



	<p align="center"><b>Community Infrastructure Levy:</b>  <del>*Preliminary</del> <b>Draft Charging</b>  <b>Schedule' Consultation</b></p> <p align="center"><b>Representation Form</b></p>	<p>Ref:</p> <p>(For official use only)</p>
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Please return your form or separate written comments **by 5pm on 7 September 2012** to:  
 Community Infrastructure Levy Consultation, Strategic Planning and Regeneration Service, London Borough of Barnet, Building 4, North London Business Park, Oakleigh Road South, London N11 1NP or by e-mail to [cil@barnet.gov.uk](mailto:cil@barnet.gov.uk)

The information you provide will be used fairly and lawfully and the Council will not knowingly do anything which may lead to a breach of the Data Protection Act 1998.

This form has two parts –  
 Part A – Personal Details  
 Part B – Your representation(s).

## Part A

<b>1. Personal Details*</b>			
<small>*If an agent is appointed, please complete only the Title, Name and Organisation boxes below.</small>			
Title	Ms		
First Name	Victoria		
Last Name	Bullock		
Are you an Agent?	Yes		
Whom do you represent?	A2Dominion Group		
Job Title & Organisation (where relevant)	Barton Willmore LLP		
Address	7 Soho Square, London		
Post Code	W1D 3QB		
Telephone number:	020 7446 6888		
E-mail Address	<a href="mailto:Victoria.bullock@bartonwillmore.co.uk">Victoria.bullock@bartonwillmore.co.uk</a>		

**Part B**

2. In terms of the very narrow criteria of assessment available to the Independent Examiner, do you consider Barnet Council's Proposals for a local Community Infrastructure Levy to be:

(1) The range of evidence used is appropriate	Yes		No	X	Don't Know	
(2) The interpretation of evidence is appropriate	Yes		No	X	Don't Know	
(3) An initial 'low flat' CIL rate to support economic growth in the first three years of CIL's operation in Barnet, is a suitable balance between the need to fund infrastructure + ensure overall development remains financially viable.	Yes		No	X	Don't Know	
(4) The rate is consistent with the evidence	Yes		No	X	Don't Know	
(5) I do not consider that overall development in Barnet will be put at significant additional risk by the introduction of the proposed rate of CIL	Yes		No	X	Don't Know	

3. If you have answered no to any question above, please also use this box to set out your comments.

See attached

(Continue on a separate sheet /expand box if necessary)

4. If you have any other comments or related issues to raise in relation to this consultation, please include these here. Please be as precise and concise as possible. If you would like to attach separate evidence / information, please refer to it below and include it alongside this form.

(Continue on a separate sheet /expand box if necessary)

Signature:	 Barton Willmore LLP	Date:	04/09/2012
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#### Further information

If you require any further information or clarification please contact the Infrastructure Planning Team:  
Tel: 020 8359 5136 or email: [cil@barnet.gov.uk](mailto:cil@barnet.gov.uk).

#### Data Protection Act 1998

The personal information collected on this form will be processed on computer to provide and manage the information or service that you have requested. For further details regarding your privacy please see our Privacy Statement at [www.barnet.gov.uk/privacy](http://www.barnet.gov.uk/privacy).

#### What happens next?

Copies of representations will be made available for public inspection. They cannot be treated as confidential.

The Council will submit the Community Infrastructure Levy documents to an independent examiner and make a summary of the representations available upon the Council's website. The compliance and appropriateness of the Charging Schedule document will then be assessed by an independent examiner.





**BY EMAIL: [cil@barnet.gov.uk](mailto:cil@barnet.gov.uk)**

Community Infrastructure Levy Consultation  
Strategic Planning and Regeneration Service  
London Borough of Barnet  
Building 4  
North London Business Park  
Oakleigh Road South  
London  
N11 1NP

19502/A3/VB/ac

6 September 2012

Dear Sirs

**BARNET'S DRAFT CIL CHARGING SCHEDULE**

This response to the above consultation is submitted on behalf of A2Dominion Group. A2Dominion are the freehold owners of land at Geron Way within the London Borough of Barnet. The site is the subject of an extant planning application for 262 residential units and 812 sq.m of commercial accommodation (B1, D1 and D2) (LPA Ref: F/01932/11).

Our client is looking to boroughs to provide transparent, clear, concise and fair CILs which will enable the necessary infrastructure be delivered without compromising housing delivery in London. Our client lodged comments in respect of the Preliminary Charging Schedule in April 2012. These representations are lodged further to our original comments, the Council's response and the provisions of the Draft Charging Schedule.

The process for the preparation, consultation, examination and adoption of CIL Charging Schedules is set out in Part 3 of the Community Infrastructure Levy Regulations 2010 (as amended) ('the Regulations'). Regulation 14 sets out that in setting rates in a charging schedule, a charging authority must inter alia strike the balance between:

- "(a) the desirability of funding infrastructure from CIL (in whole or in part) the actual and expected estimated total costs of infrastructure required to support the development of it's area, taking into account other actual and expected sources of funding; and
- (b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area."

In light of the above our response has been separated into two sections, the need to minimise the impact of CIL on housing delivery and the opportunities for increased flexibility to take account of market conditions and site specific circumstances.

**The impact of CIL on delivery**

The borough should ensure the viability appraisal has been properly and robustly carried out taking account of potential fluctuations in the market including the effects of developer confidence and availability of finance. The borough should also ensure they have fully justified their proposal to set a single charge across the borough instead of area based charges and that the estimation of future floorspace accurately takes account of the full range of chargeable developments and the types of applications which trigger CIL payments.





We would query the planning and development assumptions behind the Council's proposed charge of £135 per sq/m, specifically in relation to forecast supply assumptions.

Paragraph 3.3.4 of the document states that the Council has already granted planning permission for many of the Core Strategy DPD allocated priority housing estates and regeneration and development areas. It is on this basis that the Council has not included them as part of the forecast chargeable development. Many of these are subject to S106 Agreements which provide for infrastructure that it is envisaged to be delivered pursuant to CIL. Indeed, the Infrastructure Delivery Plan October 2010 identifies infrastructure to be delivered by the respective developers and accordingly it has not been factored into the identification of infrastructure needs, the infrastructure gap or therefore the 'charge'. In the event of a new application (or S73 application) on these sites, would the Council remove the infrastructure provision within the S106 to enable the CIL charge to be paid? Would the resultant infrastructure then fall to be delivered by CIL. Our concern is that the charge does not account for this infrastructure to be provided, this raises questions of double charging or under provision in certain circumstances. The Council may wish to make the case the result is cost neutral on the basis that the CIL charge will be levied; however this has not been tested.

This concern was raised in respect of the Preliminary Charging Schedule. In their response to the above point, the Council identify that the Government intend to publish amendments to the regulations to clarify the position in respect of S73 applications, moreover that the Council will be publishing further guidance on planning obligations that fall outside of CIL. The matters to be tested at Examination include the assumptions behind the CIL charge, the total cost of infrastructure and understanding forecast supply assumptions and any associated funding gaps. The council's response as not clarified the concerns raised regarding these assumptions. Moreover it is not clear what form the revised regulations will take.

### **Ensuring flexibility**

*Exceptional Circumstances:* The CIL Regulations recognise the need for flexibility and provide for social housing and charitable relief. In addition there is provision for a charging authority to introduce further discretionary relief for exceptional circumstances (Regulation 55). A charging authority may only grant relief if:

- A charging authority has made relief for exceptional circumstances in its area; and
- A S106 Agreement has been entered into and the charging authority considers that:
  - the cost of complying with the S106 is greater than the CIL;
  - the requirement to pay CIL would have an unacceptable impact on economic viability;
  - the grant relief would not constitute a State aid which is required to be notified to and approved by the European Commission.

In the first instance therefore, the charging authority has the option to make provision for relief for exceptional circumstances.

Our representations to the Preliminary Charging Schedule sought the inclusion for exceptional circumstances within the Charging Schedule and whilst it was a concern shared by many of the representations lodged the Council does not propose to make such relief available now but may introduce it if and when circumstances change (Para 4.2.4).

Notwithstanding the above, paragraph 3.10.5 introduces a different process to ensure that proposals brought forward in regeneration and priority estate areas are 'not put at additional risk'. This approach is at odds with the Council's position that the flat rate fee will not put schemes in financial risk moreover that there are no apparent exceptional circumstances within the borough.



To maintain that the relief will only be introduced if the need arises is inconsistent with the above and does not provide sufficient certainty or confidence to the property market to progress and bring forward proposals with marginal viability. The approach therefore frustrates development and growth.

In terms of the Council's suggested process for addressing development in regeneration and priority estate areas, the Charging Schedule states the following:

- i) Before and during the planning application process the Council and its Regeneration Partner/s will agree the requirements that are necessary to Prescribe, Mitigate and Compensate for all the impacts of the proposed development scheme.
- ii) The most appropriate mechanism for securing delivery of each requirement will then be established (e.g. s.278, s.106, CIL). The total cost of each mechanism will then be quantified and cross reference with the others to ensure that the combined cost of all mechanisms is no greater than the combined cost of all the requirements identified in stage 1 above.
- iii) Should the combined costs of all the mechanisms be greater than the requirements identified at stage 1, then the Council commits to recycle any 'excess' CIL obligation back in to the development scheme as a grant towards the delivery of its on site infrastructure.

In the first instance it is not clear what the basis for 'Prescribe, Mitigate and Compensate' is. The CIL Regulations make clear that the tests for planning obligations are whether they are necessary, directly relates to the development and fairly and reasonable related in scale and kind to the development (Regulation 122).

It is also not clear how the above will work in practice, for example the infrastructure is identified through stage 1 and is then costed through stage 2. If the costing occurs at stage 2 how can the costs differ to stage 1?

In terms of the commitment to recycle any 'excess' CIL obligation back into the development scheme, it is not clear to what excess the Council refers or how the excess will be identified. For example is the excess when CIL is considered against the infrastructure provided by the scheme as provision in kind or other means or does it relate to a borough wide excess. In this respect the charging schedule makes clear that there is a funding gap for infrastructure therefore an excess is unlikely.

The process reads as through the intention is to provide effectively a reverse overage agreement. However the process does not provide any certainty to developers as it is understood that any such grant would first need to be identified through the Regulation 123 list and that commencement of development must have occurred first. Accordingly developers will need to go through the cost of preparing, submitting and determining an application possibly then purchasing a site (if it is subject to contract) to then implement the permission with no guarantee or comfort that the funding will be available. We object on the basis that the proposed response is not sufficiently flexible to respond to economic uncertainties and is unlikely to have the desired effect of encouraging such schemes to come forward achieving the necessary growth and regeneration.

We would request that the draft Charging Schedule include the exceptional circumstance test to provide the Council with the mechanism to provide such flexibility. It will of course be open to the Council to then assess each scheme on its merits having regard to the desirability of securing growth, regeneration and new homes within the borough.

In terms of the Council's position that they can introduce the Exceptional Circumstance relief at short notice, we maintain that it should be identified first within the Charging Schedule to provide certainty to developers moving forward.

*Instalments:* We welcome the proposal to introduce an instalments policy, however would welcome details. The 60 days from the commencement of the chargeable development default given in the CIL regulations is not always appropriate. Recognising the recession and responding by offering developers flexible payment options is supported.

*Review:* There are no details of when Barnet is intending to review its charging schedule and under what circumstances Barnet may reduce or increase its charge. Details of this should be provided along with details of how the CIL will be monitored, particularly as a proportion of the CIL will go towards the Collecting Authority's administrative costs.

We look forward to confirmation of receipt of the above and that it has been registered as duly made.

Yours sincerely

  
 **VICTORIA BULLOCK**  
Director



our ref: TD/Q30109  
your ref:  
email: tom.dobson@quod.com  
date: 7 September 2012



Community Infrastructure Levy Consultation  
Strategic Planning and Regeneration Service  
London Borough of Barnet  
Building 4  
North London Business Park  
Oakleigh Road South  
London, N11 1NP

Dear Sir/ Madam,

**COMMUNITY INFRASTRUCTURE LEVY: DRAFT CHARGING SCHEDULE CONSULTATION**

We write on behalf of Hammerson in relation to your CIL Draft Charging Schedule.

As you will be aware we have voiced our concerns about the likely impact of the currently proposed approach to CIL on the viability of the Brent Cross Cricklewood development, should it be necessary to bring forward revised applications for all or part of the development following its adoption. This is because the majority of the £250 million infrastructure package involves on site delivery of infrastructure which would therefore meet the tests set out in Regulation 122 of the CIL regulations, and therefore be required potentially in addition to CIL. On the basis of our calculations (and taking into account current floorspace and likely reliefs) a CIL charge for Brent Cross Cricklewood would be likely to be in the region of £150 million.

As you and colleagues are aware the current obligations push BXC to the limits of viability (and you have demonstrable evidence to support this) and therefore any additional obligations would make the scheme unviable. This would put at risk 20% of your housing pipeline, and therefore, the viability of development "across the area" as set out in the CIL regulations.

We note from the accompanying text to the Draft Charging Schedule (Section 3.10) that the Council accepts that the proposed CIL charge could threaten the viability of the development, but would seek to deal with this through a process of grants following adoption should problems arise, rather than (as it has the power to do) setting a variable CIL rate.

Whilst we appreciate that the Council is working constructively in trying to solve this problem we do not believe that the proposed approach deals with our concerns. Fundamentally (under Regulation 12, of the CIL Regulations 2010) it is only the charging rates that have legal force as part of the Charging Schedule. Therefore commitments by the local authority to work constructively whilst welcome do not offer sufficient guarantees to developers or funders to mitigate potential risks. We therefore believe that what, on the face of it, may appear to be a simple solution in the short term, only defers a potential problem until later when it may end up being harder to deal with.



It is therefore important to re-state that we continue to have an in principle objection to the approach LB Barnet is taking to CIL, and are concerned that it could put at risk one of the most important developments in London. We continue to be of the view that it is both desirable and possible for the Council to set a lower or zero CIL rate in one or more of the Borough's regeneration areas.

We attach a note which shows how such an approach has been taken forward in a number of London Boroughs. If the Council were to use the Brent Cross Cricklewood and West Hendon regeneration area as a charging zone it would be consistent with achieving the delivery of the Council's planning policies, with the viability evidence and with the CIL guidance. We understand that the consented West Hendon development, which would also be covered if such a charging area were adopted, would face similar viability issues should existing Section 106 requirements be combined with CIL, and that the Council is party to this evidence.

You will be aware that discussions have been ongoing over this issue, and we hope that we will be able to resolve these points in advance of the Examination.

With kind regards,

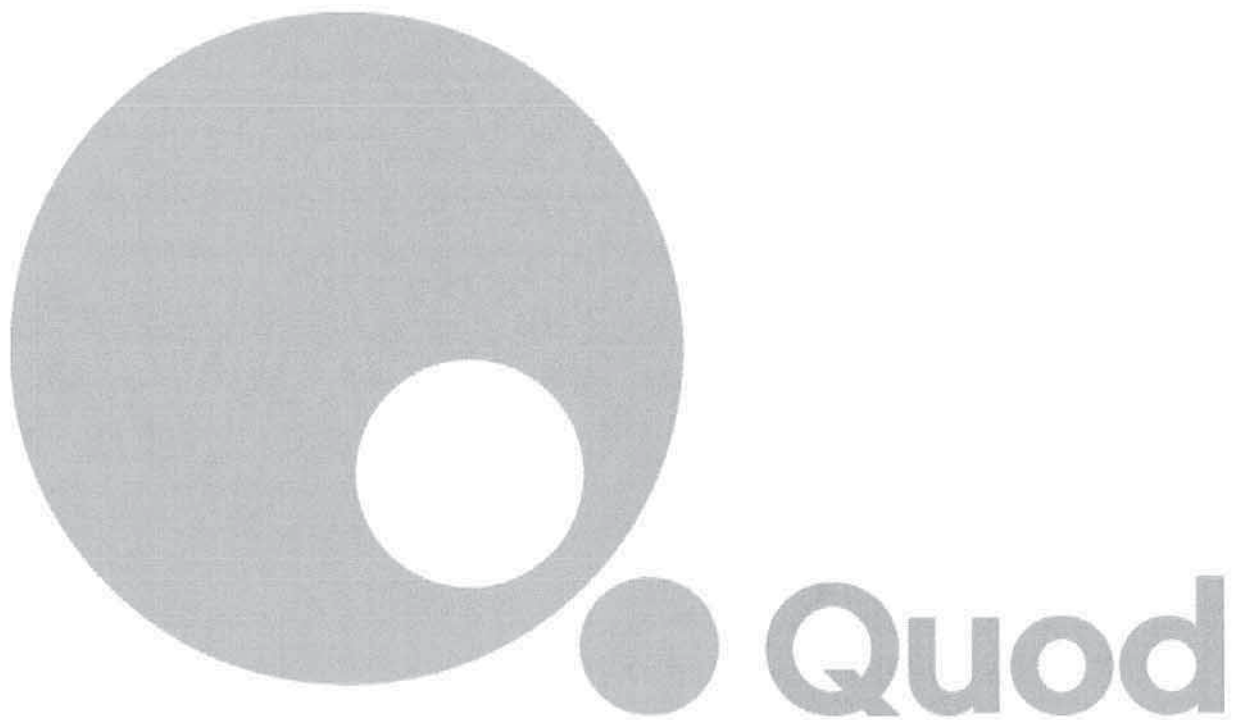
Yours sincerely,

Tom Dobson  
Director

Enc.

cc: Philip Murphy - Quod  
Mike McGuinness - Hammerson  
Jonathan Joseph - Joseph & Partners





CIL Charging Areas

7 September 2012

# 1 CIL CHARGING AREAS

- 1.1 The London Borough of Barnet has consulted on its Preliminary Draft Charging Schedule for the Community Infrastructure Levy. This proposes a single charging rate across the Borough of £135.
- 1.2 Councils do have options under the CIL regulations (2010, Amended 2011) and Government guidance (Community Infrastructure Levy Guidance Charge Setting and Charging Schedule Procedures, CLG, 2010), to set differential rates for different areas or for different types of uses (para. 34). However, these area boundaries must be based on the different levels of economic viability (para. 35) and must not be drawn on the basis of individual sites (para. 38).
- 1.3 This note suggests that there is a strong case for a differential rate to be set in the Brent Cross/Cricklewood/West Hendon Regeneration Area, which meets these requirements. It also identifies cases elsewhere in London where differential rates have been set for regeneration areas.



## 2 BRENT CROSS/CRICKLEWOOD/WEST HENDON REGENERATION AREA

- 2.1 The Brent Cross/Cricklewood/West Hendon Regeneration Area is identified in the London Plan as an Opportunity Area, and is covered by a joint LB Barnet/GLA, Cricklewood, Brent Cross and West Hendon Regeneration Area Development Framework Supplementary Planning Document. The London Plan sets a minimum target of 10,000 homes and 20,000 jobs between 2011 and 2031. It is the most significant development area in Barnet and one of the most significant in London.
- 2.2 The area covers 323 hectares, and has two major schemes which have received outline planning consents:
1. **Brent Cross Cricklewood (BXC)**, which covers approximately half (160 hectares) of the area, and has consent for 1.4 million sqm of development including around 7,500 homes; and a new town centre including 110,000 sqm of retail, 450,000 sqm of business uses, and new hotels, health facilities, schools, sports and community provision. It has a signed Section 106 agreement which requires the delivery of over £200 million of infrastructure, the vast majority on site.
  2. **West Hendon**, which covers approximately 15 hectares, and involves the re-development of a major estate, with over 2,000 homes. It has a signed Section 106 agreement which requires the delivery of over £17 million of infrastructure, on site.
- 2.3 Both schemes have been subject to detailed viability assessments to which the Council has been party, which demonstrate that the proposed Section 106 packages, including affordable housing is the maximum that can be afforded. The infrastructure requirements were considered by the Council at the time of consent to meet the tests in Circular 05/05 for planning obligations, which have subsequently been incorporated (in slightly shortened form) into Regulation 122 of the CIL Regulations. They should therefore be considered as part of any viability assessment of the area. The Council's proposed CIL charges, along with those of the mayor, could add at least £150 million to the development costs of BXC if revised applications were required.

- 2.4 The Council's supporting evidence for its CIL Charging Schedule does not include a viability assessment of the area on the basis that schemes have received planning consent. However, as pointed out in BXC Development Partners' response to the Preliminary Draft Charging Schedule, major regeneration schemes are typically subject to a range of revisions as they are taken forward, some of which may require new detailed planning applications, whilst Section 73 applications for variations of planning conditions remain covered by CIL at least until the Government publishes new regulations.
- 2.5 In these circumstances there is a clear viability case, based on evidence available to the Council, to demonstrate that the Brent Cross Cricklewood area should have a zero CIL charge as adding any additional burden to the required on site infrastructure and affordable housing would make development unviable. Such an approach would address issues across a defined strategic planning policy area and cover more than one site.
- 2.6 The following sections identify where other Councils have proposed differential rates, all of which cover small areas, and one of which does cover a single site. Comparable plans for each area are contained as Appendices.



### 3 OTHER LONDON EXAMPLES

#### **Barking Riverside, LB Barking and Dagenham**

##### *Location and Policy Aims*

- 3.1 Barking Riverside is identified as being a Key Regeneration Area in the Core Strategy. It is also an Opportunity Area in the London Plan.
- 3.2 “As the biggest brownfield regeneration site in the Borough, Barking Riverside will provide 10,800 new homes along with three new schools, healthcare facilities, shopping areas, parks, river access with new cycle and path ways, and excellent transport connections....Barking Riverside presents a unique opportunity to create a housing-led mixed use development which incorporates and sustains a good range of community facilities with good access to jobs, key services and infrastructure.”<sup>1</sup>
- 3.3 The site comprises four core elements: The former power station buildings, the Pulverised Fuel Ash (PFA) lagoons, the former Renwick Road landfill site and former allotments. The site can clearly be defined as previously developed land (PDL) or ‘brownfield’ with the allotments constituting a minor element.
- 3.4 The total charging area amounts to approximately 180 ha.

##### *Land Ownership*

- 3.5 The whole of the Barking Riverside Regeneration Area is to be developed under a single planning application made by a JV between Bellway plc and the HCA, known as “Barking Riverside Ltd.” (04/01230/OUT)
- 3.6 The majority of the land falls within the ownership of the applicant, Barking Riverside Limited. A number of small areas fall outside of the applicants’ ownership and these parties have been served

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<sup>1</sup> LBBB, 2010, Planning for the Future of Barking and Dagenham: LDF Core Strategy

notice pursuant to S66 of the 1990 Act. In addition, the application site also includes parts of Renwick Road, Choats Road and River Road.

### *Intended Land Use*

- 3.1 Development comprising or to provide a mixed use development of up to 10,800 residential dwellings and in addition up to 65,600 sqm of built floorspace for retail uses (Classes A1 to A3), business premises (Class B1), hotel (Class C1), communal care home and other residential institutions (Class C2), sui generis live work units, community and social facilities (Classes D1 and D2) (for uses such as libraries, primary health care facilities, places of worship and assembly, community facilities, crèche and pre-school facilities, care facilities for the young, old and/or infirm, sport and leisure development).

### **CIL Charging Rate**

Development Type	Rate £/m
<b>Residential Barking Riverside</b>	<b>£25</b>
Residential Barking Town Centre, Leftly & Faircross	£70
Residential Elsewhere in the Borough	£10

- 3.2 The viability assessment found that Barking Riverside could sustain a rate of £25/m<sup>2</sup> for residential developments below 10% affordable housing. Increasing the level of affordable housing above this means that no more than a negligible level of CIL is considered to be viable in the current market.

## **Croydon Metropolitan Centre, LB Croydon**

### *Location and Policy Aims*

- 3.3 CMC has a capacity to accommodate at least 2,700 additional homes and to provide up to 5,500 additional jobs by 2016. The Council is committed to facilitating development within Croydon Metropolitan Centre, which is also an Opportunity Area in the London Plan. Therefore, the Council will adopt a flexible approach to B1 uses (office, light industry and research & development), retail, leisure (including evening/night economy uses), visitor accommodation, and housing and community facilities within Croydon Metropolitan Centre.



- 3.4 The Charging Zone is around 113ha.

### *Land Ownership*

- 3.5 The Zone has multiple land owners.

### **CIL Charging Rate**

Development Type	Rate/m	
	Croydon Metropolitan Centre	Rest of the Borough
Residential	-	£120
Commercial B1, B2-B8	£20	-
Institutions C2 and D2	-	-
All other chargeable development	£120	£120

### *Viability*

- 3.6 The viability assessment shows that residential developments are likely to be able to support a CIL contribution in most cases across the Borough. The evidence does, however, suggest that residential development in the Croydon Metropolitan Centre might not be able to support CIL. In large part this is due to the additional build costs relating to the high-rise development characteristic of the area. Other residential schemes in the CMC that are of a more modest scale often make substantial contributions to other benefits, such as public realm improvements. BNP Paribas therefore recommended “a low or zero rate on developments within the CMC and a higher rate in other areas, where the predominant form of development is houses and low and medium rise flats, with limited demands on development value from other requirements.”

## **Roehampton, LB Wandsworth**

### *Location and Context*

- 3.7 The key objectives are to attract new investment into the area to create a vibrant new heart for Roehampton, improve the appearance of the area, make the area safer, provide better shopping and leisure facilities and attract people from outside the immediate area to use the local centre.

Provision of additional workspace to grow the area's business base and promote employment opportunities for Roehampton residents will also be essential to achieving regeneration.

3.8 Development at the “heart of Roehampton” will be mixed-use including centred around the hospital and university, new shops, health and leisure facilities and housing.

3.9 The CIL Charging Zone is around 70 ha.

#### *Charging Schedule*

3.10 All development in Roehampton has a zero CIL Charge

#### *Land Ownership*

3.11 The charging zone has multiple land owners

#### *Viability*

3.12 The Examiners’ report stated:

*“There is a nil rate for new housing in the Roehampton area, based on the assessed economic viability in the locality, which nearly all representors endorse as justified. In the absence of any evidence suggesting otherwise, there is no reason to disagree with the Council’s conclusion that a nil rate for residential development in Roehampton is appropriate in viability terms alone at present.”*



Figure 1: Brent Cross/Cricklewood/West Hendon Opportunity Area

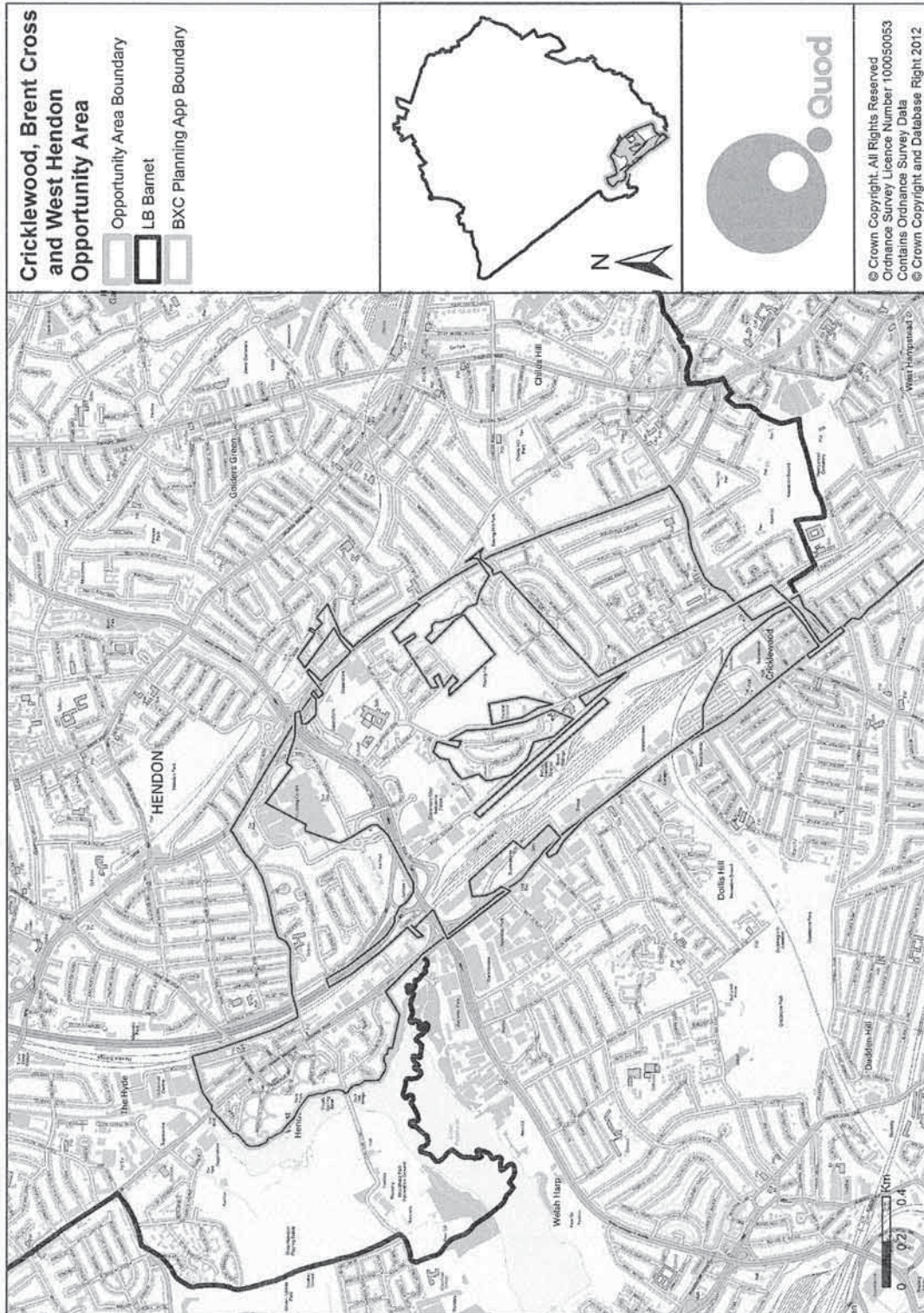




Figure 2: Barking Riverside Proposed Charging Zone

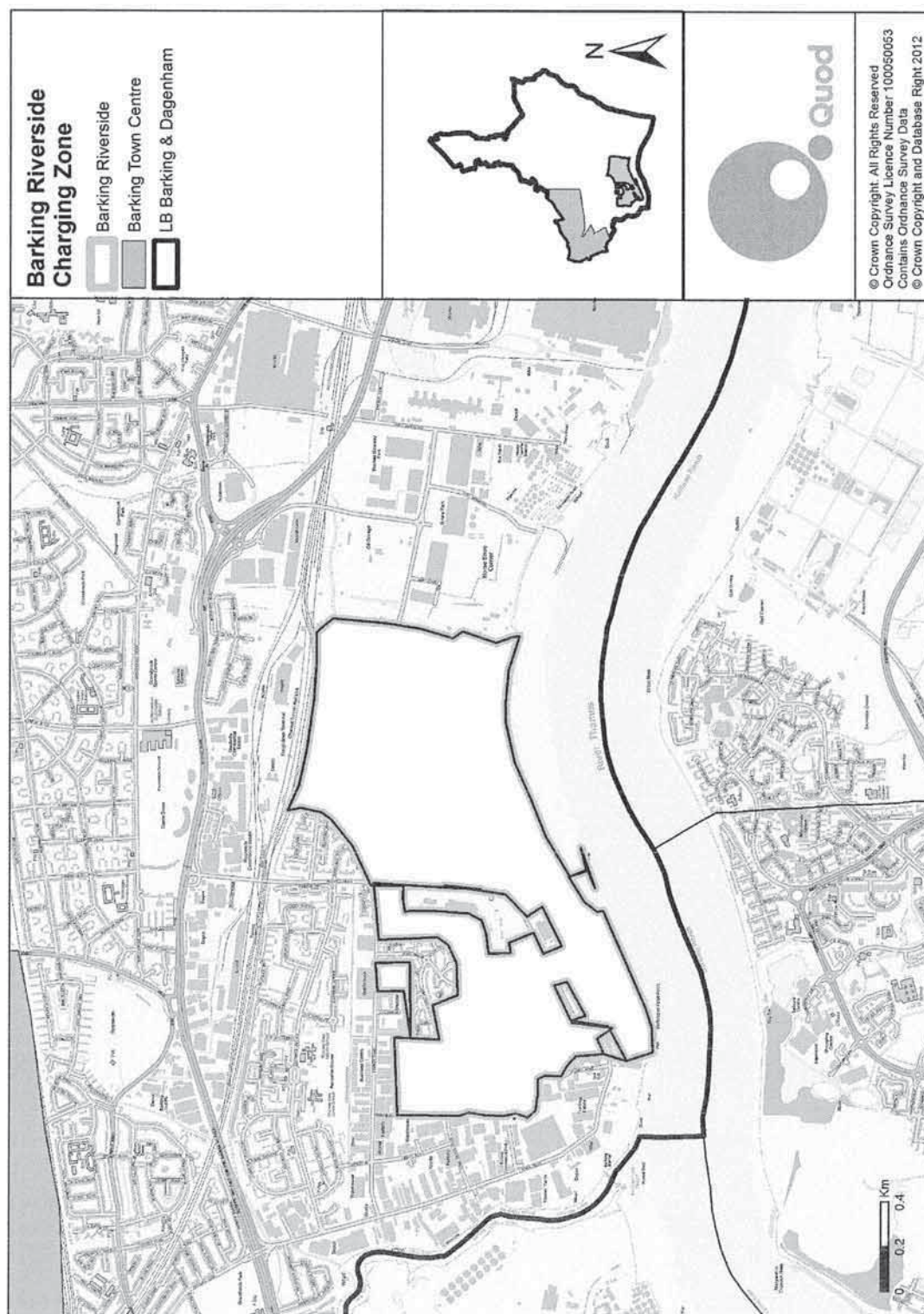
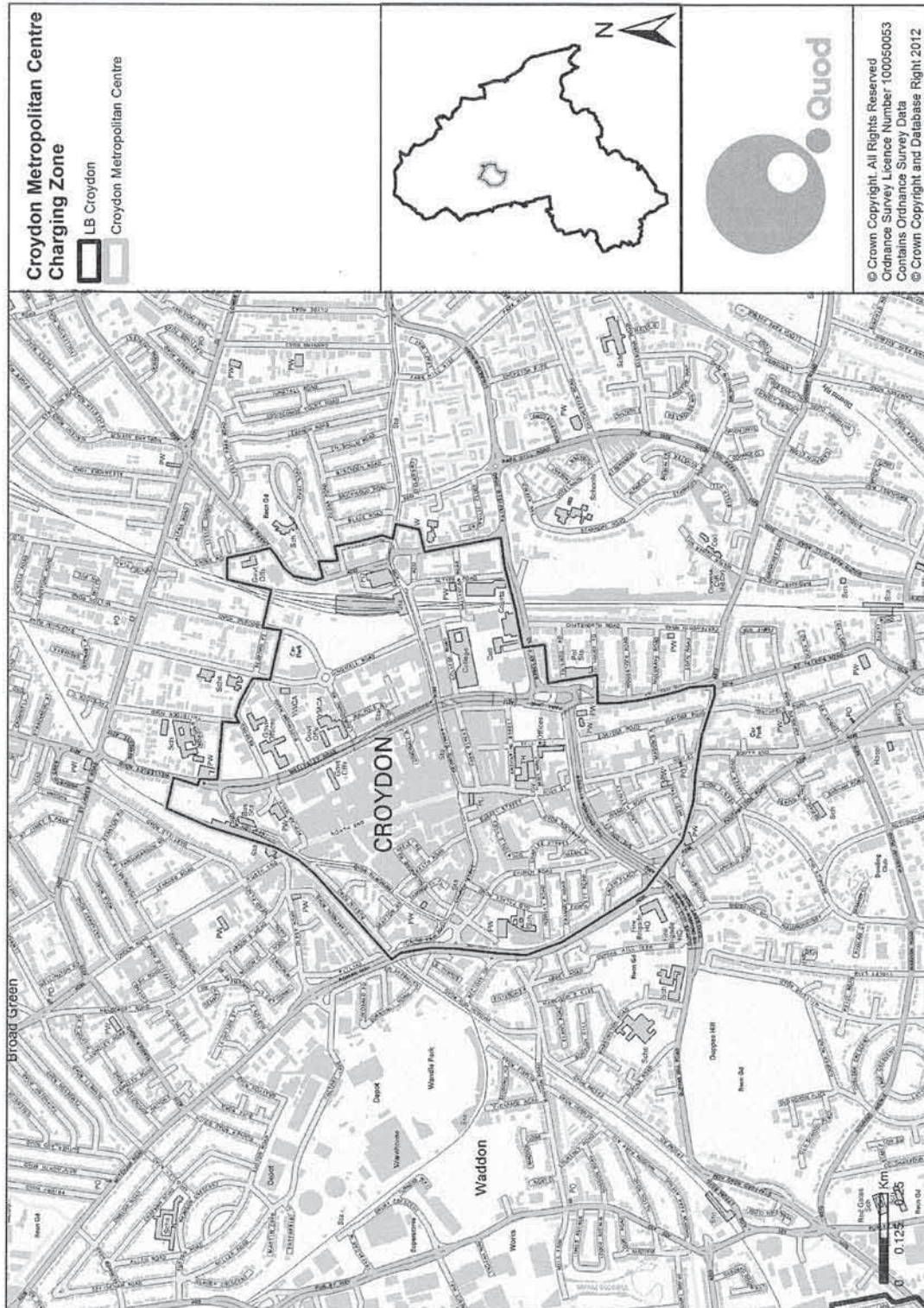




Figure 3: Croydon CMC Proposed Charging Zone









## Ching, Ricky

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**From:** Claire McLean [Claire.McLean@canalrivertrust.org.uk]

**Sent:** 05 September 2012 17:28

**To:** CIL

**Subject:** CIL Draft Charging Schedule

**Follow Up Flag:** Follow up

**Flag Status:** Completed

Dear Ricky Ching,

Thank you for your recent consultation regarding Barnet's CIL Draft Charging Schedule.

The Canal & River Trust is the new charity set up to care for England and Wales' wonderful legacy of 200-year-old waterways, holding them in trust for the nation forever. The Trust has responsibility for 2,000 miles of canals, rivers, docks and reservoirs, along with museums, archives and the country's third largest collection of protected historic buildings.

The Trust launched on 2nd July 2012, taking over responsibility from British Waterways and The Waterways Trust in England and Wales.

The Trust has a range of charitable objectives including:

- To hold in trust or own and to operate and manage inland waterways for public benefit, use and enjoyment;
- To protect and conserve objects and buildings of heritage interest;
- To further the conservation, protection and improvement of the natural environment of inland waterways; and
- To promote sustainable development in the vicinity of any inland waterways for the benefit of the public.

The main sources of the Trust's funding are from a 15-year contract with government and income from boating, property and utilities. This funding is important for keeping our precious 200-year old waterways running, but it is not enough to fully support our canals and rivers as valuable resources for people and nature, particularly when under increased pressure and intensified use from expanding development.

Our canals and rivers are today used by more people and for a wider variety of purposes than ever before, with over 35,000 boats and 13 million towpath visitors using them as an escape from the pressures of modern life. Once Britain's most important transport system, our waterways are now a focus for economic renewal in the towns and cities they helped to create.

With regard to the document, we have no specific comments to make, but not the following paragraph:

3.13.4 The forthcoming updates to the Planning Obligations and Affordable Housing Supplementary Planning Documents will provide clarity on how the balance between CIL and planning obligations will be effectively struck. It is intended that such measures can account for development viability concerns within the planning process and ensure that there is not a bias against larger developments due to on-site infrastructure / affordable housing requirements.

We are keen that essential mitigation from the impacts of development on the waterway environment does not get overlooked by falling between S106 and the new CIL procedure. We would be very happy to discuss

05/11/2012

this in more detail if that would be helpful.

Kind regards,

**Claire M<sup>c</sup>Lean**

**Area Planner – Canal & River Trust London**

1 Sheldon Square, Paddington Central, London, W2 6TT

D 020 7985 7229

F 020 7985 7201

M 07917 616832

On 2 July 2012, British Waterways ceased to exist in England and Wales and in its place the Canal & River Trust was born.

Staff from British Waterways and The Waterways Trust now work for the Canal & River Trust, please note my new e-mail address. You will see that work wear, letterheads, signage and so on are being rebranded, some on a more gradual and creative basis than others to keep costs down.

However the most important thing remains: that in an increasingly fast-paced and crowded world we will ensure our historic canals and rivers are a local haven for people and nature. Being a charity will enable more people to support our work, join us and get involved - donate, fundraise and volunteer.

Please visit our [website](#) to find out more and to download 'Shaping our Future' from the About Us page.

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The Canal & River Trust is a new charity entrusted with the care of 2,000 miles of waterways in England and Wales. Get involved, join us - Visit / Donate / Volunteer at [www.canalrivertrust.org.uk](http://www.canalrivertrust.org.uk)

Canal & River Trust is a charitable company limited by guarantee registered in England & Wales with company number 7807276 and charity number 1146792. Registered office address First Floor North, Station House, 500 Elder Gate, Milton Keynes MK9 1BB.

Elusen newydd yw Glandŵr Cymru sy'n gofalu am 2,000 o filltiroedd o ddyfrffyrdd yng Nghymru a Lloegr. Cymerwch ran, ymunwch â ni - Ewch i Rhoddion a Gwirfoddoli yn [www.glandwrcymru.org.uk](http://www.glandwrcymru.org.uk)

Mae Glandŵr Cymru yn gwmni cyfyngedig drwy warant a gofrestrwyd yng Nghymru a Lloegr gyda rhif cwmni 7807276 a rhif elusen gofrestredig 1146792. Swyddfa gofrestredig: First Floor North, Station House, 500 Elder Gate, Milton Keynes MK9 1BB.



Environment, Planning and Regeneration  
London Borough of Barnet  
Building 4, North London Business Park  
Oakleigh Road South  
London  
N11 1NP

Monday, 20<sup>th</sup> August 2012

Attn. Alan Driscoll

**RE: COMMUNITY INFRASTRUCTURE LEVY - CONSULTATION ON DRAFT CHARGING  
SCHDUULE- JULY 2012**

On behalf of my Client, McCarthy & Stone Retirement Lifestyles Ltd, I provide comments below on the Preliminary Draft Charging Schedule of the Community Infrastructure Levy (CIL).

McCarthy & Stone Retirement Lifestyles Ltd. are the market leader in the provision of private specialised accommodation for older people with over 30 years experience providing over 40,000 homes designed to address the specific needs of older people. McCarthy & Stone has consistently been recognised by the house building industry for the quality and expertise within this specialist field of development.

**Specialist Accommodation for the Older Population - NPPF**

The National Planning Policy Framework sets out the strategic case to assess the housing need for the older population. **Para 50** of the NPPF states that ... To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should: ".....plan for a mix of housing based upon current and future demographic trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities ....." And ...."....identify the size, type, tenure and range of housing that is required in particular locations reflecting local demand..." and "where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off site provision or financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.

**Para 159** also sets out that Strategic Market Housing Assessments (SHMAs) should assess full housing needs, the scale and mix of housing and the range of tenures that the local population is likely to need over the plan period, and plan for all types of housing, ...including ...older people's housing. This has not been adequately undertaken as part of the background research into the Core Strategy when considering owner occupier retirement housing.



**Developer Contributions** NPPF: **Paras 173 to 177** go further on the viability issue, with **para 173** noting that development costs, such as affordable housing, should still provide acceptable returns to a willing land owner and willing developer to enable the development to be deliverable.

By 2026 older people will account for almost half (48 per cent) of the increase in the total number of households, resulting in 2.4 million more older households than there are today<sup>1</sup>. The number of people aged 85 or over will increase by 2.3 million by 2036 – 184 per cent increase<sup>2</sup>. The ageing of society poses one of our greatest housing challenges. The Government has recognised this and has set out its aims and objectives of providing more specialised housing for older people in ‘A National Strategy for Housing in an Ageing Society – Lifetime Homes, Lifetime Neighbourhoods’. The National Strategy identifies the important role the planning system has in delivering housing choice for older people, stating;

*‘Spatial planning offers a new and real opportunity to provide more and better quality housing – across the necessary range – for an ageing population in a way that we’ve not done before.’*

In respect to future planning policy the Strategy is clear as to the level of importance to be given to an ageing society, stating;

*‘Recent reforms to the planning system require regional and local plans to take proper account of ageing and the needs of older people. Future planning policy reform will reflect the high priority we are giving to the challenge of ageing.’*

It is considered that in light of the Government Strategy guidance that it is appropriate for the Community Infrastructure Levy to have regard to this objective. My Client’s response to the proposed rates for the introduction of the Community Infrastructure Levy are based on meeting the Government’s objective, set out in the National Strategy, to ensure that sufficient specialist housing is delivered to meet the growing needs of an ageing population.

My Client is particularly concerned with some of the assumptions and the mechanics of the Community Infrastructure Levy Schedule, how the figures have been achieved and how they would apply to specialist forms of accommodation for older people such as retirement housing and extra care developments.

The scenarios set out in the viability testing have not considered this very important sector in much detail, bearing in mind that this will become even more significant over the period of the Core Strategy.

## **Viability Appraisal**

**As set out in the viability report which accompanied the proposed schedule, the appraisal makes a number of assumptions and generalisations when it comes to some of the inputs. It also acknowledges that some of these can be quite influential in the final figures derived at. The report does not provide the detailed viability appraisals themselves and what all assumptions and inputs have been used.**

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<sup>1</sup> Reference from ‘Lifetime Homes, Lifetime Neighbourhoods – A National Strategy for Housing in an Ageing Society’, (2008) CLG.

<sup>2</sup> As above footnote reference.



In the case of retirement housing for example there is a much longer sales period which reflects the niche market and sales pattern of a typical retirement housing development. This has a significant knock-on effect upon the final return on investment. This is particularly important with empty property costs, finance costs and sales and marketing which extend typically for a longer time period. Sales and marketing fees are typically in excess of 6%, for example, and increasing in the ever fragile housing market.

In the foreseeable economic climate 20% profits on GDV may not be enough incentive to achieve the required financial backing for a retirement scheme to proceed and the developer take on the risk of return. Similarly the incentives required to acquire land, particularly brownfield sites the type where sustainable uses such as retirement housing are best located, in the first place is likely to result in a need to ensure that the market value for the site is realistically applied.

All these factors have the potential to impact upon what development will come forward. The minister of State for Decentralisation (Mr. Greg Clark) in his Written Ministerial Statement: Planning for Growth (23<sup>rd</sup> March 2011) states that LPAs are required to support enterprise and facilitate housing and economic and other forms of sustainable growth LPAs are required to avoid unnecessary burdens on development and with this in mind greater flexibility is required in the interpretation when CIL is payable for different types of residential use. For example retirement housing does not have the same impact upon open space, sports, recreation, education and strategic transport and yet is being lumped in with the same CIL as family residential housing. This is unfair and unreasonable. Typically a retirement scheme will be located in a highly sustainable location very close to public transport, shops and services and will inevitably have a relatively large amount of floorspace reflecting its central location and yet will not have the same proportionate impact upon local infrastructure. Either the exceptions and reductions on levy are set out to respect this; it is explicitly set out as a separate charging cost; or retirement housing is acknowledged to have very similar viability implications and those falling within Class C3 are exempted in the same way as the Class C2 use are being proposed .

### **CIL Rate Setting**

It is noted that the intention in finding an appropriate measure to use in calculating CIL rates is to ensure 'uniformity', or put another way, fairness for all classes of development liable to CIL payment. One of the principle intentions is to avoid producing a system that inadvertently produces advantages or disadvantages upon certain developers. My Client would wholly concur with the intention that CIL rates should be uniform, fair and avoid bias towards certain types of developments within a particular use. However, it is considered that the chosen 'metric' of 'pounds per square metre of gross internal floor space' unfairly penalises my Client and other developers of similar retirement housing when assessed against other forms of residential accommodation. The oversimplification of the charging level by setting this at a uniform £135 per sqm across the board is seen as unduly harmful to specialised housing and care providers such as McCarthy and Stone.

### **Payment by Instalments**

It is noted that there is no consideration given to the timing of CIL payments and an allowance for payment by instalments. **My Client would welcome further flexibility in the timing of CIL as payments on commencement will introduce an additional financial cost on the development prior to the receipt of any revenue from the proposed development. This would place an additional burden on the developer and would affect the viability of the development, and possibly in the**



case of residential development impinge upon the developer's ability to provide for affordable housing. This issue is compounded in my Client's case, and for other retirement housing providers, as developments need to be completed in their entirety before a single unit of accommodation can be sold. It is considered that at the earliest, part payment on first occupation would be fairer and would reduce unnecessary financial costs to the developer. This should then be phased depending upon occupation levels. For the foreseeable economic climate, such as currently being experienced, there is considerable merit in staged payments reflecting occupation levels throughout the sale of the development. Such an approach would encourage the delivery of many worthwhile development proposals that might otherwise not commence.

There will also be a need to identify priorities in many instances between CIL and affordable housing for example where viability is marginal. The CIL becomes a very significant element of development costs which can greatly influence the amount of contribution reasonably available for affordable housing. How are the competing planning policy requirements to be weighted? For example the benefits of providing accommodation for the increasingly ageing population and affordable housing verses the CIL. The exception clause and relaxation options on CIL need to be spelt out or at the very least the process by which it will be judged.

### Summary

Given the extent of projected housing need for older persons accommodation including specialist forms of older persons housing and extra care accommodation identified in 'A National Strategy for Housing in an Ageing Society', and at the local level, it is paramount that CIL schedule recognises the shortcomings of the proposed 'metric' and address this issue to ensure fairness across the residential development industry.

It is noted from the CIL regulations when considering exemptions to CIL payment lists a set of criteria which includes that *'relief from CIL should be fair and not create undue distortions of competition'*. This criterion is equally valid when considering the application of CIL to differing forms of development. It is my Client's belief that the current Schedule is neither fair, nor do they prevent distortions of competition, when applied to specialist forms of older persons accommodation such as retirement housing.

Yours faithfully,

Carla Fulgoni  
Planning Assistant  
The Planning Bureau Ltd.



**Ching, Ricky**

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**From:** Gonet, Teresa (non CS) [Teresa.Gonet@highways.gsi.gov.uk] on behalf of Planning SE [PlanningSE@highways.gsi.gov.uk]  
**Sent:** 04 September 2012 15:52  
**To:** CIL  
**Cc:** Benham, Paul; Blake, Patrick; Atiq, Nawal  
**Subject:** Barnet's Community Infrastructure Levy - response to the consultation  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Sir

Thank you for your letter dated **30 July 2012** inviting the Highways Agency (HA) to comment on the **Barnet's Community Infrastructure Levy** .

The HA is an executive agency of the Department for Transport (DfT). We are responsible for operating, maintaining and improving England's strategic road network (SRN) on behalf of the Secretary of State for Transport.

The HA will be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN.

We have reviewed the consultations and do not have any comment at this time.

I hope this is helpful.

Yours sincerely

**Teresa Gonet**

Highways Agency | Federated House | London Road | Dorking | RH4 1SZ

**Tel:** +44 (0) 1306 878633

**Web:** <http://www.highways.gov.uk>

**GTN:** 3904 8633

Safe roads, reliable journeys, informed travellers  
Highways Agency, an executive agency of the Department for Transport.

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05/11/2012

