

Our Ref: 02B716800

19th March 2021

By email only: cil.consultation@barnet.gov.uk



Dear Sir/ Madam,

Community Infrastructure Levy (CIL) Rate Review Consultation

On behalf of Hill and Home Group, we write to submit representations to the London Borough of Barnet (LBB) CIL Rate Review consultation (Publication of Draft Charging Schedule).

This representation relates specifically to the Douglas Bader Park Estate (DBP) (the Site) which comprises the existing 271 homes on Clayton Field, Fieldmead, Linklea Close, Highlea Close, Brooklea Close and Parklea Close. A site location plan is appended to this representation.

As LBB is aware, the Site has been identified by Home Group as a high priority for regeneration in order to address the current design deficiencies and provide for the needs of customers.

Home Group and Hill have worked collaboratively with customers, LBB, the GLA and other third parties in the preparation of their planning application (ref. 20/6277/FUL) which is currently pending determination. This application is critical to securing the long-term future of DBP.

Following a review of the Draft Charging Schedule (DCS) and the supporting documentation, we are concerned that in regards to the proposed uplift in Levy on C3 an appropriate balance has not been struck between the need to fund necessary infrastructure and the potential impacts on economic viability of development sites, particularly DBP.

This letter sets out our concerns about the proposed CIL DCS in further detail and is structured as follows:

1. Background
2. Implications for Douglas Bader Park
3. CIL Regulations
4. Summary

1. Background

The existing estate comprises 271 units and was constructed in the 1970s using the Wimpey No-fines construction method. Following a full assessment of the site in 2016 by Home Group the following key issues were identified:

- Properties in a state of decline mainly as a result of how they were constructed (Wimpey No-fines construction).
- Evidence of decline in demand for homes on Douglas Bader Park, with an increase in letting time and rental voids as a result of poor-quality homes.
- Almost all properties do not meet London Plan space standards.
- Inefficient use of existing stock with many homes experiencing overcrowding.
- Poorly designed public and private space with no desirable through routes or pavements.
- Estate offers no sense of orientation, lacks natural surveillance.
- Rising reports of anti-social behaviour which is facilitated by the estate's convoluted layout which would not meet today's secure by design standards.

For these reasons the existing estate fails to meet the aspirations of Home Group to deliver better quality accommodation for their customers. It was therefore concluded that the comprehensive redevelopment of the Site was the only viable option to deliver a long-term sustainable solution that will meet the needs of Home Group's customers.

The proposed development has been developed through a series of pre-application meetings with planning and design officers at LBB under a Planning Performance Agreement (PPA) which have shaped the proposals.

A comprehensive public consultation programme was also undertaken including exhibitions, interactive design workshops and regular coffee mornings to allow existing and neighbouring residents to have a say on the proposals.

A formal Ballot was held in May 2019, as required by the GLA, to demonstrate residents' support for the redevelopment proposals. All 271 households were balloted, with 305 people eligible to vote. There was a 90% turnout, 75% of which were in favour of the full demolition and redevelopment of the Site.

Following further pre-application engagement, Avison Young submitted an application for the comprehensive redevelopment of the Site in December 2020 (ref. 20/6277/FUL) which is currently pending determination.

The application is for full detailed planning permission that is phased over three distinct development phases. A full detailed phased approach is necessary for the following reasons:

- i. The largescale nature of the development results in a complex and elongated build programme.
- ii. The requirement to complete initial phases to enable a decant strategy for Home Group customers who wish to remain on Site.
- iii. An outline application would not provide the level of detail required to provide certainty in terms of future accommodation quality for Home Group's customers.

The application will deliver a total of 40% affordable housing, being the maximum that can be delivered on site in accordance with LBB Policies CS4 and DM10. Notwithstanding this, as the proposals include the demolition and replacement of affordable housing the application has followed the Viability Tested Route in order to comply with London Plan policy H8. A Financial Viability Assessment (FVA) has therefore been prepared and submitted to the GLA as part of the application.

The FVA confirms that the proposed development will deliver the maximum amount of affordable housing viable, as required by policy. The viability position is underpinned by the current CIL charging schedule which was adopted in 2013 taking into account of indexation to allow for the phased development over the course of the build programme. This assumes a rate of £135/sqm (index linked).

The adoption of the DCS with an increased rate of £300/sqm (index linked) would result in an increase in CIL liability of circa £4.6m (including indexation from the intended date of adoption of the DCS in circa 12 months' time). The implications of this are discussed further below.

2. Implications for Douglas Bader Park

The Planning Practice Guidance (PPG) provides specific guidance on "When should the charging schedule be reviewed and revised?" at para. 045 (ID: 25-045-20190901). It is confirmed that charging authorities must keep their charging schedules under review and should ensure that levy charges remain appropriate over time. Furthermore, when reviewing their charging schedule, charging authorities should take account of the impact of revised levy rates on future planned development.

The DCS is underpinned by an evidence base, including a financial viability assessment prepared by BNP Paribas, a draft Infrastructure Development Plan and Draft Infrastructure Funding Statement.

This representation does not seek to review or provide comment on this evidence base, but this should not be taken as agreement that they are therefore acceptable. This representation specifically relates to DBP, the identified and recognised need between the applicant, LBB, GLA and other stakeholders for its regeneration and the resulting impact that the DCS would have on this or any other future development, given that it fails to take into consideration the site specific circumstances.

CIL charges are non-negotiable and will be payable at the rate set out within the Charging Schedule.

As highlighted above, the application for DBP is a full detailed application that is phased. The definition for a phased planning permission is set out in the CIL Regulations 2010 (as amended) as a planning permission which expressly provides for development to be carried out in phases.

CIL payments will be required within 60 days following commencement of the first phase and then upon commencement of any subsequent phases. Each phase of the development is a separate 'Chargeable Development' and CIL is calculated separately for each Chargeable Development. The relevant CIL charging schedule will be that which is in effect at the time of the permission being granted.

In relation to a full detailed application that is phased, CIL Regulation 8(3A) sets out that the time of which permission is granted (for the purposes of CIL) will be the day final approval is given for any pre-commencement condition(s) associated with that phase.

As a result of the requirement to provide a full detailed phased permission, the extended build programme and decant strategy, phases 2 and 3 of the proposed development as set out under planning application (ref. 20/6277/FUL) would be liable for the CIL rates set out in the proposed DCS. As noted above, this is expected to result in an increase in CIL liability of circa £4.6m (including indexation). This will result in a significant cost to the development that has not been accounted for as part of the FVA for the proposed development.

Planning policy requires that developments provide the maximum reasonable amount of affordable housing. Flexibility is provided by the London Plan to allow viability to be considered in relation to the provision of affordable housing, with Policy H5 providing the threshold to affordable housing and the potential to follow the Viability Tested Route where it is not possible to meet specific affordable housing targets. Similarly, LBB's Development Management Plan Policy DM10 states that affordable housing contributions should have regard to the borough wide target of 40% subject to viability.

In practice, whilst CIL charges may be non-negotiable, this flexibility enables developers to negotiate the quantum of affordable housing, alongside other Section 106 obligations, to ensure that any proposed development is viable and deliverable.

As such, as is the case now, or in the future, applications made to LBB have the opportunity to be viability tested against the rates set out in the DCS. However, the same position cannot be applied to DBP. As an existing affordable housing estate, there is a policy requirement to re-provide, as a minimum, the existing quantum of affordable housing as part of any application its regeneration (London Plan Policy H8). This provides an exceptional circumstance that has not otherwise been considered as part of the evidence base which has been put forward in support of the proposed DCS.

These exceptional, site specific circumstances mean that it is not possible for the quantum of affordable housing to be increased or decreased subject to viability. As demonstrated by the FVA submitted as part of the current planning application (ref. 20/6277/FUL), the proposed development has followed a policy compliant approach via the viability tested route to provide the maximum amount of affordable housing, whilst remaining viable and therefore deliverable. Accordingly, the substantial increase in CIL liability would render the scheme unviable and prevent the regeneration of the Site and the associated planning benefits. Therefore, a site-specific approach is required, not just an application specific approach.

3. CIL Regulations

The PPG highlights that when setting a CIL Charge, the Council can apply differential rates in a flexible way to ensure that viability of a development is not put at risk. PPG Paragraph 021 (Reference ID: 25-021-20140612) states that '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 [...] A charging authority which chooses to differentiate between classes of development, or by reference to different areas, should do so only where there is consistent economic viability evidence to justify this approach'.

This flexibility is provided through CIL Regulation 13, which confirms that the charging authority may set differential rates for different zones and in setting differential rates, a charging authority may set supplementary charges, nil rates, increased rates or reductions.

CIL Regulation 13 has specifically been provided to address instances such as the exceptional, site specific circumstances set out above to allow the Council to apply a differential rate. A differential rate should therefore be applied to the DBP estate which is deemed the maximum viable to enable the Site's regeneration and achieve all other planning benefits. Any rate applied should be commensurate with the current adopted levy taking account of indexation. The FVA supporting the application has been based upon the current rate of £135/sqm (indexed). Therefore, any new rate for the DBP area should be set at the equivalent £135/sqm plus the indexation at the time of adoption on the basis that this is the maximum CIL rate viable as demonstrated by the FVA which accompanies the application.

It should be recognised that as an application which has taken the Viability Tested Route, any future planning permission would be subject to early and late stage viability reviews, which an appropriate mechanism to capture any further contributions towards affordable housing if deemed viable.

This approach will provide certainty that any future planning permission that comes forward in relation to the site will be viable and deliverable on the basis of current site-specific economic viability evidence required to justify the approach.

It is noted that CIL Regulation 55 does provide the charging authority with the option to grant relief from liability in exceptional circumstances. However, the relief can only be applied when the chargeable development is liable, which in this instance will be in advance of each development

phase. Due to the complex decant strategy required as part of the regeneration of the DBP estate it is necessary to have certainty from the outset in relation to potential CIL liability.

Accordingly, the potential alternative approach to agree relief in due course, prior to the commencement of each phase, would fail to provide the financial certainty for the project as a whole which is required from the outset. On this basis, exceptional relief will not be an appropriate route to ensuring the delivery of the DBP estate regeneration and LBB is strongly encouraged to apply a differential rate as set out above given the provisions of CIL Regulation 13 which are specifically designed to respond to these circumstances.

4. Summary

This representation has identified the site-specific exceptional circumstances present in relation to the DBP estate to enable its regeneration and the associated planning benefits. This comes as a result of the requirement to re-provide the existing affordable housing as part of any future planning application and current viability evidence which confirms that the current application provides the maximum reasonable contribution.

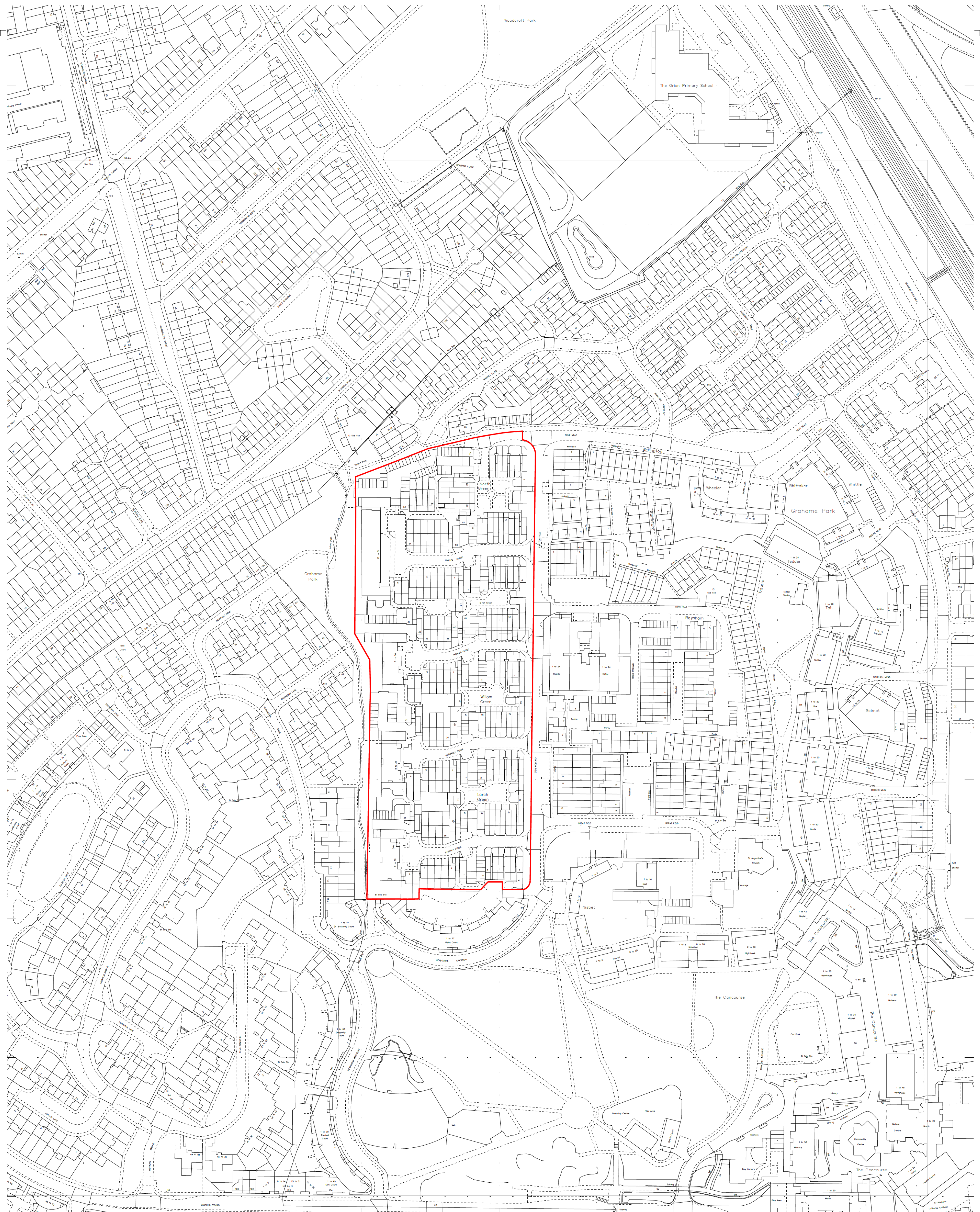
Accordingly, the current rates set out in the DCS will render the application unviable and therefore preclude the regeneration of the estate and the associated planning benefits. The CIL Regulations purposefully make provision to deal with these specific circumstances and allow charging authorities to apply differential rates where there is economic viability evidence required to justify the approach. This approach should therefore be followed.

The Site will still provide a contribution towards infrastructure as per the current adopted rates (including indexation) but will also be able to provide the other associated planning benefits including the re-provision of all affordable housing. It is therefore proposed that a differential rate is applied for the Site and that the CIL Charging Schedule Map is updated to identify the DBP estate as a specific CIL charging zone.

Yours faithfully,



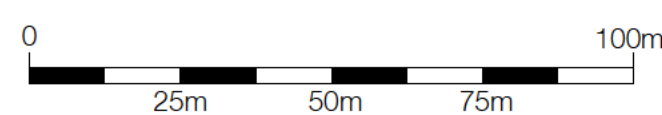
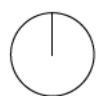
For and on behalf of Avison Young (UK) Limited



Notes

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— Boundary Line

Project name		Douglas Bader Park Estate
		Estate Regeneration
Drawing number	Rev	
3430B - LB - XX - XX - DP - A - 101000	P1	
Drawing		
Planning		
Site location plan		
Purpose of Issue	Date	
For Approval	10.12.20	
Scale	Drawn	
1 : 1250 @ A1	RP	
Client	Checked	
Home Hill LLP	DF	

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P1	20.11.20	Planning Application	DF
Rev	Date	Description	Initials