

## Comments

### Preliminary Draft Charging Schedule (31/10/11 to 12/12/11)

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|--------------------|--------------------------------------------------------------|
| Comment by         | Greater London Authority (Mr Andrew Barry-Purssell)          |
| Comment ID         | PDCS14                                                       |
| Response Date      | 21/12/11 11:06                                               |
| Consultation Point | Preliminary Draft Charging Schedule ( <a href="#">View</a> ) |
| Status             | Processed                                                    |
| Submission Type    | Letter                                                       |
| Version            | 0.9                                                          |

**Do you agree that the proposed rates of CIL, set out in the Preliminary Draft Charging Schedule, strike an appropriate balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing CIL on development across the borough?** Yes

**Which of the proposed CIL rates do you consider fail to provide an appropriate balance?**

**Please provide any comments that you have on the Preliminary Draft Charging Schedule in the box below.**

I am writing with the comments of the Mayor of London on Brent's Community Infrastructure Levy preliminary draft charging schedule. Thank you for allowing us a little more time to respond; this allowed us to reflect issues raised during the examination of the Mayor's draft charging schedule. The Mayor welcomes the extent to which his CIL proposals have been taken into account by the Council in its own proposals. We are satisfied that on the basis of the evidence you have brought forward, the combined effect of the proposed Mayoral and Borough CILs will not have a significant effect on development viability within Brent. In particular, we note and agree with your consultants' conclusion that in most cases the impact of the CIL in Brent will not be a critical factor in determining whether a scheme is viable or not and that scheme values, costs and existing uses will be far more important. We note what your consultants have said about industrial development. As you may know, there was some discussion at the public examination of the Mayor's draft charging schedule about the warehousing examples they give in their report, and we have looked at the issue further since. The appraisals provided by your consultants show a required yield for the prime well let investment at 9 per cent, whereas the secondary existing use is shown at 8%. For the best West London industrial development, we are advised that a 6% yield would be expected. For example, a 78,000 sq ft prime distribution unit at Park Royal was recently acquired by Ignis UK Property Fund to show a yield to the purchaser of 5.67%. The passing rent equated to 10.50 psf. If a 6% yield and rent of 10 psf are used, we are advised that your consultants' appraisal would (other things being equal) show positive land value over existing use. At the examination, our consultants provided illustrations that changed both

the yield for the new development and for the existing premises, while also showing a higher rent and lower building costs. Unsurprisingly, these showed an even higher land value which our consultants suggest would more closely accord with comparable land (and rental) evidence. In practical terms, this tends to confirm the overall conclusion that the CIL is likely to be a marginal consideration in development viability across uses. We welcome what you say about continued engagement regarding the Community Infrastructure Levy, and I look forward to continued co-operation between our authorities.

## Officer's Response

Officers welcome the GLA's support of the rates set out in the Council's Preliminary Draft Charging Schedule and the general observations regarding the impact of CIL on viability. In relation to the specific comments made regarding the impact of CIL on the viability of industrial development the Council's consultants note the following:

We note the suggestion in Mr Barry-Pursell's letter that alternative assumptions on industrial rents and yields would result in an outcome that would result in a viable level of CIL for industrial development. For new build development, an investment yield of 6% and rent of 10 is suggested. This is based on an investment sale of 78,000 sqm of B8 floorspace at Park Royal. While applying a rent of 10 per sq ft and adopting a yield of 6% would result in a positive land value above EUV, we would caution against relying upon this particular comparable. Rents for B8 floorspace are not fully reflective of the wider spread of rents incorporating B2 floorspace, where rents are lower (for example, 4,158 sqm of B2 floorspace at Cumberland Avenue was let in September 2010 for 8.73 per sq ft). The 6% yield is also not reflective of other investment sales in the area, including 38,000 sq ft at the Oxgate Centre, which attracted a yield of 10%.

Re-running our appraisal of industrial development with a new build rent of 9 per sq ft and a yield of 7% (which is more realistic as a whole-Borough assumption) would still generate a negative value when compared to the assumed existing use value of the site. Even if a rent of 10 per sq ft were achieved, the development would barely break even, leaving no scope at all for any level of CIL to be charged.

We would also point out that for our appraisal of the existing use value of the site, we assumed a rent of only 4 per sq ft, which is very low even for second hand space. Had we adopted a higher rent, reflecting recent lettings, then the viability of new build industrial would have been adversely affected.

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| <b>Comment by</b>                                                                                                                                                                                                                                                                                           | Metropolitan Police Authority                                |
| <b>Comment ID</b>                                                                                                                                                                                                                                                                                           | PDCS13                                                       |
| <b>Response Date</b>                                                                                                                                                                                                                                                                                        | 19/12/11 16:40                                               |
| <b>Consultation Point</b>                                                                                                                                                                                                                                                                                   | Preliminary Draft Charging Schedule ( <a href="#">View</a> ) |
| <b>Status</b>                                                                                                                                                                                                                                                                                               | Processed                                                    |
| <b>Submission Type</b>                                                                                                                                                                                                                                                                                      | Email                                                        |
| <b>Version</b>                                                                                                                                                                                                                                                                                              | 0.9                                                          |
| <b>Do you agree that the proposed rates of CIL, set out in the Preliminary Draft Charging Schedule, strike an appropriate balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing CIL on development across the borough?</b> | Not sure                                                     |

**Which of the proposed CIL rates do you consider fail to provide an appropriate balance?**

**Please provide any comments that you have on the Preliminary Draft Charging Schedule in the box below.**

I am writing on behalf of our client, the Metropolitan Police Authority, in relation to the above. We are grateful for the extension to comment on this document until today, as confirmed by Ken Hullock earlier this week. Please see below and attached general infrastructure requirements that may be required in Brent. I have also attached a copy of the Estates Strategy for information.

**Scheme Description**

**Need for scheme**

**Requirements of scheme**

**Estimated capital cost**

**Committed /ringfenced funding**

**Gap funding**

**Indicative Delivery phasing (1-5 / 5-10 / 10-15 years)**

**Lead delivery agency**

Airwaves equipment

To mitigate impact of tall building proposals in close proximity to existing police buildings

Enhanced communication facilities

Analysed on a case by case basis. Up to 125k per scheme

None

Full

Subject to timing of respective applications

Met Police

Neighbourhood / transport Team Base / Front counters

To meet the requirements of the Estate Strategy:

a) To meet the needs of increasing populations in regeneration areas

b) to mitigate the impact of large scale mixed-use developments

Floorspace may be required within large development sites. Provision within publicly accessible locations including high street shop units or shared floorspace within other community uses.

Floorspace provision at peppercorn rent for a 25 year period - 35k p.a. or 875k per unit

Fit out - on a case by case basis

Airwaves mid-range repeater - 75k, and 30k p.a. maintenance and management

None

Full

Subject to timing of respective applications

Met Polic

Please let me know if you require any further information.

### Officer's Response

Officers acknowledge that under the current proposal for CIL police stations, being a sui generis use, would be liable to pay a CIL at a rate of 200 per m . Officers acknowledge that in viability terms this could prevent these essential uses from coming forward and therefore it is proposed that police stations are included under the zero charging rate for CIL.

The infrastructure demands of the borough are such that projects will need to be prioritised I n terms of receiving CIL funding. As such, it is unlikely that CIL would be available to fund those projects listed in table included within the representation.

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|---------------------------|--------------------------------------------------------------|
| <b>Comment by</b>         | Dron & Wright Property Consultants ( Mel Barlow-Graham)      |
| <b>Comment ID</b>         | PDCS11                                                       |
| <b>Response Date</b>      | 15/12/11 13:14                                               |
| <b>Consultation Point</b> | Preliminary Draft Charging Schedule ( <a href="#">View</a> ) |
| <b>Status</b>             | Processed                                                    |
| <b>Submission Type</b>    | Letter                                                       |
| <b>Version</b>            | 0.9                                                          |

**Do you agree that the proposed rates of CIL, set out in the Preliminary Draft Charging Schedule, strike an appropriate balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing CIL on development across the borough?**

No

**Which of the proposed CIL rates do you consider fail to provide an appropriate balance?** . Residential/Hotel ( 200 per m )

**Please provide any comments that you have on the Preliminary Draft Charging Schedule in the box below.**

We write in order to make comment on the above named document. Please note that we act on behalf of the London Fire And Emergency Planning Authority (LFEPa) and that this representation is made on their behalf. For your information the following LFEPa sites are within the borough:- ? Park Royal Fire Station - Waxlow Road, NW10 7NU. ? Wembley Fire Station - 591A Harrow Road, HA0 2EG. ? Willesden Fire Station - .59A Pound Lane, NW10 2HH. We note that 'all Sui Generis uses except Student Accommodation' within which category a new fire station would fall, carry a levy of 200 per square metre across the borough. As fire stations are a vital community safety facility we believe that they should be excluded from payment of this levy. Similarly, the nil charge should be extended to include any residential or retail development within a mixed use scheme, which is providing a new fire

station facility. The reasoning behind this is that fire stations are community safety facilities, which are included within the wider definition of 'infrastructure' under the Planning Act 2008. Therefore, any new development including the provision of a new fire station, will already be making a substantial contribution to the CIL. Further, CIL payments will effectively result in double counting, impacting on the viability of a scheme which proposes a new fire station within it's development. Please also note that LFEPA do not receive any Section 106 contributions, despite having requested them via planning framework representations in the past. We trust that the above is clear and look forward to receiving future correspondence from you relating to the matter. In the meantime, please do not hesitate to contact me should you require any further information, or further clarification of the point raised above.

## Officer's Response

It is accepted that fire stations should be considered within the wider definition of infrastructure and that to charge CIL on floorspace within new fire stations could have a detrimental affect on the viability of such uses. As such, in the Draft Charging Schedule Officers will propose that fire stations be placed within the zero rate charging category. However, it is not considered practical to exempt new residential or retail floorspace from the payment of CIL on the basis that it is being provided as part of a mixed use development that includes a fire station.

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|---------------------------|--------------------------------------------------------------|
| <b>Comment by</b>         | Development Securities PLC ( Laurence Martin)                |
| <b>Comment ID</b>         | PDCS10                                                       |
| <b>Response Date</b>      | 14/12/11 10:00                                               |
| <b>Consultation Point</b> | Preliminary Draft Charging Schedule ( <a href="#">View</a> ) |
| <b>Status</b>             | Processed                                                    |
| <b>Submission Type</b>    | Letter                                                       |
| <b>Version</b>            | 0.7                                                          |

**Do you agree that the proposed rates of CIL, set out in the Preliminary Draft Charging Schedule, strike an appropriate balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing CIL on development across the borough?**

No

**Which of the proposed CIL rates do you consider fail to provide an appropriate balance?**

- . Student Accommodation ( 300 per m )
- . Residential/Hotel ( 200 per m )
- . Retail/Food and Drink ( 80 per m )
- . Office ( 40 per m )
- . Assembly and Leisure ( 5 per m )

**Please provide any comments that you have on the Preliminary Draft Charging Schedule in the box below.**

Development Securities welcomes the opportunity to comment on the CIL and S106 consultations. We are concerned about how these changes are implemented and the effect they will have on the delivery of Brent's targets for new homes. The overriding concern relates to viability, both in the detail of how this has been calculated, and the broad application of the rates. Overall approach to viability The level of CIL is being set at a time of considerable economic uncertainty, with a significant risk of a further recession. This would affect development values, and given the inflexible nature of the CIL

charge once set, many more schemes could become unviable as a result. This would jeopardise delivery of the Core Strategy housing targets. The sensitivity analysis undertaken in the CIL viability assessment does not take this into account, and only models ~ up-side " risks of higher growth in property values. To be a fair and reasonable assessment of viability it needs to also look at the very real ~ down-side n risks to development value from the current (and future) economic situation.

Infrastructure Needs This overestimates the demand for infrastructure arising from new development in two important respects. Firstly, in some cases (particularly for sports infrastructure) it expects provision for new development to exceed the level currently provided by the Council for the existing community. This is not justified. Secondly, it overestimates the degree to which new housing leads to an increase in the population. The population in Brent (and London more widely) , is increasing irrespective of house-building, and new homes to some extent simply relieve pressure on the existing housing stock. Evidence such as the "net population gain" calculations by the Healthy Urban Development Unit confirm that a significant proportion of residents taking up new housing were already living locally, even after allowing for the net effects of their previous homes being "backfilled" by other households. Much of the infrastructure needs identified in the Investment Framework therefore are a result of general growth in the borough's population, not as a result of house building. Application of CIL and S106 The interaction of CIL and S106 will be complex and needs to be managed carefully to avoid damaging both viability and delivery of infrastructure. Concerns include: ? Paragraph 4.3 of the IIF needs to be brought into line with the CIL regulations to recognise that land for infrastructure can be accepted in lieu of payment of CIL. ? The S106 SPD should make clear how developers will be given certainty over the delivery of infrastructure that is necessary for their development, and which is paid for by the development (through CIL), but implemented by the Council or others. ? The phasing of CIL payments will be determined by the Council and will have implications for viability of development. This is not set out in the charging schedule and must be properly consulted on. We would welcome the opportunity to discuss these issues further, and urge the Council to revisit the detail and application of these draft policies to reduce the risk of introducing an inflexible charge that renders the Core Strategy targets unviable.

## Officer's Response

In response to correspondence dated 14 th December 2011 from Development Securities on the Brent Preliminary Draft Charging Schedule and Revised S106 Planning Obligation SPD consultations, we make the following remarks, which address the comments made in the correspondence from Development Securities in turn, and under the broad headings therein.

### Overall Approach to Viability

The CIL Regulations state that in setting rates (including differential rates) in a charging schedule, a charging authority must aim to strike *what appears to the charging authority* to be an appropriate balance between -

- (a) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its 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.

The Council commissioned BNP Paribas Real Estate to undertake a strategic CIL Viability Study to form part of an evidence base to inform Brent's CIL Draft Charging Schedule. The BNP Paribas Real Estate study tests the ability of developments across the borough to yield contributions to infrastructure requirements through CIL. The study uses a standard development valuation methodology that compares residual land values of a range of developments to the sites' current use values, plus a margin to incentivise landowners to release sites for development. The value of potential development schemes is estimated, cost, financing, fees, CIL and profit deducted, and due regard given to policy requirements that residential development contribute towards affordable housing provision. If a development incorporating a given level of CIL generates a higher value than the current use value, plus an appropriate landowner's margin, then it can be judged that the proposed level of CIL will be viable.

The report tests a series of development scenarios and in the main the imposition of CIL is not considered a critical factor in determining whether a scheme is viable or not, with the relationship between scheme value, costs and existing use value considered far more important. The diagram below illustrates, proportionally, the constituent parts that make up the development scheme values and costs that inform development viability.

The study concludes by setting out ranges of CIL levels that different types of development schemes should be able to absorb and recommendations as to appropriate CIL levels for those different types of development schemes, with a margin or buffer between the proposed rates and the maximum rates that the study indicates are viable in the majority of development schemes.

Development Securities raise concerns regarding the current economic climate and in particular development values. The Council is aware that the economy is currently going through a difficult time and, more generally, that the pattern of economic circumstances will change over time and with market cycles. As noted, the BNP Paribas Real Estate Viability Study considers that in the main the imposition of CIL is not considered a critical factor in determining whether a development scheme is viable or not, with the relationship between scheme value, costs and existing use value considered far more important.

On the specific point of house prices and values, the fundamental problem of the UK housing market failing to provide enough new homes to meet the needs of our growing population remains. The top industry experts all continue to forecast medium term growth in London house prices. Savills forecast growth of 19.1% in the London mainstream markets between 2012 and 2016 (Savills Residential Research, November 2011). Knight Frank forecast growth of 9.3% in the London market for the same period, 2012 to 2016 (Knight Frank Residential Research, Q4 2011). Cluttons forecast that house prices in Greater London will increase by an average of 5% per annum over the next 5 years (Cluttons Residential Property Forecasts, October 2011).

Notwithstanding that, the BNP Paribas Real Estate Viability Study sets out a range of CIL levels that the majority of different types of development schemes should be able to absorb and, following BNP Real Estate's recommendations, the Council has specifically allowed a margin or buffer of at least 20% versus the maximum CIL levels that the majority of different types of development schemes should be able to absorb to allow for movements in economic variables.

### **Infrastructure Needs**

The Council's Infrastructure & Investment Framework (I&IF) was adopted in May 2009 and the Council undertook a detailed review of the I&IF in October 2011. The I&IF sets out the foreseeable infrastructure requirements that will arise from anticipated new housing and commercial development that will be needed to create sustainable development and sustainable communities. The Framework does not claim to be exhaustive but does set out the broad priorities for the growth and regeneration areas identified in the adopted Local Development Framework Core Strategy.

Development Securities assert that demand for infrastructure is overestimated in the I&IF and make two specific arguments.

On the matter of the standards of the I&IF infrastructure requirements, one needs first consider that standards of infrastructure provision have changed over time, in the main progressing and improving to meet the increased expectations of the general public. As such it should come as little surprise that new infrastructure such as sports facilities will generally be of a higher standard than older existing facilities. Most of the standards that inform the I&IF infrastructure requirements cost estimates follow current national and regional standards. Furthermore, if one looks at the amount and density of development planned under the LDF CS growth strategy, one can see that the Council has taken a flexible approach to infrastructure such that the qualitative nature of infrastructure provision is in some cases used to compensate for an actual shortfall against adopted quantitative standards. For example, the planned increase in the population of Wembley will suffer from a shortage of locally accessible grass football pitches, however an attempt has been made to compensate for this shortage through an infrastructure requirement for new synthetic football pitches that can be more intensively used.

With respect to population growth, the adopted LDF CS plans for the development of 11,200 homes between 2007/08 and 2016/17. On the basis of the London Plan average household size of 2.34 falling to 2.19 over the plan period (para. 3.16, London Plan, July 2011) this yields a range of between 24,500 and 26,000 people. Brent has a higher average household size, which ONS projects will be 2.526 by 2016. (2008 based household projections, CLG, November 2010). Applying this to planned development

of 11,200 homes yields an estimated population of 28,000 people by 2017. The adopted LDF CS Core Policy 2 on Population and Housing Growth therefore refers to a growth strategy that plans for over 11,200 homes from 2007/08 to 2016/17 and population growth of between 25,000 and 28,000 people by 2017. For the purposes of the I&IF, the more conservative Wandsworth model has been used to predict population growth in order to set a baseline that few would object to, with an average household size of 1.92 yielding a population growth of 21,500 people. In terms of the effect these ranges of population prediction have on the IIF, there will be limiting factors, for example with education infrastructure, where the I&IF requirements are driven by child population calculations.

We do not accept that growth in the borough's existing population significantly undermines the infrastructure investment requirements needed to support the population growth created by new development.

### **Application of CIL and S106**

The Planning Act 2008 and CIL Regulations 2010 set a new framework within which infrastructure will be secured through the planning system and in particular the movement away from the use of S106 Planning Obligations and towards the Community Infrastructure Levy.

The CIL Regulations that came into force in April 2010, and subsequent amendments made in April 2011, demonstrate that CIL remains Government's preferred vehicle for the collection of pooled development contributions to fund infrastructure. The CIL Regulations limit the use of S106 Planning Obligations such that a planning obligation may now only constitute a reason for granting planning permission for the development if the obligation is:

(a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development

On local adoption of the levy, or nationally after a transitional period of four years, that is 6 th April 2014, CIL Regulations will also restrict the local use of S106 planning obligations for pooled contributions towards items that may be funded via the levy. Pooled contributions may then only be sought from up to five separate planning obligations for an item of infrastructure that is not locally intended to be funded by the levy. The limit of five applies as well to types of general infrastructure contributions, such as education and transport.

The Council understand that care must be taken to ensure the Council's planning approach to the use of CIL and S106 to support development is consistent, balanced and deliverable and proposes to introduce a local CIL to ensure the continued delivery of the infrastructure required for sustainable growth in the borough, and to concurrently revise existing s106 arrangements, to that effect. The Council is also currently undertaking a full audit of the position on triggered and untriggered S106 Planning Obligations to determine how funding can and could be allocated against the I&IF, as well as any implications for the list of infrastructure projects or types of infrastructure that the Council intends will be, or may be, wholly or partly funded by CIL, and subject to CIL Regulation 123, which will be agreed and published following the adoption of the proposed Brent CIL Charging Schedule.

Development Securities raise three specific concerns.

The Council understand that under the CIL Regulations a charging authority may accept one or more land payments in satisfaction of the whole or part of the CIL due in respect of a chargeable development, however if such an in kind land payment forms part of a wider development, the value of that in kind land payment will be derived with consideration to the value of the wider development. The I&IF details the capital costs of the infrastructure required to support the LDF CS growth strategy but does not include land costs unless they are outside of the development. Given the difficulty of determining exactly where and in what form all identified infrastructure requirements will come forward, the I&IF does not speculate as to the value of land for infrastructure that may form part of wider development, albeit when such costs are determined in actuality, as infrastructure delivery comes forward, one will see that the total cost of delivering the I&IF infrastructure requirements will increase and the funding gap widen. As such there is no tension between the acknowledgement of the principle that one or more land payments can satisfy the whole or part of the CIL due in respect of a chargeable development, and the exclusion of difficult to determine land values from the I&IF, and no need to amend the wording of para. 4.3 of the I&IF.

The Council has a track record of securing cash contributions for infrastructure under S106 Agreements, and then delivering that infrastructure. For example, one can point to the Council's successful school expansion programme, or public highways and transport projects. The move to funding infrastructure

through CIL rather than S106 Planning Obligations will only provide the Council with greater freedom and flexibility to deliver infrastructure. In particular, the move to funding infrastructure through CIL will enhance the Council's ability to pool developer contributions to deliver larger infrastructure projects. The Council will agree and publish the list of infrastructure projects or types of infrastructure that the Council intends will be, or may be, wholly or partly funded by CIL, and subject to CIL Regulation 123, following the adoption of the proposed Brent CIL Charging Schedule. The Council, in accordance with CIL Regulation 62, will also report on the amount of CIL collected and spent each financial year.

The Council is aware of the amendments to the CIL Regulations that allow charging authorities to set their policies on the phasing of CIL payments and intends to introduce such a policy. The Council appreciates that, for a majority of developers, the timing of the payment of CIL will be more important than the actual level at which CIL is levied. This is not a matter that the Council is required to determine as part of the consultation on the charging schedule and will consult further with the development community in due course. In any case, attention is drawn to the amendments to CIL Regulation 70 which detail the circumstances in which CIL is payable in accordance with any Mayoral instalment policy where London boroughs do not issue an instalment policy.

We invite and welcome comment from developers on our efforts to strike an appropriate balance in setting CIL rates in a charging schedule and are happy to continue our dialogue with Development Securities. We are particularly keen to know what developers think would be appropriate CIL rates to charge in Brent and would be grateful to hear your views.

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|---------------------------|--------------------------------------------------------------|
| <b>Comment by</b>         | Environment Agency (Miss Eleri Randall)                      |
| <b>Comment ID</b>         | PDCS9                                                        |
| <b>Response Date</b>      | 13/12/11 09:26                                               |
| <b>Consultation Point</b> | Preliminary Draft Charging Schedule ( <a href="#">View</a> ) |
| <b>Status</b>             | Processed                                                    |
| <b>Submission Type</b>    | Letter                                                       |
| <b>Version</b>            | 0.7                                                          |

**Do you agree that the proposed rates of CIL, set out in the Preliminary Draft Charging Schedule, strike an appropriate balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing CIL on development across the borough?** Yes

**Which of the proposed CIL rates do you consider fail to provide an appropriate balance?**

**Please provide any comments that you have on the Preliminary Draft Charging Schedule in the box below.**

Infrastructure and Investment Schedule We are pleased to note that in table 3 under Open Space and Public Realm Wembley the following Infrastructure Items have been identified: ? Wealdstone Brook Park ? Nature Conservation area - Wembley Link ? River Brent Phase 2 flood defence/ open space improvement We would be very supportive of the Tokynton Park phase 2 project - and are therefore supportive of CIL contributions going towards this. Further projects that CIL could contribute towards are also found on the London Rivers Action Plan: [http://www.therrc.co.uk/lrap\\_zoom.php?c=3](http://www.therrc.co.uk/lrap_zoom.php?c=3) We have identified additional infrastructure required to alleviate flood risk and contribute to green infrastructure in Brent. We consider that new development within the borough should be required to contribute towards these. Brent has areas of land within Flood Zone 2 and 3. In 2008 under the National

Flood Risk Assessment it was estimated that Brent had approximately 2,500 properties at risk of flooding. This equates to 2% of all properties, the majority of which are residential. Of the properties in the Borough identified to be at risk from flooding 17% are classified to have a significant likelihood of flooding, just under half are in areas with a moderate likelihood of flooding and 36% have a low likelihood of flooding. With the increased development pressure in the housing growth areas identified in Brent, it is important to reduce flood risk and improve the standard of protection. There could be scope for contributions to funds to provide resistance and resilience measures to existing property within the floodplain. There have been changes to the funding mechanism for flood and coastal defence projects. On 23 May 2011 Defra announced changes to the way funding will be allocated to flood and coastal defence projects. See the link below for more details:

<http://www.defra.gov.uk/environment/flooding/funding-outcomes-insurance/> The implication is that more funding for flood risk infrastructure will be expected to be provided locally as the traditional form of Grant in Aid is being reduced. Instead of meeting the full costs of just a limited number of projects, the new approach could make Government money available towards any worthwhile scheme over time. Funding levels for each scheme will relate directly to the number of households protected, the damaged being prevented, plus other benefits a scheme would deliver. For the first time grants for surface water management and property-level protection will be available alongside funding for other risks and approaches. The CIL contributions could be used for both Environment Agency schemes or for resolving surface water flooding. This is particularly relevant in Brent due to the heavily engineered waterbodies which require maintenance. The Silk Stream, Weladstone Brook, River Brent, Dollis Brook and Wembley Brook all require heavy in channel maintenance in the future. There are a number of control structures, trash screens and labyrinth weirs with also need maintenance/ refurbishment. This is necessary to manage flood risk and protect properties. The River Brent and the Wembley Brook in particular will in the next 10-20 years require heavy in channel maintenance costing in the region of 5 million. CIL contributions will be essential towards refurbishment and reconstruction of flood defences protecting new development. We recommend that you ensure that any recommendations made within your Surface Water Management Plan (Final) are brought forward into the Community Infrastructure Levy. This may include developer contributions towards retrofitting sustainable drainage systems to existing development sites in areas where surface water drainage problems have been identified. We recommend that Hash Patel who is the lead drainage engineer for London Borough of Brent should be consulted on this. CIL can help contribute to green infrastructure requirements and will also help to meet the Water Framework Directive which requires that waterbodies (surface waters and groundwater) are to achieve good ecological status or potential by 2015 or the later period of 2027. In the UK we have produced River Basin Management Plans which contain the current status of waterbodies in each regional area, and include the actions required to achieve good status. Details of the waterbody status, reasons for failure, and mitigation measures required to reach good ecological status are available in Annex B of the Thames River Basin Management Plan (RBMP). The River Brent (WFD ID GB106039023590) is currently classified as poor and described as heavily modified due to urbanisation. The Wealdstone Brook (WFD ID GB106039022940) is currently classified as moderate also heavily modified due to urbanisation. Three key mitigation measures relevant for these rivers within the RBMP are listed below: ? Any opportunities to naturalise the river - from basic enhancement to full restoration techniques such as removal of concrete structures, return to natural bed and banks - should be taken whenever possible and encouraged through new development. Projects both upstream and downstream demonstrate locally what can be achieved. ? The control and eradication of problem non-native species (Japanese Knotweed, Giant Hogweed etc) which are problematic within the Brent River corridor. ? Measures to capture/contain contaminants that could pollute the river systems through surface water drainage/missed connections leading to improvements in water quality. We would see it as essential that CIL contributions go towards meeting these mitigation measures. In addition to the environmental benefits and meeting the Water Framework Directive, residents within new development areas will also benefit from an improved environment. Non-native invasive plant species are a significant problem along the river corridors and the eradication of this should be recognised as a borough-wide issue and added to table 3. CIL contributions should go towards funding the control and management of problem non native plant species such as Giant Hogweed and Japanese Knotweed. We gave 1,500 to stem inject Japanese Knotweed in the Welsh Harp this year. A larger project could cost between 5000 - 50000. The Brent Catchment Partnership of which the London Borough of Brent is a member has this as a listed desired outcome through working in partnership with other stakeholders throughout the Brent river corridor. Clearing up of misconnections should also be an infrastructure investment that CIL contributions should go towards. Investigating the outfalls polluting the River Brent would improve water quality. The study below has identified the cost of mitigating flood risk in the Wealdstone Brook

catchment of North Brent and Harrow and includes the clearing up of misconnections:  
<http://archive.defra.gov.uk/environment/flooding/documents/manage/surfacewater/nbrenta.pdf> We are keen to work with you closely on infrastructure projects and environmental improvement schemes which will benefit development of the area in order to take best advantage of all funding opportunities. I would be happy to discuss the above in person at a meeting if you would find it beneficial to expand on any of the points raised.

## Officer's Response

Officers would like to highlight that the Infrastructure & Investment Framework is intended to set out the general infrastructure likely to be required to support the development of the Council's growth areas as identified in the Core Strategy. Although the IIF is being used as evidence to support the Council's proposals to introduce CIL it is not intended as an exhaustive list of infrastructure projects that will be funded by CIL. In due course the Council intend to produce a list under CIL Regulations 123 which will set out the infrastructure that will be funded through CIL.

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|---------------------------|--------------------------------------------------------------|
| <b>Comment by</b>         | NHS London Healthy Development Unit (Mr Malcolm Souch)       |
| <b>Comment ID</b>         | PDCS8                                                        |
| <b>Response Date</b>      | 12/12/11 17:03                                               |
| <b>Consultation Point</b> | Preliminary Draft Charging Schedule ( <a href="#">View</a> ) |
| <b>Status</b>             | Processed                                                    |
| <b>Submission Type</b>    | Email                                                        |
| <b>Version</b>            | 0.7                                                          |

**Do you agree that the proposed rates of CIL, set out in the Preliminary Draft Charging Schedule, strike an appropriate balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing CIL on development across the borough?** Yes

**Which of the proposed CIL rates do you consider fail to provide an appropriate balance?**

**Please provide any comments that you have on the Preliminary Draft Charging Schedule in the box below.**

Thank you for the opportunity to comment on the draft charging schedule. We support the zero charge for health (Use Class D1) uses. This is consistent with the approach taken for the Mayoral CIL. The Infrastructure and Investment Framework (IIF) includes a comprehensive assessment of primary healthcare requirements based on discussions with the PCT. Typically, PCT strategies have a timeframe of 5 years which makes identifying longer-term requirements up to 2026 difficult. In addition under the NHS reforms commissioning and estate strategies are subject to review in line with the national NHS Quality, Innovation, Productivity and Prevention (QIPP) programme. Therefore, the IIF should be regularly monitored and reviewed. It is noted that the IIF only includes infrastructure requirements and costs for the borough's growth and regeneration areas. There could be cumulative infrastructure impacts and requirements outside of these areas. The proposed CIL is borough-wide and doesn't differentiate between growth and 'non growth' areas. The IIF only includes primary healthcare (GP)

requirements and doesn't address secondary healthcare requirements, including acute and mental healthcare. As such, the framework may underestimate total health infrastructure requirements. It is suggested that the HUDU model is used to compare total healthcare requirements generated by the London Plan annual housing target. It would be helpful to separate out the infrastructure requirements and costs to be met by s106 and those to be met by CIL. For example, in Wembley it is unclear whether the estimated cost of 5.38m is entirely from s106. Only the capital costs of provision are included in the IIF. It should be noted that housing and population growth will generate significant revenue costs and that there is a time-lag before the new population is captured in PCT allocations. In particular, rapid increases in population in growth areas where there is little or no spare healthcare capacity will have significant financial implications for the PCTs and future clinical commissioning groups. The draft charging schedule should set out the circumstances where contributions towards revenue costs would be considered, in addition to some bus transport proposals, in line with the Localism Act. It is assumed that an updated IIF will also help prioritise infrastructure requirements towards which CIL revenues could be allocated. This could be clarified. I hope that these comments are helpful.

## Officer's Response

Officers acknowledge that the Infrastructure & Investment Framework is only intended to set out the general infrastructure likely to be required to support the development of the Council's growth areas as identified in the Core Strategy. Although the IIF is being used as evidence to support the Council's proposals to introduce CIL it is not intended as an exhaustive list of infrastructure projects, or revenue costs, that will be funded by CIL. In due course the Council intend to produce a list under CIL Regulations 123 which will set out the infrastructure that will be funded through CIL.

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|---------------------------|--------------------------------------------------------------|
| <b>Comment by</b>         | Quintain Estates & Developments PLC (Ms Anne Clements)       |
| <b>Comment ID</b>         | PDCS6                                                        |
| <b>Response Date</b>      | 12/12/11 16:56                                               |
| <b>Consultation Point</b> | Preliminary Draft Charging Schedule ( <a href="#">View</a> ) |
| <b>Status</b>             | Processed                                                    |
| <b>Submission Type</b>    | Letter                                                       |
| <b>Version</b>            | 0.7                                                          |

**Do you agree that the proposed rates of CIL, set out in the Preliminary Draft Charging Schedule, strike an appropriate balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing CIL on development across the borough?**

Not sure

**Which of the proposed CIL rates do you consider fail to provide an appropriate balance?**

**Please provide any comments that you have on the Preliminary Draft Charging Schedule in the box below.**

As you know Quintain Estates and Development Plc ("QED") is a major landowner and developer within the London Borough of Brent, and controls some 35 hectares surrounding the National Stadium

at Wembley. It has planning consent for the Stage 1 and North West Lands schemes which, between them, provide for over 5,000 new homes, commercial, retail, leisure, community and hotel uses together with the refurbished Wembley Arena. Since securing outline planning permission on the Stage 1 Lands in 2004, QED has reorientated and refurbished the Grade II listed Wembley Arena and provided a significant new area of open space, Arena Square, at the eastern end of the Arena. In addition, it has provided 520 new homes in two mixed use buildings where 285 units are affordable. Construction is now substantially completed on a mixed use building which provides a 361 room 4\* Hilton hotel together with 660 student bedrooms alongside retail space which forms a substantial element of the London Designer Outlet. The core of the Outlet Centre together with a 9-screen cinema is now also under construction and scheduled for completion in October 2013. Together these elements will form the hub of the Stage 1 Development Area surrounding the Stadium. The delivery of the Stage 1 Lands has continued in spite of the poor economic circumstances currently prevailing. On this basis it is proven that QED have a track record of delivery and understanding viability and thus the views expressed in this letter should be given significant weight. QED wish to continue to work with the Borough to deliver development in Wembley and to work positively and constructively to that end. The comments in this letter are made in this spirit. The wider Wembley Growth Area is a strategically significant location, identified as an Opportunity Area in the London Plan and in the Council's Core Strategy as containing more than half of the Borough's total housing capacity (11,500 of 22,000 homes). QED therefore shares with Brent Council a common interest in ensuring that there is sufficient infrastructure in the Borough to support development and to date has Section 106 commitments in excess of 40 million to support that, together with affordable housing obligations. We have also engaged closely with Council during the development of the Infrastructure Investment Framework and made formal representations on the matter to the Examination in Public on the Core Strategy. We welcome the fact that Brent Council has sought to rise to the challenge set out in PPS12 to become an "orchestrator" of infrastructure provision. The move towards the introduction of a Community Infrastructure Levy offers opportunities to develop this role further to support the development of the area. However we are also very concerned that the introduction of a new mechanism in the current economic conditions carries significant risks which are exacerbated by the inflexibility of the CIL mechanism after it is adopted to respond to changes in the property market, or the viability of particular schemes or sites. We have three broad sets of comments. Firstly we have general comments relating to the approach to CIL and developing the charging schedule. Secondly we have a number of specific points relating to the revised Infrastructure Investment Framework, and the Viability Assessment. Thirdly we have some wider comments on the practical approach to delivering infrastructure for Wembley which relate both to the proposed draft SPD on Planning Obligations and to broader issues.

**Key Tests for CIL** The tests set out in the CIL Regulations (2010) which will be applied by the Inspector of the Charging Schedule are whether it strikes the right balance between: (a) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its 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. These set the context for our comments below.

**General Approach** The introduction of CIL has come at a difficult stage in the economic and property market cycles. First conceived in a property boom, CIL is now being taken forward in the context of historically low development, particularly of new homes. Paragraphs 2.4 to 2.10 of the CIL Viability Assessment produced by BNP Paribas for the Council set out a development context in which a "re-adjustment" had taken place but consumer confidence was picking up. It suggests (para 2.9) that in the medium term house prices are likely to increase and this has been carried forward into the sensitivity testing of development viability later in the document. Since that part of the report was published economic projections have been significantly downgraded to the extent that the most recent version of the Bank of England "fan chart" at para 2.5 shows a halving of the central forecast with growth of under 0.5% in the current quarter. The recent assessment by the Institute of Fiscal Studies of the Autumn Statement suggests that real household incomes in the UK will fall over the next three years. Given the long term relationship of property values with economic growth and of house prices with real household incomes, there is therefore a significant downside risk to the values identified in the report and the viability study should test the impacts of reductions as well as increases in values, as was done for the independent appraisal of our North West Lands scheme (see below). Given the lack of flexibility available to the Council after they have adopted a CIL charging schedule we would, leaving aside our detailed comments below, urge the Council to be extremely cautious in setting its charging levels given current economic circumstances. It should be noted in this context that the Ministerial Statement, Planning for Growth, states that: "To further ensure that development can go ahead, all local authorities should reconsider,

at developers' request, existing section 106 agreements that currently render schemes unviable, and where possible modify those obligations to allow development to proceed; provided this continues to ensure that the development remains acceptable in planning terms." In addition, the Government is proposing to consult in the new year on changing the rules on how planning obligations can be re-negotiated to support development. It would seem perverse in this context to be introducing additional requirements over and above existing Section 106 obligations without proper consideration for their impact on development. Finally, under General Approach, we are concerned by the comment in the Preliminary Draft Charging Schedule that "CIL is applied to any development resulting in a net increase of more than 100 sq m of floorspace or where one or more dwellings are created by the development". There is of course no CIL charge for residential floorspace created by changes of use and thus the wording of the Brent Charging Schedule is misleading. We consider that it needs to be amended. The Infrastructure Investment Framework The revised Draft of the Infrastructure Investment Framework provides the evidence base for infrastructure needs which the Council suggests would arise from proposed development. QED has reviewed and commented on previous drafts of the document, including at the Examination in Public into Brent's Core Strategy. At that time we felt that the document was broadly fit for purpose at that stage in the Council's infrastructure planning. However, there does not appear to have been any significant work undertaken since previous drafts and we do not therefore feel it is adequate to identify the infrastructure requirements or demonstrate the funding gap required for CIL. This is for the following reasons: As we have stated previously the document assumes that residents of new developments are "net additional" to the Borough and do not form part of the background growth of the population. In fact LB Brent's population has increased significantly ahead of housing development in recent years, due to wider demographic trends including increasing birth rates, and will increase regardless of housing growth. New homes, particularly affordable ones, will mean that the increased number of residents in the Borough will live in less overcrowded conditions than would otherwise be the case, not that all residents will be additional. The IIF should reflect this; The IIF in some cases applies higher standards to new development than the Council does for its existing services. This may have been appropriate at a time of high public expenditure when the Council was investing to drive up its own standards, but in the current situation it is not appropriate for the Council to expect development to fund higher standards than the public sector itself is willing to provide through taxation. This particularly applies to sports provision; There is a lack of clarity in the tables as to how the summary gap funding figures in Table 5 are arrived at and how they relate to the summary funding tables which precede it and the detailed tables which follow. Specific questions include: ? Is all of the QED Wembley Section 106 included in Table 5; for example, does it include the recently signed Wembley North West Lands Section 106 agreement?; ? Are those items listed as "Delivered by Development", which includes most of the 12 million of public space at Wembley, included in the Section 106 heading or the gap? We would also raise some specific issues of principle. Firstly in relation to "Land Values" and "In Kind" contributions the IIF at para 4.3 states these are not included as they are in some sense "created" by the grant of planning consent. For items of major infrastructure which serve a wider regeneration area like Wembley this is incorrect if requirements reduce the overall development capacity by taking up space within the site. Where this would benefit other development sites, as is the case with most strategic infrastructure, the developer on whom the obligation falls is making a greater contribution than other landowners. This is acknowledged in the CIL regulations (Part 8, Para 73 of the 2010 regulations) which allows for "in kind" contributions of land. This incorrect reference should therefore be removed and the IIF should acknowledge that land for infrastructure may be accepted by the Council in lieu of CIL in appropriate circumstances. Second there is a significant issue about how existing Section 106 agreements tied to specific pieces of infrastructure will relate to those other items that in future will be paid for by CIL and other elements for which the Council may continue to seek Section 106 funding. Brent is perhaps different from many other authorities in having secured Section 106 agreements which are broadly similar in scale of benefit to what is expected to be raised by CIL. Many of the requirements at Wembley for example have already been secured through Section 106 agreements or inclusion within approved development schemes. Given the significance of Wembley in delivering the Council's Core Strategy objectives it is important for the Council to clarify specifically the status of each element in the IIF. This position will ultimately need to be clarified in the Council's list of infrastructure requirements (Regulation 123 list). Paragraph 2.2 of the IIF states that "Following the adoption of the CIL charging schedule this list (Regulation 123 list) will be agreed and published on the Council's website for inspection." As many of the items identified are listed as being covered by developers/S106, it would be reasonable now in the consultation stage to give an idea of which items fall under the already funded category, and which will be priorities for the CIL list. This is not a requirement of the CIL regulations but would allow interested parties to make

a properly informed response to the Council's emerging evidence base. It would also allow analysis of existing S106 commitments and required CIL payments to ensure that there is no double counting where infrastructure has already been secured through S106. Viability Assessment In addition to our general comments about the levels of uncertainty and therefore the need for caution in drawing conclusions from general viability assessments we would make a number of points in relation to the specific approach undertaken by BNP Paribas in the CIL Viability Study (2011) undertaken for the Council. The most significant point is about the lack of real market information, particularly relating to strategic sites which are essential for the delivery of the plan. Whilst a high level broad brush "sampling" approach may be appropriate for an authority where development is likely to be broadly spread across an area, in the case of Brent the viability of a small number of strategic locations will determine whether the Council achieves its Core Strategy targets and therefore development "across its area". As noted above, Wembley accounts for over half of all of Brent's housing target with four other key areas accounting for the vast majority of the remainder. Policy CP2 from Brent's LDF (below) shows the relevant targets. Community Infrastructure Levy Guidance: Charge setting and charging schedule procedures (CLG 2010), cites the primary legislation (section 212 (4)(b)) which requires a charging authority to use "appropriate available evidence" to inform their draft charging schedule. While local authorities are encouraged to look at impacts on development "across their area" the guidance advises that "a charging authority may want to sample directly a few sites across its area in order to supplement existing data. The focus should only be on a limited number of sites, particularly those sites where the impact of CIL on economic viability is likely to be more significant." We were therefore surprised that, in producing its CIL viability assessment, there appears to be no specific consideration of these key locations despite the Core Strategy being reliant on a small number of large sites to achieve its targets. As the Council is aware QED commissioned an extremely detailed, independent, viability study for the recently consented North-West Lands scheme, which demonstrated that, taking into account a Section 106 capital contribution of around 11m, the scheme was able to support a base of 10% affordable housing. As an initial exercise we have compared Section 106 contributions to CIL contributions on the basis of the charging schedule, taking into account existing floorspace and deductions for affordable housing. This suggests a CIL contribution in the region of 27m, including 4m for the Mayor of London's CIL. In this context we are therefore surprised that the BNP Paribas appraisal is able to draw the conclusion that development across the area would be viable with 50% affordable housing and the proposed CIL charges. Further, having reviewed the CIL Viability Study document in detail, we disagree with some of the key assumptions supporting this study, including: ? Rent ? Capitalisation Rate ? Capital Values, both for private and affordable housing ? Void Periods / void deduction / discount ? Net to gross efficiency rates ? Build costs ? External works costs ? Contingencies ? Professional fees ? Developer's profit target ? Construction period The details are set out on the attached table, with particular comments as they relate to the various market sectors on a Brent-wide basis in line with BNP's basis of analysis. In addition the assessment makes no reference to market values for land but instead draws on a high level assessment of notional existing use values and a level of uplift required for landowners to bring forward land for development. Again this may be an appropriate approach where there are significant numbers of windfall sites but in Brent most of the key identified sites are owned by developers (including in the case of South Kilburn, the Council) and there should be sufficient information including appraisals which the Council has seen, on which the Council can form a judgment. Given that our experience of working on Brent's most significant strategic site (one that is essential for the delivery of the Council's objectives across the area) is that affordable housing targets cannot be currently achieved alongside substantial Section 106 contributions, we strongly believe therefore that a CIL levy at the proposed level, which would result in contributions in excess of those for Section 106, is not viable. We strongly suggest that the Council should review its proposed CIL charging schedule, with a particular focus on including evidence from the (relatively small number) of major development sites which will be essential to achieve the Council's Core Strategy targets.

## **Officer's Response**

In response to correspondence dated 12 th December 2011 from Quintain Estates & Development (QED) on the Brent Preliminary Draft Charging Schedule and Revised S106 Planning Obligation SPD consultations, we make the following remarks, which address the comments made in the correspondence from QED in turn, and under the broad headings therein.

## **General Approach**

The Planning Act 2008 confers the power to charge the Community Infrastructure Levy (CIL) on certain bodies, known as charging authorities, with Local Planning Authorities the charging authorities for their own areas. The CIL Regulations that came into force in April 2010, and subsequent amendments made in April 2011, demonstrate that CIL remains Government's preferred vehicle for the collection of pooled development contributions to fund infrastructure. The CIL Regulations limit the use of S106 Planning Obligations such that a planning obligation may now only constitute a reason for granting planning permission for the development if the obligation is:

(a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development

On local adoption of the levy, or nationally after a transitional period of four years, that is 6 th April 2014, CIL Regulations will also restrict the local use of S106 planning obligations for pooled contributions towards items that may be funded via the levy. Pooled contributions may then only be sought from up to five separate planning obligations for an item of infrastructure that is not locally intended to be funded by the levy. The limit of five applies as well to types of general infrastructure contributions, such as education and transport.

Whatever the economic conditions and outlook, this timetable has been set by Government and is one that Brent Council does not control. The introduction of CIL will undermine the continuation of the Council's current use of S106 agreements and approach to pooling S106 contributions through the standard charge tariff system, and, unless the Council is prepared to move forward with the changing planning legislation and adopt a local CIL, thereby undermine the delivery of the infrastructure required to deliver Brent's adopted Local Development Framework Core Strategy (LDF CS). The Council is therefore proposing to introduce a local CIL to ensure the continued deliver of the infrastructure required for sustainable growth in the borough, and to concurrently revise existing s106 arrangements such that the Council's planning approach to the use of CIL and S106 to support development is consistent and balanced.

In setting the proposed CIL rates in the Brent Preliminary Draft Charging Schedule, the Council has, in line with the CIL Regulations, sought to strike an appropriate balance between the desirability of funding infrastructure from CIL and the potential effects of the imposition of CIL on the economic viability of development across the borough, and in doing so has been informed by a strategic CIL Viability Study that tests the ability of developments across the borough to yield contributions to infrastructure requirements through CIL. The economic viability of development in Brent is considered in more detail under the viability heading below.

With respect to the request for a change in the wording of the Brent Charging Schedule, this is not deemed necessary as a material change of use in any land or building is not development for the purposes of CIL, however for the avoidance of doubt we propose to note that "material change of use in any land or building is not development for the purposes of CIL".

### **Infrastructure & Investment Framework**

The Council's Infrastructure & Investment Framework (I&IF) was adopted in May 2009 and the Council undertook a detailed review of the I&IF in October 2011. The I&IF sets out the foreseeable infrastructure requirements that will arise from anticipated new housing and commercial development that will be needed to create sustainable development and sustainable communities. The Framework does not claim to be exhaustive but does set out the broad priorities for the growth and regeneration areas identified in the adopted LDF CS.

On the matter of population growth, the adopted LDF CS plans for the development of 11,200 homes between 2007/08 and 2016/17. On the basis of the London Plan average household size of 2.34 falling to 2.19 over the plan period (para. 3.16, London Plan, July 2011) this yields a range of between 24,500 and 26,000 people. Brent has a higher average household size, which ONS projects will be 2.526 by 2016. (2008 based household projections, CLG, November 2010). Applying this to planned development of 11,200 homes yields an estimated population of 28,000 people by 2017. The adopted LDF CS Core Policy 2 on Population and Housing Growth therefore refers to a growth strategy that plans for over 11,200 homes from 2007/08 to 2016/17 and population growth of between 25,000 and 28,000 people by 2017. For the purposes of the I&IF, the more conservative Wandsworth model has been used to predict population growth in order to set a baseline that few would object to, with an average household size of 1.92 yielding a population growth of 21,500 people. In terms of the effect these ranges of population prediction have on the IIF, there will be limiting factors, for example with education infrastructure, where the I&IF requirements are driven by child population calculations. In any case,

QED fail to provide any evidence to substantiate the assertion that the I&IF infrastructure requirements are in whole or part driven by natural population growth rather than new population growth created by development. We do not accept that natural population growth significantly undermines the infrastructure investment requirements needed to support the population growth created by new development.

With respect to the standards of the I&IF infrastructure requirements, one needs first consider that standards of infrastructure provision have changed over time, in the main progressing and improving to meet the increased expectations of the general public. As such it should come as little surprise that new infrastructure such as sports facilities will generally be of a higher standard than older existing facilities. Most of the standards that inform the I&IF infrastructure requirements cost estimates follow current national and regional standards. Furthermore, if one looks at the amount and density of development planned under the LDF CS growth strategy, one can see that the Council has taken a flexible approach to infrastructure such that the qualitative nature of infrastructure provision is in some cases used to compensate for an actual shortfall against adopted quantitative standards. For example, the planned increase in the population of Wembley will suffer from a shortage of locally accessible grass football pitches, however an attempt has been made to compensate for this shortage through an infrastructure requirement for new synthetic football pitches that can be more intensively used.

The I&IF Summary Tables enumerate the infrastructure costs identified for the growth areas that are set out in the more detailed tables which follow and give headline information on funding that has been secured together with estimates on potential sources of infrastructure going forward. The Wembley North West Land S106 Agreement signed towards the end of November 2011 is not included in the Summary Tables, however will be included in the next update of the I&IF. Items listed as delivered by development will fall under the S106 Contributions heading in Summary Table 2 where the relevant S106 has been signed or fall under the funding gap if that is not the case.

In response to the specific issues of principle raised by QED:

Under the CIL Regulations a charging authority may accept one or more land payments in satisfaction of the whole or part of the CIL due in respect of a chargeable development, however if such an in kind land payment forms part of a wider development, the value of that in kind land payment will be derived with consideration to the value of the wider development. The I&IF details the capital costs of the infrastructure required to support the LDF CS growth strategy but does not include land costs unless they are outside of the development. Given the difficulty of determining exactly where and in what form all identified infrastructure requirements will come forward, the I&IF does not speculate as to the value of land for infrastructure that may form part of wider development, albeit when such costs are determined in actuality, as infrastructure delivery comes forward, one will see that the total cost of delivering the I&IF infrastructure requirements will increase and the funding gap widen. As such there is no tension between the acknowledgement of the principle that one or more land payments can satisfy the whole or part of the CIL due in respect of a chargeable development, and the exclusion of difficult to determine land values from the I&IF, and no need to amend the wording of para. 4.3 of the I&IF.

The Council understand the CIL Regulations apply to existing S106 Agreements signed after the CIL Regulations came into force in April 2010. The Council is undertaking a full audit of the position on triggered and untriggered S106 Planning Obligations to determine how funding is to be allocated against the I&IF, as well as any implications for the list of infrastructure projects or types of infrastructure that the Council intends will be, or may be, wholly or partly funded by CIL, and subject to CIL Regulation 123, which will be agreed and published following the adoption of the proposed Brent CIL Charging Schedule. In this process, the Council wants to maintain the deliverability of untriggered S106 Planning Obligations and ensure the CIL Regulations are fully complied with.

### **Viability Assessment**

The CIL Regulations state that in setting rates (including differential rates) in a charging schedule, a charging authority must aim to strike *what appears to the charging authority* to be an appropriate balance between -

(a) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its 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.

The Council commissioned BNP Paribas Real Estate to undertake a strategic CIL Viability Study to form part of an evidence base to inform Brent's CIL Draft Charging Schedule. The BNP Paribas Real Estate study tests the ability of developments across the borough to yield contributions to infrastructure requirements through CIL. The study uses a standard development valuation methodology that compares residual land values of a range of developments to the sites' current use values, plus a margin to incentivise landowners to release sites for development. The value of potential development schemes is estimated, cost, financing, fees, CIL and profit deducted, and due regard given to policy requirements that residential development contribute towards affordable housing provision. If a development incorporating a given level of CIL generates a higher value than the current use value, plus an appropriate landowner's margin, then it can be judged that the proposed level of CIL will be viable.

The report tests a series of development scenarios and in the main the imposition of CIL is not considered a critical factor in determining whether a scheme is viable or not, with the relationship between scheme value, costs and existing use value considered far more important. The diagram below illustrates, proportionally, the constituent parts that make up the development scheme values and costs that inform development viability.

The study concludes by setting out ranges of CIL levels that different types of development schemes should be able to absorb and recommendations as to appropriate CIL levels for those different types of development schemes, with a margin or buffer between the proposed rates and the maximum rates that the study indicates are viable in the majority of development schemes.

QED raise a number of concerns regarding development viability in general and the BNP Paribas Real Estate CIL Viability Study in particular.

Concern is raised regarding current economic conditions, outlook and uncertainties and the Council urged to be cautious in setting CIL rates for a CIL Charging Schedule. The Council is aware that the economy is currently going through a difficult time and, more generally, that the pattern of economic circumstances will change over time and with market cycles. As noted, the BNP Paribas Real Estate Viability Study considers that in the main the imposition of CIL is not considered a critical factor in determining whether a development scheme is viable or not, with the relationship between scheme value, costs and existing use value considered far more important.

On the specific point of house prices and values, the fundamental problem of the UK housing market failing to provide enough new homes to meet the needs of our growing population remains. The top industry experts all continue to forecast medium term growth in London house prices. Savills forecast growth of 19.1% in the London mainstream markets between 2012 and 2016 (Savills Residential Research, November 2011). Knight Frank forecast growth of 9.3% in the London market for the same period, 2012 to 2016 (Knight Frank Residential Research, Q4 2011). Cluttons forecast that house prices in Greater London will increase by an average of 5% per annum over the next 5 years (Cluttons Residential Property Forecasts, October 2011).

Notwithstanding that, the BNP Paribas Real Estate Viability Study sets out a range of CIL levels that the majority of different types of development schemes should be able to absorb and, following BNP Real Estate's recommendations, the Council has specifically allowed a margin or buffer of at least 20% versus the maximum CIL levels that the majority of different types of development schemes should be able to absorb to allow for movements in economic variables.

Concern is also raised at the high level and strategic approach of the BNP Paribas Real Estate Viability Study to testing development viability. The CLG CIL Guidance on Charge Setting and Charging Schedule Procedures dated March 2010 specifically recommends such a strategic and area-wide based approach be adopted by charging authorities when testing development viability to inform charge setting.

"Charging authorities should use an area-based approach, which involves a broad test of viability across their area as the evidence base to underpin their charge. Charging authorities should take a strategic view across their area and should not focus on the potential implications of setting a CIL for individual development sites within a charging authority's area. Regulation 14 recognises that the introduction of CIL may put some potential development sites at risk. It is for charging authorities to

decide what CIL rate, in their view, sets an appropriate balance between the need to fund infrastructure, and the potential implications for the economic viability of development across their area."

Whilst Wembley is an important LDF CS growth area in the borough, the proposed CIL rates will apply across the whole borough and therefore we consider a strategic approach to viability an appropriate one, and it should be noted in line with the approach to viability taken by the three local authorities who have completed examinations to date (Newark & Sherwood, Shropshire and Redbridge), all of whose proposed Charging Schedule have been found to be appropriate, as well as numerous other authorities who are preparing charging schedules for their areas. One should note that QED have already signed S106s on outline applications for their Stage 1 site, which includes development of up to 3,727 homes, and more recently their North West Lands site, which includes the development of up to 1,300 homes.

Whilst difficult to comment on specific sites, with regards the quoted example of the consented North West Lands scheme, QED stated in the North West Lands planning application viability submittal that the planning obligations package, including works in kind and professional fees, totals 28.65m and we ask QED to explain how the putative figures of 11m and 27m have been derived. One should also note that in the example of the consented North West Lands scheme, and indeed in the case of new development in general, infrastructure is not just required to mitigate for the pressures created by the new development and population, but will also provide a positive contribution to the value of development, which as we have seen is a much more important factor than CIL when considering whether a development is viable or not. Investment in infrastructure will make a significant contribution to improving the attractiveness of key parts of the Borough as places to live and work, boosting demand and contributing to increases in residential sales values and commercial rents.

With respect to the QED analysis of the financial assumptions underpinning the BNP Paribas Real Estate Viability Study we are concerned that this appears to be an attempt to build an additional contingency into the appraisal in an attempt to bring about a reduction in the proposed CIL rates. We have commissioned BNP Paribas Real Estate to address the specific detailed points and their responses are appended.

With respect to QED's proposition that market land values are a more appropriate benchmark than existing use values plus a premium to incentivise development when testing development viability, QED appear to fail to recognise that market value is based on the prices developers have paid for sites under the currently planning policy regime and that we are seeking to test the viability of a new policy. Testing against market value will, by default, conclude that the new policy is unviable as it seeks to 'take' more of the land value than the old policy. Testing the value of a notional site in its current use and adding a further 20% as an incentive to the landowner to release the site for redevelopment is a much more logical approach, with 20% quite a generous incentive in many cases, even leading to a value that exceeds the market value equivalent in some cases.

### **Revised S106 Planning Obligation SPD**

QED suggest the SPD needs to confirm more clearly the circumstances in which S106 Agreements will still be required after the proposed introduction of CIL. As previously noted, the CIL Regulations limit the use of S106 Planning Obligations such that a planning obligation may now only constitute a reason for granting planning permission for the development if the obligation is:

(a) necessary to make the development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.

The SPD also sets out Standard Heads of Terms which, whilst not exhaustive, do identify the most common planning issues that are most likely to be included within any S106 Agreement.

On the matter of double counting between S106 Planning Obligation and CIL, we would draw attention to CIL Regulation 123(2) which states that "A planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding or provision of relevant infrastructure" and, as previously noted, reassure QED that we are undertaking a full audit of the position on triggered and untriggered S106 Planning Obligations to determine how funding can and could be allocated against the I&IF, as well as any implications for the list of infrastructure projects or types of infrastructure that the Council intends will be, or may be, wholly or partly funded by CIL, and subject to CIL Regulation 123, which will be agreed and published following the adoption of the proposed Brent CIL Charging Schedule.

### **Exemptions & Instalments**

The Council is aware of, and will pay due regard to, the CIL Regulations covering discretionary relief from CIL in exceptional circumstances.

The Council is aware of the amendments to the CIL Regulations that allow charging authorities to set their policies on the phasing of CIL payments and intends to introduce such a policy. The Council appreciates that, for a majority of developers, the timing of the payment of CIL will be more important than the actual level at which CIL is levied. This is not a matter that the Council is required to determine as part of the consultation on the charging schedule and will consult further with the development community in due course. In any case, attention is drawn to the amendments to CIL Regulation 70 which detail the circumstances in which CIL is payable in accordance with any Mayoral instalment policy where London boroughs do not issue an instalment policy.

### Conclusion

Brent Council's plan for sustainable growth and development in the borough is underpinned by the delivery of necessary infrastructure. The Planning Act 2008 and CIL Regulations 2010 set a new framework within which infrastructure will be secured through the planning system and in particular the movement away from the use of S106 Planning Obligations and towards the Community Infrastructure Levy. The Council therefore proposes to adopt a local CIL and revise existing S106 arrangements.

In line with the CIL Regulations, in setting CIL rates in a charging schedule the Council will aim to strike an appropriate balance between funding the infrastructure required to support development and growth, and the potential effects the imposition of CIL may have on the economic viability of development across the borough. To this effect, the Council has reviewed the infrastructure required to deliver growth and regeneration in the borough as set out in the Infrastructure & Investment Framework and been informed by the BNP Paribas Real Estate strategic CIL Viability Study that has tested the ability of developments across the borough to yield contributions to infrastructure requirements through CIL.

We invite and welcome comment from developers on our efforts to strike an appropriate balance in setting CIL rates in a charging schedule and are happy to continue our dialogue with QED. We are particularly keen to know what developers think would be appropriate CIL rates to charge in Brent and would be grateful to hear your views.

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|---------------------------|--------------------------------------------------------------|
| <b>Comment by</b>         | English Heritage ( Graham Saunders)                          |
| <b>Comment ID</b>         | PDCS5                                                        |
| <b>Response Date</b>      | 12/12/11 16:07                                               |
| <b>Consultation Point</b> | Preliminary Draft Charging Schedule ( <a href="#">View</a> ) |
| <b>Status</b>             | Processed                                                    |
| <b>Submission Type</b>    | Letter                                                       |
| <b>Version</b>            | 0.10                                                         |

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| <b>Do you agree that the proposed rates of CIL, set out in the Preliminary Draft Charging Schedule, strike an appropriate balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing CIL on development across the borough?</b> | Not sure |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|

**Which of the proposed CIL rates do you consider fail to provide an appropriate balance?**

**Please provide any comments that you have on the Preliminary Draft Charging Schedule in the box below.**

Thank you for seeking our views on the above documents. As the Government's adviser on the historic environment English Heritage is keen to ensure that the protection of the historic environment is fully taken into account at all stages and levels of the local planning process. This includes identifying opportunities where London's heritage assets can be enhanced through development activity. In general we have no comments to make at this stage in the development of the draft S106 Planning Obligations SPD. However we would seek to ensure that where planning contributions are gained, that they are used effectively in conserving and enhancing the Borough's heritage assets. It is acknowledged that S106 agreements should be based upon specific impacts of the proposed development. However, the Borough contains a breadth of heritage assets that may be directly or indirectly impacted by proposed developments. For example developments that result in the need for public realm and highway changes may coincide with the location of designated heritage assets such as conservation area and/or listed buildings. These changes could have an impact upon the significance of these assets including their setting. With this in mind we would suggest that the Heads of Terms includes a reference to any appropriate appraisal and/or management plan of any affected heritage assets (i.e. conservation area appraisal and management plans) as a basis in which to demonstrate that the mitigation measures used are appropriate. English Heritage would strongly advise that the Borough's own conservation staff are closely involved throughout the preparation of the above documents as they are often best placed to advise on: local historic environment issues and priorities, sources of data; and consideration of options relating to the historic environment.

#### **Officer's Response**

No specific representations have been raised in relation to the Preliminary Draft Charging Schedule.

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| <b>Comment by</b>         | Solum Regeneration                                           |
| <b>Comment ID</b>         | PDCS4                                                        |
| <b>Response Date</b>      | 12/12/11 15:22                                               |
| <b>Consultation Point</b> | Preliminary Draft Charging Schedule ( <a href="#">View</a> ) |
| <b>Status</b>             | Processed                                                    |
| <b>Submission Type</b>    | Letter                                                       |
| <b>Version</b>            | 0.7                                                          |

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| <b>Do you agree that the proposed rates of CIL, set out in the Preliminary Draft Charging Schedule, strike an appropriate balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing CIL on development across the borough?</b> | Not sure |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|

**Which of the proposed CIL rates do you consider fail to provide an appropriate balance?**

**Please provide any comments that you have on the Preliminary Draft Charging Schedule in the box below.**

I write on behalf of my client, Solum Regeneration, which was formed in July 2008 as a partnership between Network Rail and Kier Property to redevelop and regenerate a number of Network Rail owned

sites, including Wembley Chiltern Embankments within the London Borough of Brent. Please accept this as Solum Regeneration's representations to the Brent Draft Planning Obligations SPD and the Community Infrastructure Levy (CIL) Draft Charging Schedule consultations. A summary of our representations is: 1. Both the Draft Planning Obligations SPD and the Community Infrastructure Levy Draft Charging Schedule necessitate a much more flexible approach in terms of impacts on development viability. They should, therefore, recognise the fact that market conditions may change since the initial viability work was carried out on behalf of the Council and explicitly state that development viability will be taken into consideration when the planning obligations and CIL payments are negotiated 2. This flexible approach is supported by the Government's recent publication "Laying the Foundations: A Housing Strategy for England", which was launched on 21 November by the Prime Minister and is a radical new strategy to reignite the housing market and get the nation building again. Specifically paragraph 30 confirms that: "The Government will also encourage a flexible approach to planning obligations, to safeguard against substantial and unexpected change in market conditions". I would be pleased to attend a meeting with you to discuss this representation in more detail if that is of assistance.

### Officer's Response

The proposed rates of CIL have been formulated on the basis of appropriate available evidence and in the view of the Council (the Charging Authority) they strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the levy upon the economic viability of development across borough.

Once set, the CIL Regulations do not allow for the rates for new development to be negotiated on a case by case basis. However, in the future the Council may review the rates, albeit this would require the Council to repeat the examination process. The Council is also giving consideration to allowing applications to be made for exemptions under the provisions for exceptional circumstances, as set out in the Regulations. However, as yet, no decision has been made on this matter as it is not required for the examination of the Charging Schedule.

In terms of S106 Planning Obligations, the Council will continue to seek site specific mitigation and, where necessary, these will be negotiated on a site by site basis and in accordance with the tests set out in the CIL Regulations. Where appropriate, the Council will give due consideration to viability when negotiating obligations on certain matters, such as affordable housing, however some obligations will be required to ensure development is acceptable in planning terms.

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| <b>Comment by</b>         | Highways Agency (Mr Patrick Blake)                           |
| <b>Comment ID</b>         | PDCS3                                                        |
| <b>Response Date</b>      | 08/12/11 10:39                                               |
| <b>Consultation Point</b> | Preliminary Draft Charging Schedule ( <a href="#">View</a> ) |
| <b>Status</b>             | Processed                                                    |
| <b>Submission Type</b>    | Email                                                        |
| <b>Version</b>            | 0.9                                                          |

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| <b>Do you agree that the proposed rates of CIL, set out in the Preliminary Draft Charging Schedule, strike an appropriate balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing CIL on development across the borough?</b> | Not sure |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|

**Which of the proposed CIL rates do you consider fail to provide an appropriate balance?**

**Please provide any comments that you have on the Preliminary Draft Charging Schedule in the box below.**

Thank you for your letter dated 28 October 2011 inviting the Highways Agency (HA) to comment on Brent's Community Levy Preliminary Draft Charging Schedule and Revised Section 106 Supplementary Planning Document (SPD). 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 would be keen to have early discussions with Brent about any transport interventions that the Community Infrastructure Levy might contribute towards that could impact on the M1.

**Officer's Response**

The Council intend to use CIL funds to provide infrastructure to support strategic growth across the borough. Officers consider that the amount of CIL collected under proposed Charging Schedule is unlikely to provide sufficient funding to meet the full infrastructure requirements of the borough and therefore the Council will need to prioritise those infrastructure projects which they consider to be of greatest local importance. As such, the Council do not intend to use CIL funds to contribute towards the provision of national infrastructure which, in the view of the Council, should be funded by either regional or central government.

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| <b>Comment by</b>         | The Theatres Trust (Ms Rose Freeman)                         |
| <b>Comment ID</b>         | PDCS2                                                        |
| <b>Response Date</b>      | 07/12/11 09:58                                               |
| <b>Consultation Point</b> | Preliminary Draft Charging Schedule ( <a href="#">View</a> ) |
| <b>Status</b>             | Processed                                                    |
| <b>Submission Type</b>    | Email                                                        |
| <b>Version</b>            | 0.10                                                         |

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| <b>Do you agree that the proposed rates of CIL, set out in the Preliminary Draft Charging Schedule, strike an appropriate balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing CIL on development across the borough?</b> | Not sure |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|

**Which of the proposed CIL rates do you consider fail to provide an appropriate balance?**

**Please provide any comments that you have on the Preliminary Draft Charging Schedule in the box below.**

Thank you for your letter of 28 October consulting The Theatres Trust on the CIL Preliminary Draft Charging Schedule and Revised S106 SPD. The Theatres Trust is The National Advisory Public Body

for Theatres. The Theatres Trust Act 1976 states that 'The Theatres Trust exists to promote the better protection of theatres. It currently delivers statutory planning advice on theatre buildings and theatre use through the Town & Country Planning (General Development Procedure) (England) Order 2010 (DMPO), Articles 16 & 17, Schedule 5, para.(w) that requires the Trust to be consulted by local authorities on planning applications which include 'development involving any land on which there is a theatre.' Our comments are general and we have noted the inclusion of sui generis uses (theatres) in the table within the consultation letter. We are concerned that theatre buildings do not benefit appropriately under the terms of S106 and other agreements, and that it will increasingly be necessary to unlock new sources of funding to help pay for significant improvements to them. Theatres always need improvements to keep pace with public expectations and the needs of performers and producers. As CIL will eventually replace S106 agreements as the main tool for securing contributions for infrastructure we hope that the document will ensure that the loss of any community and cultural facility through redevelopment is satisfactorily compensated through substitution, replacement or regeneration of those facilities, and will ensure that adequate new facilities are provided to mitigate the increased demands on existing facilities and infrastructure which is likely to result from any new developments. Drivers Jonas had advised in February 2010 that 'The change to S106 obligations seek to remove their ability to provide for funding or the provision of infrastructure projects or types of infrastructure. If local authorities want to obtain funding for infrastructure they will have to produce a charging schedule and adopt CIL prior to April 2014, effectively making CIL mandatory.'

### Officer's Response

It is accepted that theatres exhibit similar characteristics, in viability terms, to other uses which the Council are proposing to charge a zero rate of CIL. As such, Officers propose to include theatres within the zero charge category when the Draft Charging Schedule is produced.

Policy CP23 of the boroughs Core Strategy sets out to protect existing community and cultural facilities, or to mitigate their loss where necessary. It is envisaged that s106 planning obligations will continue to provide an appropriate means of securing site specific mitigation against any loss of community or cultural facilities.

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|---------------------------|--------------------------------------------------------------|
| <b>Comment by</b>         | British Waterways (Mrs Claire McClean)                       |
| <b>Comment ID</b>         | PDCS12                                                       |
| <b>Response Date</b>      | 06/12/11 09:49                                               |
| <b>Consultation Point</b> | Preliminary Draft Charging Schedule ( <a href="#">View</a> ) |
| <b>Status</b>             | Processed                                                    |
| <b>Submission Type</b>    | Email                                                        |
| <b>Version</b>            | 0.6                                                          |

**Do you agree that the proposed rates of CIL, set out in the Preliminary Draft Charging Schedule, strike an appropriate balance between securing additional investment for infrastructure to support development and the potential economic effect of imposing CIL on development across the borough?** Yes

**Which of the proposed CIL rates do you consider fail to provide an appropriate balance?**

**Please provide any comments that you have on the Preliminary Draft Charging Schedule in the box below.**

I can confirm that we have no comments to make on the CIL charging schedule.

**Officer's Response**

No response required