LONDON BOROUGH of LAMBETH
COMMUNITY INFRASTRUCTURE LEVY
MODIFIED DRAFT CHARGING SCHEDULE 2021 EXAMINATION

Hearing to be held at 10.00am on Tuesday 25 May 2021
as a virtual hearing via 'Teams' software

AGENDA

1. Opening by Examiner

1.1 General introduction, procedure, etc.

2. Statement by the Charging Authority, including Compliance with the CIL Regulations

2.1 Statement by the Charging Authority, London Borough Lambeth (LBL) that it has complied with the Act and Regulations, including in respect of Modifications to the Draft Charging Schedule, and any other preliminary matter.

3. Development Plan policies and their impact on viability

3.1 The Viability Review (VR) by BNP Paribas Real Estate tests the ability of developments in Lambeth to accommodate emerging polices in the Draft Revised Lambeth Local Plan Proposed Submission Version and alternative amounts of Community Infrastructure Levy to the rates contained in the Council's adopted Charging Schedule. Appendix 1 of this report is a Policy review, setting out the cost implications of a number of policies in the Draft Revised Local Plan.

3.2 On 2 March 2021, the London Plan 2021 was published by the Mayor. This followed from the Intention to Publish version submitted to the Secretary of State on 21 December 2020 and the Secretary of State's confirmation that no further modifications were necessary. I note that VR paragraphs 2.43, 4.1, 4.28 and 6.25 make reference to Draft London Plan policies that have been included in testing (which I assume to be a version before the December 2019 Intend to Publish version). Has there been any additional specific assessment of any policy changes in the London Plan 2021/Intention to Publish version of 12/2020, beyond those referred to in the VR, on the viability of development in Lambeth to absorb CIL?

4. Revised RICS guidance note

4.1 I see that the RICS has published a new guidance note, 'Assessing viability in planning under the National Planning Policy Framework 2019 for England' (March 2021). The guidance has been produced in response to changes in policy on assessing viability in plan making and decision-taking under the revised National Planning Policy Framework and updated national Planning Practice Guidance and the High Court decision in Parkhurst Road Ltd v Secretary of State for Communities and Local Government & Anor [2018] EWHC 991 (Admin). It replaces the RICS 2012 guidance, 'Financial viability in planning'. It is not government policy, but relies heavily on national Planning Practice

Guidance.

4.2 The VR makes reference to 'Financial viability in planning' in paragraph 1.3. I wish to invite Mr Lee to comment as he wishes about any matter in this new guidance in relation to whether any element of the VR should be revisited. Two points in particular caught my eye in quickly reading through the guidance note: i) reference is made to assessments undertaken by the LPA of viability information submitted in relation to development proposals, at the application stage and as part of s.106 review clauses; and ii) the statement that it is mandatory in the Financial viability in planning: conduct and reporting RICS professional statement that FVAs include sensitivity analysis to examine the effect of changes in key inputs. As to item i) I have reservations about BCIS data and it seems to me that since many development proposals seem to require individual viability assessment, the council should have a good understanding of cost inputs that are agreed in these individual cases – such knowledge could be used at least to sense check VA inputs, but I do not recall any use of such information. Regarding item ii) – little sensitivity analysis is included in the VR, although it is mentioned in paragraph 6.30, bullet point 4. I am not sure that I understand this element of the VR – I will ask for help.

4.3 In addition, does the advice about how BLVs are derived suggest a need to review those used in the VR?

5. Does the evidence support the charging rates for residential development?

Large high density/strategic sites

5.1 There are a number of matters raised in representation that I would like to discuss.

5.2 The Berkeley Group's primary concern is with larger high density residential typologies, that embrace Zones A and B. It makes the point that there are a limited number of these sites, which are either in existing higher value use or have major abnormal costs and significant policy requirements; often all 3. I imagine that significant policy requirements will be ever present, but these should have been accounted for in the assessments. Berkeley says that the generic appraisals do not provide appropriate evidence for the large sites. If the limited number of large high density sites amount to strategic sites, and there are significant differences in the appropriate inputs when considering their viability, does that not suggest that a specific typology example should be included in the VR?

5.3 However, in its undated (but December 2018?) representation, that it continues to rely on, it states that 5 of the typologies are reflective of the types of development that Berkeley undertakes – typologies 6 to 11, although it also makes the point that these are 100% residential which is reasonable for medium and smaller sites. It then sets out comments in 6 bullet points on page 5 – in brief: large high density schemes mainly in Zones A and B; will include mixed use which are not tested; sites in existing retail use with high CUVs and need to maintain existing uses; high exceptional costs which experience should enable a reasonable assumption to be made; BCIS needs premium added in Zones A and

B to achieve the premium prices; there is a lack of clarity and inconsistency in tables.

5.4 These points have a certain power which I wish to explore together with additional points made: lack of clarity as to the extent of buffer allowed; impact on phased schemes that have undergone viability assessment in fixing maximum obligations; it continues to argue that there are rising costs and falling prices – see diagram top of page 4 and VR Figure 2.15.1 (page 9).

Build to rent

5.5 For Grainger plc, the point is made that build to rent has particular economic characteristics including that there is no sale at completion and, as remarked in the VR 'viability in build to rent schemes is challenging'. Whilst this form of residential development obviously provides a desirable option in the housing market, to what extent is this form of supply significant in the borough's housing supply? It backs its points with the general contention that there should be no real term increase in CIL since between November 2013 to November 2019 average residential prices have gone up by 32%, whilst the BCIS All Tender Price Index shows build costs increased by 39%.

5.6 I have reservations about the BCIS methodology and inputs which we will discuss together with the Grainger points and those made by Olympian Homes at paras 1.55 and 1.56. I have noted the council's response in document LCX 03 Regulation 19 Submission Statement in respect of a 60% increase in the house price index and an increase of 16% in the General Building Cost Index, and the statement that the Build to Rent market operates with the developer typically agreeing a contract for sale prior to commencement of construction, with the agreed contract sum paid over the construction period. This results in a significant reduction in finance costs, which in turn improves the residual land value.

Student/Co-Living

5.7 A number of matters are raised in the representation made on behalf of Olympian Homes which we will examine:

i) Viability testing demonstrates that, in many cases, Co-Living schemes (and development more generally) cannot meet the proposed CIL rates and the 35% affordable housing requirement. My understanding is the VR has taken account of all policy requirements, including affordable housing. I wish to be assured of this, if correct, and also I would like to understand viability route in the (published?) London Plan, where schemes cannot utilise the 35% threshold route.

ii) There has not been effective assessment of Housing Policy H13 (Large Scale Purpose-Built shared living) Part B of the Draft Revised Lambeth Local Plan, so that the CIL rates are not justified.

iii) The 2019 VR is lacking in appropriate up-to-date evidence.

iv) There is only 1 typology tested for Co-Living and that is a small site – more thorough testing of a range of site area/densities should be carried out.

v) The Gross to Net ratio of 80% is not appropriate for Co-Living schemes having a higher provision of communal and amenity facilities and therefore greater floorspace. Further testing of 70% and 75% should be undertaken.

vi) There is no evidence to underwrite inputs of room size, rental level, investment yield, rent free period, and no indication of whether operating costs have been applied to gross rents as is appropriate.
vii) For BLVs there is no market analysis, and no adequate analysis of a 'premium deemed to be required'; see reference to *Parkhurst Road Ltd v SOS* and item 4 of this agenda, particularly section 5 of the RICS Note.
viii) Accessibility standards, predicated on a 2014 publication require indexing.
ix) Cost of electric vehicle changing points at c£976 covered? There should be transparency in data underpinning s106 costs allowance. Finance costs should be blended at 6.5% on 100% land and construction costs. Developer profit is not appropriate to a rental model.
x) There is a lack of transparency in the data underlying the VR – it is extremely difficult for stakeholders to determine with certainty which appraisals in Appendix 5 relate to each typology under the various scenarios assessed.
xi) The 'Growth Scenario' Table 4.4.1 sets unrealistic expectations. The BCIS forecasts 25% growth in construction costs for 5 years ending 2024 = 5%pa but the VR applies 2.5% which understates the costs of development and diminishes the value of the sensitivity analyses.
xii) Other matters raised will have been deal with earlier, eg assessment of strategic sites, abnormal/exceptional costs.

5.8 Representations on behalf of Unite Students make objection to the rates for Co-Living being set at the rate for standard housing, when such development is similar to purpose-built student accommodation, with which it should be aligned. Other points they make are:

i) in respect of large student schemes, build cost in the past 2 years have been 12% higher than the VR assumption. The proposed charge rates should be reviewed accordingly.
ii) As a result of London Plan policy H17A4, 35% of bedspaces within student schemes have diminished in value by 30%.
iii) There are shortcomings in the student development typologies: on a total site area of 1,000m^2, an optimistic 800 m^2 floorplate size, net space per floor for actual student room should be 520 m^2, not the VR assumed 700 m^2.
iv) Build costs for large student schemes are substantially higher than the rate of £2,104 used in the VR – even BCIS at September 2018 shows a median cost of 2,251, although scheme specific QS costs are usually substantially more.
v) In this case BNPP have used 6% for finance costs, whereas in the majority of their previous reports they have used 7%, which would be reasonable now.
vi) Similarly, 18% on private GDV is used for profit, but in the immediate past 20% has been used. There is no justification for the lower rate. A profit rate of 22.5% would be akin to how profit is actually targeted, with no notional split between private and affordable.

5.9 Also, it was requested that "'live' copies of the student accommodation development appraisals (sites 16 and 17) be provided, to facilitate a check on inputs, mathematical spreadsheet workings and outputs. As the VR stands, it is completely unclear how the rate has been arrived at". As far as I am aware this request has not been met - perhaps it was overlooked. I would like a comment on this, and we will discuss the points above.

Extra care homes

5.10 Representations have been made on behalf of Coin Street Community Builders in respect of its opportunity, from 2025, to develop Prince's Wharf and Gabriel's Wharf to include a 76 bedroom nursing home. The evidence that it provides shows a clear need for such accommodation and the difficulty of making provision for local authority funded residents at fees that are affordable. However, if I have understood correctly, high-income self-funding residents will be willing to pay high fees for high quality facilities and locations, so that the viability of such schemes is not necessarily in doubt. I am far from clear about the implications of this for CIL. I have asked a further question, which at present I am awaiting a reply.

5.11 In document LCX 03 Regulation 19 Submission Statement the council also notes that "Where a nursing care home being developed is owned by a charity and will be run for a charitable purpose or to support the charity, the development may apply for charitable relief, either mandatory or discretionary". I presume that this statement cannot be made specifically in respect of Coin Street Community Builders until such time as the precise nature of the development/management of this element of the scheme can be clearly demonstrated.

Offices

5.12 Representations on behalf of SIXTYFIVE House (HB Reavis) in respect of Elizabeth House and on behalf of MEC London Property 3 in respect of London Television Centre, raise a number of issues that I would like to explore: i) build costs (again) setting out that present day costs are £4,628 m^2 against the figure used in the VR of £2,082 m^2; ii) questions whether basement costs have been allowed for; iii) demolition costs are between £193 and £236 m^2 against the allowance of £75 m^2 in the VR; iv) regarding rents, indications given suggest rents levels are lower than allowed for, no voids are allowed for, substantial rent free periods should be incorporated, and v) letting fees and disposal costs may have been excluded.

5.13 The short response to these matters in document LCX 03 Regulation 19 Submission Statement is that the maximum CIL rates that have been calculated are almost 10 times the rates proposed, and therefore there is a very significant margin. I will therefore question these matters and seek further comments from the council.

Hotels

5.14 From the evidence that I have been given during the course of other CIL examinations in London, I have serious doubts about BCIS figures for hotels. However, seeking to have more robust evidence has proved problematical because of confidentiality issues. I therefore find it difficult to come to a conclusion of the appropriate rate for hotels based on what I would regard as sound evidence.

5.15 The Modified Charging Schedule has amended the hotel rates from those set out in the Draft Charging Schedule 2020 in respect of rates in the Zones B, C and D, reducing the rates from £200 to £75 in these Zones. This appears to have been found generally acceptable, or at least reduces the concern, of the respondents to the DCS 2020. Concerns still exist about the rate proposed in Zone A which remains at £200 per m^2.

5.16 The Statement of Modifications, at paragraph 2.2, explains that the reasons for these modifications are set out in document LCX BNP Paribas Real Estate Note on the Impact of Covid-19 (January 2021). That Note, in respect of hotels, explains "Hotels in London have performed poorly from March 2020 onwards due to restrictions on travel from other countries and due to reduced business travel into the capital. STR Global's 'London Hotels Forecast May 2020' predicts that occupancy will fall by 46.2% and revenue per available room will fall by 60.7%. However, they predict a strong recovery in 2021, followed by growth in subsequent years (see Figure 1.13.1), which is likely to stimulate the development of additional beds in the capital. This recovery is likely to be delayed in the latter part of 2021 due to the re-introduction of strict lockdown and 'tier' restrictions from the end of 2020 onwards". Thus, it appears that the modifications had nothing to do with the representations about the inputs into the VR.

5.17 As a result, I am no nearer having what I regard as reliable evidence on construction costs within the borough. Representations on behalf of Travelodge state that "Information held by Travelodge and current tender information within London suggests that hotel construction costs in Greater London should be upwards of £90,000, which breaks back to £3,214 p/sqm. Construction costs are therefore far too low".

5.18 The evidence that I have been provided with in previous examinations is to the effect that BCIS costs are being skewed with non-London sites, not reflecting the complexities associated with working in London. This is repeated in the representation on behalf of Travelodge. None of the schemes detailed in the BCIS analyses are budget hotel projects, and so are not representative of the construction costs for this typology. Taking such average and low figures is not a robust construction cost input for the appraisal work in London, particularly an area of London such as Lambeth's Zone A.

5.19 Table 5.6.1: Alternative CIL rates sets out indexed and alternative CIL rates, on the basis of testing the developments with CIL as an inputted amount (rather than an output) with the starting point being the adopted charging schedule rates after indexation. For hotels, figures are given for Zone A. The table sets out 3 alternative rates which for hotels are £150, £175 and £200. I cannot see any information as to the justification of these 3 rates, other than that they were arbitrary figures, although 1 of these figures, other than the £200 might be justified with amended inputs. Perhaps more importantly, paragraph 5.6 suggests that "This can assist the Council in forming a judgement as to the potential impact on changes to CIL rates on land values and, consequently, potential land supply for certain uses", I cannot see anyway in which this can be so. The table and preceding text do not explain what the implications are for the 3 alternative rates, or any basis of evidence on which they are put forward, although paragraph 5.6 begins be stating "We have also tested the developments ….". I would like help to understand this.