management Policies) Development Management Plan (September 2012).
- 1.14 The development plan is supported by other material considerations including the National Planning Policy Framework and associated guidance contained within the Planning Practice Guidance. LBBC’s Local Plan is also supported by a Proposals Map, various Action Plans, Planning Briefs, Town Centre Frameworks/Strategies and Supplementary Planning Guidance/Documents (SPG/SPD), including but not limited to:
- Planning Obligations SPD (April 2013);
 - Affordable Housing SPD (February 2007);
 - Delivering skills, Employment, Enterprise and Training from development through S106 SPD (October 2014)
- 1.15 LBBC’s local planning policies have been guided originally by the London Plan (2011), which was later updated by the London Plan (2016). The latter has now been superseded by the London Plan (2021) which was adopted most recently on 2 March 2021, and this has resulted in increased annual housing targets across London. All local planning policies must be in consistent with the London Plan (2021).

- 1.16 The London Plan (2021) sets targets for housing delivery over the period plan period for the entirety of London. The current target for the 10 year plan period (2019/20 – 2028/29) for all of London is outlined in Table 4.1 of the London Plan (2021) and is set at 522,870 net additional homes. Specifically, the 10 year housing target for LBBC is 23,640 homes which equates to an annual completion target of 2,364 homes.
- 1.17 As stated in paragraph 8.1.1 of LBBC’s Authorities Monitoring Report (AMR) 2018-19, LBBC’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 homes per year than the updated target (2,364 per year) set out in the London Plan (2021).
- 1.18 LBBC’s local planning policy related to the delivery of affordable housing units is found within Policy CS4 of the Core Strategy and 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.”
- 1.19 Supporting paragraph 9.6.12 of the Core Strategy goes onto to state that:
“In order to calculate our affordable housing requirement the SHMA [Strategic Housing Market Assessment] 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.”
- 1.20 LBBC’s AMR 2018-19 states that a total of 211 affordable homes were completed in 2018-19. Therefore, this represents a shortfall of 155 affordable homes against the annual target of 366 affordable homes outlined in the Core Strategy.
- 1.21 The London Plan (2021) has increased Barnet’s annual housing figure from 2,349 homes to 2,364 net additional homes per year. Barnet published their Regulation 18 Draft Local Plan in January 2020 which will replace the documents which currently comprise the Local Plan. Currently, adoption is targeted for Spring 2022.
- 1.22 In light of the status of LBBC’s emerging Local Plan, it is not yet confirmed where the sites will come forward for development within the Borough during the Plan period. LBBC 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 LBBC’s sites which would contribute to meeting LBBC’s planned housing supply within the Borough. We therefore question whether the current Draft Charging Schedule is premature given the status of the Borough’s emerging Local Plan and the uncertainty of sites that will come forward for development.

Impact of LBBC’s Housing Delivery

- 1.23 The most recent iteration (2018-19) of LBBC’s AMR assesses whether development, both completed and approved, 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.

- 1.24 The AMR outlines that the Council has delivered a figure of 2,229 net dwellings during 2018-19. This is lower than the annual target of 2,349 outlined in the superseded London Plan (2016) and also lower than the annual target outlined in the London Plan (2021) of 2,364.
- 1.25 If the London Plan (2021) housing targets for Barnet (i.e. 23,640 homes, which equates to an annualised average of 2,364) are extrapolated against the projected completions in the AMR, it is apparent that LBBC risks falling significant short of delivering its housing requirements.

Impact on LBBC’s Affordable Housing Delivery

- 1.26 As noted above, the AMR states that in 2018-19, 211 affordable homes were completed across the borough, which is 155 affordable homes lower than the 366 affordable homes per annum targeted in the Core Strategy. We have extracted Table 8b from the AMR (2018-19) and set this out below. It outlines the percentage of affordable units delivered in the context of the Borough’s overall housing delivery of 10+ units.

Extract of Table 8b: Affordable Housing Output as a proportion of Overall Conventional Housing Provision – 2015/16 to 2018/19

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

Source: LBBC Annual Monitoring Report 2018/19

- 1.27 The above table, along with the data included within the Council’s AMR clearly indicates that the Council has fallen significantly short of achieving its target of 40% affordable housing completion throughout the past six years, having only reached a figure of approximately 17% on average across the Borough. This is a significant under delivery of affordable units and must be a significant consideration for the impact of increasing the CIL level.
- 1.28 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 LBBC CIL rates must be considered carefully so as not to negatively impact upon the delivery of the Development Plan overall.
- 1.29 When assessing the viability of any proposed changes to CIL levels, this must be assessed in the context of the relevant development plan and the identified housing supply target. Where under-delivery has occurred, this must be fully considered when proposing any adjustment to an adopted CIL Charging Schedule. If London’s and Barnet’s housing needs are to be met there needs to be a significant uplift in affordable housing delivery and increasing the rate of CIL in Barnet runs counter to that and is, in anything, likely to further worsen delivery.

Infrastructure Funding Statement and Infrastructure Delivery

- 1.30 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.”*
- 1.31 Hill 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 Regulations), and produces an up to date, consistent and well informed evidence base of economic viability in order to test various development typologies against CIL rates.
- 1.32 LBBC’s Infrastructure Funding Statement for 2019-20 sets out their Infrastructure List, noting that they anticipate CIL in 2020/21 will be used to fund the following:
- 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.
- 1.33 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.
- 1.34 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.

Applying the Guidance

- 1.35 The PPG CIL Guidance must be followed in the preparation of a Charging Schedule. The following observations are made against relevant aspects of the Guidance.

Table 1: CIL PPG Extracts and Implications for the London Borough of Barnet Council

Paragraph Number and Reference ID	Topic	Guidance	Implications for the London Borough of Barnet Council
<p>Paragraph: 010 Reference ID: 25-010-20190901</p> <p>Revision date: 01 09 2019</p>	Rate setting	<p>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.</p> <p>This balance is at the centre of the charge-setting process. In meeting the regulatory requirements, 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</p>	<p>It is imperative that a CIL rate is not set which could have a negative impact on housing delivery.</p> <p>The contribution of strategic sites to the housing supply puts greater importance on the testing of a wide range of residential development scenarios.</p>
<p>Paragraph: 012 Reference ID: 25-012-20190901</p> <p>Revision date: 01 09 2019</p>	Facilitate growth and economic benefit	Charging authorities should think strategically in their use of the levy to ensure that key infrastructure priorities are delivered to facilitate growth and the economic benefit of the wider area.	To be a success, CIL must facilitate development and enable infrastructure delivery required to support development.
<p>Paragraph: 012 Reference ID: 25-012-20190901</p> <p>Revision date: 01 09 2019</p>	Generally consistent with relevant plan	<p>In relation to the levy, the relevant plan is any strategic policy, including those set out in any spatial development strategy.</p> <p>Charging schedules are not formally part of the relevant plan but charging schedules and relevant plans should inform and be generally consistent with each other.</p>	Appropriate consideration therefore must be given to the emerging Local Plan and the associated current uncertainty.
<p>Paragraph: 017 Reference ID: 25-017-20190901</p> <p>Revision date: 01 09 2019</p>	Spending	<p>Charging authorities must identify the total cost of infrastructure they wish to fund wholly or partly through the levy. In doing so, they must consider what additional infrastructure is needed in their area to support development, and what other sources of funding are available, based on appropriate evidence.</p> <p>Information on the charging authority area's infrastructure needs should be drawn from the infrastructure assessment that was undertaken when preparing the relevant plan (the Local Plan) and their CIL charging schedules. This is because the plan identifies the scale and type of infrastructure needed to deliver the area's local development and growth needs.</p>	Reliance must therefore be had on infrastructure evidence and viability evidence, with reasoned consideration of the views of the key stakeholders and delivery agents.

		<p>From December 2020, local authorities must publish an infrastructure funding statement, and information should be drawn from this. The infrastructure funding statement should identify infrastructure needs, the total cost of this infrastructure, anticipated funding from developer contributions, and the choices the authority has made about how these contributions will be used.</p>	
<p>Paragraph: 019 Reference ID: 25-019-20190901</p> <p>Revision date: 01 09 2019</p>	<p>Viability assessment</p>	<p>A charging authority should be able to explain how their proposed levy rate or rates will contribute towards new infrastructure to support development across their area. Charging authorities will need to summarise their viability assessment. Viability assessments should be proportionate, simple, transparent and publicly available in accordance with the viability guidance.</p>	<p>The Viability Assessment evidence should test sites identified in the emerging Local Plan.</p> <p>The viability inputs and assumptions in the testing of the generic site typologies must though be realistic and reasonable.</p>
<p>Paragraph: 021 Reference ID: 25-021-20190901</p> <p>Revision date: 01 09 2019</p>	<p>Viability Assessment, costs and planning obligations</p>	<p>A charging authority should take development costs into account when setting its levy rate or rates, particularly those likely to be incurred on strategic sites or brownfield land. A realistic understanding of costs is essential to the proper assessment of viability in an area. Assessment of costs should be based on evidence which is reflective of local market conditions in accordance with planning practice guidance on viability.</p> <p>Development costs include costs arising from existing regulatory requirements, and any policies on planning obligations in the relevant plan, such as policies on affordable housing and identified site-specific requirements for strategic sites.</p>	<p>Reliance must therefore be had on infrastructure evidence and viability evidence, with reasoned consideration of the views of the key stakeholders and delivery agents.</p>
<p>Paragraph: 022 Reference ID: 25-022-20190901</p> <p>Revision date: 01 09 2019</p>	<p>Differential rates</p>	<p>Charging authorities should consider how they could use differential rates to optimise the funding they can receive through the levy. Differences in rates need to be justified by reference to the viability of development. Differential rates should not be used as a means to deliver policy objectives.</p> <p>.....</p> <p>A charging authority that plans to set differential rates should seek to avoid undue complexity. Charging schedules</p>	

		with differential rates should not have a disproportionate impact on particular sectors or specialist forms of development. Charging authorities may wish to consider how any differential rates appropriately reflect the viability of the size, type and tenure of housing needed for different groups in the community, including accessible and adaptable housing, as set out in the National Planning Policy Framework. Charging authorities should consider the views of developers at an early stage.	
Paragraph: 040 Reference ID: 25-040-20190901 Revision date: 01 09 2019	Examination	<p>The examiner must report their recommendations to the charging authority in writing. The examiner may recommend that the draft charging schedule should be approved, rejected, or approved with specified modifications. The examiner must give reasons for those recommendations...</p> <p>In approving the draft Charing Schedule the examiner should establish that:</p> <ul style="list-style-type: none"> • the charging authority has complied with the legislative requirements set out in the Planning Act 2008 and the Community Infrastructure Levy Regulations (as amended); • the draft charging schedule is supported by background documents containing appropriate available evidence; • the charging authority has undertaken an appropriate level of consultation; • the proposed rate or rates are informed by, and consistent with, the evidence on viability across the charging authority's area; and • evidence has been provided that shows the proposed rate or rates would not undermine the deliverability of the plan (see National Planning Policy Framework paragraph 34). 	
Paragraph: 171 Reference ID: 25-171-20190901 Revision date: 01 09 2019	Conditions	...Planning conditions (including Grampian conditions) should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. When setting conditions, local planning authorities should consider the	Grampian conditions must be used sparingly.

		combined impact of those conditions and any planning obligations and Community Infrastructure Levy charges that the development will be liable for.	
Paragraph: 166 Reference ID: 25-166-20190901 Revision date: 01 09 2019	Developer contributions, highways agreements and CIL	<p>Developers may be asked to provide contributions for infrastructure in several ways.</p> <p>This may be by way of the Community Infrastructure Levy, planning obligations in the form of section 106 agreements (see National Planning Policy Guidance on planning obligations), and section 278 highway agreements (under section 278 of the Highways Act 1980 as amended). Developers will also have to comply with any conditions attached to their planning permission (see National Planning Policy Guidance on planning conditions).</p> <p>Local authorities should ensure that the combined total impact of such requests does not undermine the deliverability of the plan (see paragraph 34 of the National Planning Policy Framework for details).</p> <p>Where the levy is in place for an area, charging authorities should work proactively with developers to ensure they are clear about the authorities' infrastructure needs.</p> <p>Authorities can choose to pool funding from different routes to fund the same infrastructure provided that authorities set out in their infrastructure funding statements which infrastructure they expect to fund through the levy.</p>	<p>The costs of S106 is relevant consideration for the viability evidence.</p> <p>In addition the cost of Section 278 infrastructure is a relevant consideration for the viability evidence.</p>

Part 2 – The Viability Testing

- 1.36 Hill Residential are concerned in respect of a number of assumptions that have been adopted within the Viability Study⁵ and Update Note⁶ which the Council are relying upon to inform their proposed revised rates.
- 1.37 We highlight our concerns and seek further clarification in regards to the justification for adopting a number of the assumptions we discuss below.

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

⁶ BNP Par bas, CIL Viability Review – Update, January 2021

Developer's Profit

- 1.38 BNP have 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.
- 1.39 Hill Residential therefore has serious concerns that this profit margin is not reflective of the current market expectations.
- 1.40 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 –

“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”⁷ (Paragraph 6).

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

- 1.42 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

- 1.43 Hill Residential has significant concerns in respect of the build costs which have been adopted within the Viability Review Update¹⁰. 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.
- 1.44 Hill Residential are a housebuilder who deliver high quality construction and design which is not comparable in nature to the build cost information that BCIS collates. Hill Residential are concerned that the build costs modelled within BNP’s updated study have decreased since the Viability Study in 2019 and therefore Hill Residential’s projected build costs for schemes across the Borough are significantly higher than has been assumed within the viability testing.

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

⁸ APP/X0360/A/12/2179141, Paragraph 44

⁹ APP/R4408/Q/14/2216976, Paragraph 33

¹⁰ BNP Paribas, CIL Viability Review – Update, January 2021

- 1.45 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.
- 1.46 We would therefore strongly advise that these figures are further reviewed and remodelled ahead of the proposed revised rates being submitted for Examination.

Carbon Zero and Building Regulations

- 1.47 Hill Residential welcome that BNP have considered the implications of zero carbon standards by applying an uplift to the base build costs. However, Hill Residential are concerned that this level of uplift doesn't allow sufficient payment for the carbon offset and request that further evidence is provided to justify that 1.4% of the base build cost is reflective of the true cost implications across development.
- 1.48 Furthermore, 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. Hill Residential therefore urges that clarification is provided for whether these additional costs have been modelled within the viability testing.

Gross to Net – Site Coverage

- 1.49 The assumptions adopted in respect of the typologies should be reviewed in respect of the gross to net densities and dwellings per hectare to ensure that they reflect market facing and deliverable schemes coming forward across the Borough. For example, the typology most comparable to a Hill Residential scheme currently being promoted within the Borough has been modelled at a site coverage of 90% whereas in reality, the scheme has a gross to net density of 50%. This variance in assumption from reality is concerning and we question whether the other typology site coverage assumptions are appropriate and have been sense checked. Overestimating the site coverage will disproportionately improve the typology's viability and thereby indicate additional headroom for an increased CIL rate.

Section 106

- 1.50 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

- 1.51 Abnormal costs, referred to as 'Exceptional Costs' within the Viability Study¹¹, capture the impact of additional development costs such as archaeological investigation, water diversion, ground remodelling

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

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

- 1.52 Hill Residential are concerned that the explanation provided by LBBC and their consultants in regards to the methodology for using the results from the viability testing to calculate the proposed revised CIL rates is unclear.
- 1.53 Fundamentally, the 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.
- 1.54 We would highly recommend that the viability testing results are more clearly analysed and interpreted to justify the proposed increased flat rate across the Borough.

Mayoral CIL

- 1.55 In February 2019, the Mayor adopted a new charging scheduled (MCIL2) which came into effect on 1st 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).
- 1.56 Cumulatively, the proposed increases to LBBC, 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

- 1.57 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.
- 1.58 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 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.
- 1.59 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.

- 1.60 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 have taken into consideration this additional burden on schemes when undertaking their viability modelling which would clearly have cost implications.
- 1.61 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 LBBC'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;
 - v) Uncertainty in respect of the National Planning Reform and potential removal of CIL.
- 1.62 The Council has recognised this themselves highlighting that '*there is still some uncertainty from the impact of Covid 19 in the longer term*'¹². 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

- 1.63 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

The assessment of planned development and its viability is an inherent test of the CIL Examination, making the following points significant:

- **National Planning Reform**– The Government have recently undertaken consultation on the reform of the planning system within the Planning White Paper¹³ with a proposal to abolish Section 106 and CIL. In light of this uncertainty, it is not clear whether CIL will remain applicable;
- **COVID-19 and Brexit** – The on-going COVID-19 pandemic presents significant market uncertainty in respect of values and build costs upon the planned development across the Borough. Brexit also presents uncertainty in respect of the supply chain and material costs. The Council should consider this alongside the implications of introducing an additional financial burden upon development;

¹² Para. 3.1, LBBC, Charging Schedule Review Barnet Community Infrastructure Levy, February 2021

¹³ Ministry of Housing, Communities & Local Government – Planning for the Future, White Paper, August 2020

- **Incorrect Assumptions** – A number of the key inputs adopted in the updated viability evidence undertaken by BNP are not reflective of the industry standards, which in our opinion results in an over-estimation of viable CIL levels across the Borough;
- **Risk to Housing Supply** – LBBC’s position in regard to their five year housing land supply remains precarious. The Council have inconsistencies for meeting the objectively assessed housing requirements over recent years and more fundamentally, have failed to deliver policy compliant affordable housing levels over the last 10 years;
- **Removal of Ancillary Car Parking Exclusion from Rates** – The proposed revised rates no longer excludes ancillary car parking from the CIL liability immediately increasing the cost burden on schemes. It is not clear whether BNP have factored this into their Viability Study and appropriate modelling has been undertaken to understand the implications.

We would therefore strongly advise that additional viability testing be undertaken and the proposed revised CIL rates be reviewed in light of the points raised above.

We would like to reiterate again that Hill Residential and their consultants are not wishing to oppose the implementation of a revised CIL within the Borough but ensure a reasonable rate is adopted.

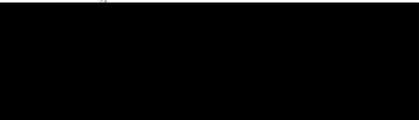
Moving forward, Hill Residential and their consultants are open to a meeting with LBBC and its advisors to discuss the approach taken and to discuss common ground.

To this end, Hill Residential 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 Savills (UK) Ltd



Abigail Jones MSc (Hons) MRICS
Associate Director

cc. Colin Campbell – Hill Residential
Mia Scaggiante – Savills Planning