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

LBL responses shown in red

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?

The version of the Draft London Plan referenced in the Lambeth CIL Viability Report December 2019 was the Draft London Plan – Consolidated changes version July 2019. The Intend to Publish London Plan 2019 was published in December 2019, but this post-dated Lambeth's CIL Viability Report (VR) of the same month.

The Draft London Plan policies references in VR paragraphs 2.43, 4.1, 4.28 and 6.25 are: H6, H13C, H18B, H17A4, H15B(1), H5, D4, D5, SI2C, T6.1.

The table at **Appendix 1** compares the wording of these policies in the Draft London Plan Consolidated Changes Version July 2019 and the wording in the

London Plan 2021, with comment in the final column on implications for the Lambeth CIL VR.

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.

The approach adopted in the VR is based on the Planning Practice Guidance and the Local Housing Delivery Group Guidance. Although the latter document was published in 2012, national planning guidance has now been updated to reflect this guidance. Between 2012 and 2019, there was a void in national planning guidance which was filled (by some) by the RICS GN. This GN was never universally accepted; some authorities, including the Mayor of London and LBL, published their own supplementary planning documents on viability, which advocated the approach now reflected in the 2019 PPG.

The VR relies upon the RICS 2012 GN for a very narrow point in relation to the need for developers to reflect plan policies in their bids for sites. One useful part of the RICS 2012 GN was that it advocated a specific recognition of the impact of planning policies on market value. However, that specific section was subject to considerable misunderstanding and misapplication by some practitioners, as highlighted by Justice Holgate in the Parkhurst Road case.

With regards to the use of BCIS and 'sense-checking' against actual costs in submitted FVAs for scheme-specific assessments, the Council would highlight that the PPG explicitly advocates the use of published databases for identifying costs:

"As far as possible, costs should be identified at the plan making stage. Plan makers should identify where costs are unknown and identify where further viability assessment may support a planning application. Costs include…build costs based on appropriate data, for example that of the Building Cost Information Service…" (para 012).

Schemes in Lambeth are heterogeneous and seeking to draw upon costs from particular schemes is likely to result in very misleading results. Cost plans submitted with FVAs are merely based on the opinion of a quantity surveyor and are provided for a particular purpose (i.e. to drive down the level of affordable housing in negotiations with the LPA). It is likely that in most cases, the actual costs on these schemes will be lower, as a result of value engineering and the competitive process used to secure a contractor.

In contrast, BCIS is based on *tender prices* for live developments and is therefore more reliable.

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

No, the BLVs in the VR are fully compliant with the requirements of the Planning Practice Guidance and the Local Housing Delivery Group Guidance (which remains pertinent and which is also fully compliant with the PPG).

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?

For the avoidance of doubt, policy requirements have been reflected in the VR.

We do not accept the premise of Berkeley's assertion that the VR does not include large high density sites. The zones A and B typologies are informed by live developments in those areas. These are typically schemes of between 150 and 250 units on sites in former office or industrial use.

The Oval Gas Works Site (to which Berkeley Group presumably allude) is atypical of sites within the borough in terms of its scale and historic uses, but has, nevertheless, been able to accommodate all the policy requirements in the Local Plan as well as the adopted CIL. This site and Berkley Group's other large scheme (Tesco Kennington Lane) both have planning permission and will pay CIL under the currently adopted Charging Schedule.

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.

We deal with each of these points as follows:

The VR deliberately did not appraise mixed-uses as part of the same scheme as it is impossible to delineate the CIL that the various uses could viably absorb. Presumably, an assumption underlying the point is that some uses are cross-subsidised by others. This is not the case in zones A and B, where commercial uses are viable in their own right, as evidenced in the VR and their ability to pay CIL.

Sites in existing retail use with high CUVs with a need to maintain existing uses presumably alludes to supermarket reprovision. These schemes take single storey buildings with low plot ratios and create significant development opportunities by building in the airspace above. These sites would have lower benchmark land values than offices, the latter providing floorspace over multiple floors, not a single floor.

High exceptional costs – these can only be addressed when and if they occur when applications come forward. None of the representations sought to quantify or provide evidence on such costs for specific sites. In any event, the position on the treatment of exceptional costs is now made clear by the 2019 PPG, namely that benchmark land values should be adjusted for exceptional costs (paras 012 and 014). Their impact on viability appraisals is therefore neutral.

BCIS costs requiring a premium for high value areas – as Berkeley note, most schemes in zones A and B are high density, taller schemes. The costs applied in the appraisals for high density schemes in zones A and B (i.e. 20+ storeys) already reflect a premium above other schemes. This premium is 20% above other tall buildings.

Consistency and clarity in the tables – we do not accept that the tables lack clarity and consistency.

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).

As can be seen from the tables showing the maximum CIL rates (tables 6.34.1 to 6.34.12), there is a variety of results, depending on the circumstances (price point and benchmark land value). There will not always be a 'universal' buffer that can be said to apply to all circumstances; the pattern of development in Lambeth is far too complex for a crude generalisation to be applied. Nevertheless, schemes in zones A and B typically generate very high maximum CIL rates which are significantly higher than the rates in the Draft CS:

Table 1: Examples of maximum CIL rates Zone A (sourced from tables 6.34.2 incorporating 35% affordable housing)

Scheme	**No of units**	**Price point (per sqm)**	**Max CIL rate – BLV 1**	**Max CIL rate – BLV 2**	**Max CIL rate – BLV 3**
Res7 – Large flatted scheme	300	£11,840	£1,105	£1,215	£1,547
		Proposed CIL as % of max rate	*45%*	*41%*	*32%*
Res7 – Large flatted scheme	300	£15,000	£1,554	£1,996	£2,549
		Proposed CIL as % of max rate	*32%*	*25%*	*20%*
Res 10 – large very high density scheme	750	£11,840	£1,115	£1,189	£1,410
		Proposed CIL as % of max rate	*45%*	*42%*	*35%*
Res 10 – large very high density scheme	750	£15,000	£1,640	£1,934	£2,303
		Proposed CIL as % of max rate	*30%*	*26%*	*22%*

With regards to phased schemes that have undergone viability testing to establish the maximum obligations that can be sought, these schemes will be charged at the rates in force when permission was granted. Only amendments through Section 73 applications would be charged at the new rates.

With regards to alleged "falling prices" this is not supported by any evidence. The Land Registry House Price Index for Lambeth has increased by 57% between August 2012 (when the last evidence base was drafted) and January 2021 (the most recent data available). Between April 2020 and February 2021, values increased by 5.4%. Furthermore, forecasts for 'Prime Central London' from Savills ('Prime Residential Property Forecasts March 2021) indicate that values will increase by 7% in 2021 alone with values predicted to by 20.5% higher in five years time compared to 2021. This is significantly faster growth than mainstream London markets. Over the same period, the BCIS 'General Building Cost Index' is forecast to increase by only 12.8%.

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%.

The latest position on housing supply in Lambeth is set out in Topic Paper 10a: Housing provision statement, which is part of the evidence base being examined for the Draft Revised Lambeth Local Plan. This includes the housing trajectory and information on five-year housing land supply required by the NPPF. The housing trajectory includes a number of identified large sites (>0.25ha) expected to be delivered in years 1 to 10 of the plan period.
Of these, three are currently expected to come forward as Build to Rent schemes:

- OCCC Estate, Cornwall Road, Wootton Street and Windmill Walk (45 dwellings in year 3 and 101 dwellings in year 7)
- 10 Pascal Street (148 dwellings in year 5 and 184 in year 6);
- Land to the east of Montford Place, Kennington (139 units in year 9).

For the first scheme the developer is Grainger plc. The other two are on TfL land, being brought forward by TfL Commercial Development in partnership with Connected London Living (a subsidiary of Grainger plc).
Together these schemes make up 617 units out of the total 14,490 expected to be delivered over the ten-year plan period (4.3%).

The percentage change point is erroneous for two reasons:

Firstly, GDV is a much larger cash sum than the build costs, so the 32% change in values has a much greater positive impact on RLVs in comparison to a 39% change in costs.

Secondly, Grainger have taken an incorrect starting point for changes in inputs – the evidence base supporting the CIL adopted in July 2014 was prepared in August 2012, not November 2013. The percentage change when taking the correct starting point is 57%, as follows:

Average price August 2012: £338,402
Average price February 2021: £530,527
Percentage change = 57%

In contrast, the BCIS General Building Cost Index has increased by 20.7%.

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.

While it is often claimed that the "particular economic characteristics" of BTR schemes put them at a disadvantage, this is not supported by market evidence, with BTR developers securing sites to purchase through competitive tender. This indicates that BTR schemes are capable of generating residual land values that exceed those generated by build for sale schemes.

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.

As noted in paragraph 6.24, co-living schemes have been tested to reflect the requirement of London Plan policy H18B for 35% affordable housing provided at 50% of market rent levels.

In the published London Plan, applicants have two options:

- They can provide 35% affordable (with the tenure mix sought by the Plan and reflecting all other planning requirements) and utilise the 'Fast Track' route, which does not require any supporting viability evidence. Providing the scheme is implemented within an agreed timeframe (normally two years), there is no subsequent review of viability.

- Alternatively, applicants can offer a quantum of affordable housing lower than 35% (or an affordable housing tenure mix that does not comply with the mix required by the plan) and use the 'Viability Tested' route. In this route, applicants must support their affordable housing offer with full viability evidence which will be subject to scrutiny by the LPA and (if referable to the GLA) by the GLA viability team. Early and late stage reviews will be incorporated into section 106 agreements and the cap on affordable housing is increased to 50%.

Lambeth's emerging Plan reflects this approach.

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.

This is incorrect – the schemes have been tested to reflect the requirement for 35% affordable at discounts to market rent of 50%, as required by the Policy. The results of these assessments are incorporated within tables 6.34.1 to 6.34.12.

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

With the caveat that the VR was published in December 2019, we do not accept that it is lacking in appropriate up-to-date evidence. If anything, the assumptions understate the value of such schemes. For example, the investment yield applied of 5% is higher than the more typical 4.25% to 4.5% now applied; adjusting the yield downwards would result in a significant increase in capital value.

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.

We do not accept that the Scheme tested is "small" as it provides 300 units. This is a typical size of co-living scheme, based on the schemes we have reviewed recently in Wandsworth and other London boroughs.

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.

The co-living scheme assumes a gross internal area of 25 square metres per room, which is significantly larger than the typical 12-15 square metre net area of each room. The gross to net ratio is therefore 60% which allows more than sufficient space to accommodate communal facilities and the like.

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.

All of these matters have been reflected in the assessments. There has been limited evidence of investment yield as no co-living schemes have been traded as yet. Guidance from CBRE in this matter indicates that yields for co-living should sit between BTR housing (3.25% in zone 1) and Purpose Built Student Housing (4% in zone 1). In contrast, our assessments adopt a yield of 5%, which significantly understates value.

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.

Justice Holgate's decision in regards to Parkhurst Road drew attention to the circularity of market evidence, as a consequence of which he recommended that the RICS review its 2012 Guidance Note.

The new RICS GN is inconsistent with the PPG, as the latter warns against the use of market evidence and prices paid for sites on five separate paragraphs.

viii) Accessibility standards, predicated on a 2014 publication require indexing.

This is not correct. The costs were originally assessed at time when few schemes were meeting the standards. These have now been embedded in policy for some time, as a result of which costs have remained stable as developers innovate to meet standards while minimising costs.

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.

Co-living schemes do not provide car parking, so the cost of electric vehicle charging points would not apply.

Section 106 obligations were addressed in detail during the Local Plan Examination – please see this note in the Examination Library.

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.

All inputs to and outputs from the appraisals are discussed in detail in the VR. It is therefore unclear why it is alleged that that underlying data is lacking in transparency. The appraisals in Appendix 5 are clearly labelled '1' to '29, each representing the 29 typologies in Table 4.1.1.

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.

The current BCIS General Building Cost Index forecasts an increase of 12.8% over the next five years. In any event, we clearly state that the proposed CIL rates are based on current values and attach a caveat to the results "the results which these scenarios produce must be viewed as indicative only" (VR para 4.4).

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.

We have relied upon published data sources, as we are guided to do by the PPG, which explicitly states at paragraph 012 that build costs should be based on "appropriate data, for example that of the Building Cost Information Service". The representor may have chosen to spend 12% more on their schemes, but the higher level of quality would have been reflected in higher rents. Furthermore, we are guided by the PPG to use standardised inputs for viability assessments, not developer-specific inputs.

ii) As a result of London Plan policy H17A4, 35% of bedspaces within student schemes have diminished in value by 30%.

As noted in paragraph 4.28 of the VR, the impact of student housing requirements of the London Plan are already reflected.

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.

This is a non-point as the representation assumes that the GIA of the rooms is the same as the NIA, which of course it is not. Typology 16 assumes 300 student rooms on a site of 0.1 hectares. We have made an allowance of 21 square metres per room GIA (a total of 6,300 square metres)

The suggested 65% net to gross ratio would be very inefficient. But in any event, the number of rooms in the typology could readily be accommodated on the site.

With a footplate of 520 square metres and a *GIA* per room of 21 square metres, the scheme could accommodate 25 rooms per floor, thus requiring a building extending to only 12 storeys which is well within normal heights in the borough.

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.

BCIS costs are adjusted from time to time and at the time the VR was produced, the costs were lower than when the party submitting this representation consulted the database. With regards to QS costs, we would reiterate the point above regarding the PPG requirement to use standardised inputs and not developer-specific inputs.

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.

In any viability assessment, BNPPRE reflects the most recent information available on finance costs and similar inputs. The vast majority of schemes we have reviewed in the past six months reflect a finance rate of 6%. This rate of finance was also adopted in similar studies testing local plan policies undertaken for LB Brent and Westminster, both of which were examined in 2020 and accepted by the inspectors.

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.

The split in target profit levels between private housing (typically 17.5%) and affordable housing (typically 6%) is universally accepted for the purposes of viability assessments. This split is applied in all of the FVAs we have either originated or reviewed over the past ten years. We have never seen, nor have we accepted, an argument that the profit margin applied to affordable housing should be the same as private housing. The Planning Practice Guidance notes that profit margins applied to affordable housing will be lower than those for private housing.

No evidence has been submitted to support the claimed profit margin of 22.5%, which sits outside the range identified by the Planning Practice Guidance (15% to 20%).

For the Examiner's information, we provide below a table showing the profit margins included in FVAs submitted by applicants in the second half of 2020. These clearly show that for a range of developments, profit was applied at 17.5%, not the 22.5% claimed by in the representation.

Date	Site	LPA	Private values	Type	No of units	Private units	Profit on private
Nov-20	Sandown Racecourse	Elmbridge	£676	Flats	318	254	17.50%
Nov-20	45 Beckton Road E16 4EA	Newham	£541	Flats	9	9	17.50%
Nov-20	White Lodge, Hoggs Hill Lane	Elmbridge	£519	Houses	2	2	17.50%
Jul-20	Northwick Park	Brent	£575	Flats	1529	942	17.50%
Aug-20	Montem Lane Slough	Slough	£462	Flats	212	170	17.50%
Jul-20	North Quay, Canary Wharf	Tower Hamlets	£1,300	Flats	702	590	17.50%
Jul-20	2 Trafalgar Way	Tower Hamlets	£650	Flats	68	44	15.00%
Oct-20	Kodak Site Zone A	Harrow	£565	Flats	747	183	17.50%
Dec-20	177 High Road Chigwell	Redbridge	£686	Flats	40	40	17.50%
Jun-20	Pheonix Academy redevelopment	LBHF	£839	Flats	371	371	17.50%
Oct-20	20 High St Yiewsley	Hillingdon	£550	Flats	32	32	18.00%
Jun-20	Land at Fmr Chase Farm Hosp	Enfield	£600	Flats	362	311	17.50%
Sep-20	Railway Land at Knollys Rd	Lambeth	£695	Flats	750	263	17.50%
Dec-20	Gants Hill Hub, Cranbrook Road	Redbridge	£500	Flats	101	66	17.50%
Sep-20	265 The Ridgeway Harrow	Harrow	£575	Flats	178	105	17.50%
Jun-20	Fmr Gower School, Blackbird Hill	Brent	£527	Flats	57	45	17.50%
Jun-20	103-111 High St Croydon	Croydon	£648	Flats	121	85	17.50%
Jul-20	Lexus & Miller House, Harrow	Harrow	£625	Flats	52	38	17.50%
May-20	6-7 Beulah Crescent Thornton Heath	Croydon	£457	Flats	22	13	17.50%
Jun-20	Acklam Road W10	RBKC	£855	Flats	28	12	17.50%

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.

The party making this request did not contact BNPPRE to review the modelling, who were more than happy to provide access. However, we would state that the appraisal model was subject to a comprehensive review by Jones Lang La Salle on behalf of the GLA/TfL when it was used to test Westminster City Council's draft CIL charging schedule (and subsequently Local Plan) in 2015 and 2018. Furthermore, all the inputs to the model were explicitly stated in the report and the party submitting the representation could, if they wished, have set up their own appraisals if they had any doubt about the outputs of the models. To our knowledge, they have not done so and neither have other parties.

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.

Please refer to the Council's response on this matter.

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.

The PPG indicates that authorities should rely upon published data sources such as BCIS for assessing viability. The PPG also advocates the use of standardised inputs and not inputs that are personal to particular developers.

We do not accept that no voids and rent free periods are allowed for, as we explicitly state at paragraph 4.12 that these have been included.

We do not accept that rents are overstated. For example, Avison Young's 'Q1 2021 Central London Offices Analysis' indicates that prime rents in Waterloo are £70 per square foot, or £753 per square metre, which exceeds the £700 per square metre adopted in the VR. Furthermore, we applied an investment yield of 5.25% in the north of the borough, whereas Knight Frank's April 2021 yield guide indicates that central London prime yields range from 3.5% to 4.25%.

Taking the top end of this range would result in a significant increase in capital value in comparison to the values in the VR.
The suggestion that letting fees and disposal costs may have been excluded in incorrect. The VR shows clearly on page 122 that letting agents fees of 10% of the first year's rent have been deducted and that agents fees and legal fees of 1% and 0.75% of capital value have been deducted.

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.

We would reiterate the points above, that capital value is understated and this would help to offset any increase in build costs relating to specific developers' personal inputs.

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.

Despite raising similar concerns at Camden (see paragraph 34 of the IR) we note that the Examiner in that case proceeded to note that "whilst there are justifiable questions raised and some of the inputs are debateable, the outcome of the study in respect of hotels is satisfactory".

The Examiner also attached a degree of weight to the percentage of hotel development costs that the revised CIL charge represented in Camden "which is unlikely to be decisive in decisions about the viability of a scheme". The same point applies in Lambeth, where CIL will amount to a modest proportion of development costs.

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.

Correct. The adjustment responded to market conditions arising from the Pandemic.

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".

As noted previously, the PPG encourages authorities to use standardised inputs from published data sources, such as BCIS. It is also inconceivable that Travelodge would ever viably build a scheme at these costs, given the leases they typically enter into.

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.

The BCIS data includes a range of hotels, including those in London and will include four star hotels which one would reasonably expect to be built to a higher standard than a budget hotel. Travelodge's critique of BCIS data is therefore somewhat confused; they suggest that the data does not include budget hotels (which one would expect to be built at lower costs), but if those budget hotels *were* included, the costs should reduce rather than increase.

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.

The Council has been charging CIL since the adoption of the current charging schedule in October 2014 and the adopted rates *can* therefore be used as a starting point from which alternative rates could be tested. The VR therefore tests CIL in two ways; firstly as an output (i.e. seeking the maximum rate in each given development scenario); or secondly as an input, using a set of rates. The second option is how the original rates were tested (albeit with a wider range of £0 to £500 per square metre in £20 increments). This more fine grained approach is effectively replaced by our first approach of identifying the maximum reasonable CIL rate in each development scenario.

There is no particular evidence base for the inputted CIL rates, other than the taking the adopted CIL rates as a starting point from which higher rates can be tested. Their value, however, is demonstrating the impact of increased CIL rates on the residual land values generated by the development typologies, to enable the Authority to take a balanced view on alternative CIL rates. The charts at figure 6.36.1 show the downwards impact of the alternative rates on residual land values in comparison to the current position. If the impact on residual land value from one of the alternative rates is shown to be modest, it would be reasonable to conclude that the increase in CIL (by itself) is unlikely to be a significant factor in landowner decision making (and thus land supply for certain uses, as noted in the report). This analysis is only possible if CIL is input as a cost, which clearly requires a decision to be made on a set of rates to test.

Appendix 1

Table comparing wording of policies in the Draft London Plan Consolidated Changes version July 2019 to the Published London Plan 2021

Policy number cited in VR	Subject of policy	Policy approach in Draft London Plan -Consolidated changes version July 2019	Policy approach in published London Plan March 2021	Implications for Lambeth CIL Viability Report
H6	Threshold approach to applications	A The threshold approach applies to major development proposals which trigger affordable housing requirements. B The threshold level of affordable housing on gross residential development is initially set at: 1) a minimum of 35 per cent; or 2) 50 per cent for public sector land where there is no portfolio agreement with the Mayor; or 3) 50 per cent for Strategic Industrial Locations, Locally Significant Industrial Sites and Non-designated Industrial Sites appropriate for residential uses…where the scheme would result in a net loss of industrial capacity. C To follow the Fast Track Route of the threshold approach, applications must meet all the following criteria: 1) meet or exceed the relevant threshold level of affordable housing on site without public subsidy. Where agreed by the borough, small housing developments may follow the Fast Track Route where they meet the relevant threshold level off-site or as an in lieu payment. 2) be consistent with the relevant tenure split (see Policy H7 Affordable housing tenure). Small housing developments may follow the Fast Track Route where the tenure split is to the satisfaction of the borough. 3) meet other relevant policy requirements and obligations to the satisfaction of the borough and the Mayor where relevant. 4) demonstrate that they have taken account of the strategic 50 per cent target in Policy H5 Delivering affordable housing and have sought grant to increase the level of affordable housing. CA Developments which provide 75 per cent or more affordable housing may follow the Fast Track Route where the tenure mix is acceptable to the borough or the Mayor where relevant. D Fast tracked applications are not required to provide a viability assessment at application stage. To ensure an applicant fully intends to build out the permission, the requirement for an Early Stage Viability Review will be triggered if an agreed level of progress on implementation is not made within two years of the permission being granted (or a period agreed by the borough). E Where an application does not meet the requirements set out in part C it must follow the Viability Tested Route. This requires detailed supporting viability evidence to be submitted in a standardised and accessible format as part of the application F Where a viability assessment is required to ascertain the maximum level of affordable housing deliverable on a scheme, the assessment	Policy number changed to H5 Threshold approach to applications Part C of the policy amended to read as follows (deleted text indicated with strike-through): To follow the Fast Track Route of the threshold approach, applications must meet all the following criteria: 1) meet or exceed the relevant threshold level of affordable housing on site without public subsidy. ~~Where agreed by the borough, small housing developments may follow the Fast Track Route where they meet the relevant threshold level offsite or as an in lieu payment~~ 2) be consistent with the relevant tenure split (see Policy H6 Affordable housing tenure). ~~Small housing developments may follow the Fast Track Route where the tenure split is to the satisfaction of the borough~~ 3) meet other relevant policy requirements and obligations to the satisfaction of the borough and the Mayor where relevant 4) demonstrate that they have taken account of the strategic 50 per cent target in Policy H4 Delivering affordable housing and have sought grant to increase the level of affordable housing.	The policy no longer covers small housing developments with fewer than 10 units. The Draft Revised Lambeth Local Plan does include a requirement for a payment in lieu of affordable housing from schemes providing fewer than 10 units, but this is subject to case by case viability testing. This policy requirement is proposed for deletion in the Inspector's main modifications on the basis that it is not in general conformity with the London Plan and not consistent with national policy. The Council's response to the main modifications consultation argues for its retention. The Lambeth CIL VR states at paragraph 5.4 that for small sites that fall below the 10 unit threshold, the report factors in the affordable housing requirement as on-site units to test their ability to include a potential affordable housing requirements as well as CIL. It adds that in practice the Council seeks such schemes to make payments in lieu of on-site delivery, but the method of calculation reflects the approach to viability testing (calculating a payment that is the financial equivalent of on-site affordable housing delivery).

Policy number cited in VR	Subject of policy	Policy approach in Draft London Plan -Consolidated changes version July 2019	Policy approach in published London Plan March 2021	Implications for Lambeth CIL Viability Report
		should be treated transparently and undertaken in line with the Mayor's Affordable Housing and Viability SPG.		
H13C	Build to Rent	To follow the Fast Track Route, Build to Rent schemes must deliver at least 35 per cent affordable housing, or 50 per centre where the development is on public sector land or industrial land appropriate for residential uses…The Mayor expects at least 30 per cent of DMR homes to be provided at an equivalent rent to London Living Rent, with the remaining 70 per cent at a range of genuinely affordable rents. Schemes must meet all the other requirements of part C of Policy H6.	Policy number changed to H11C Build to Rent Identical wording to that in July 2019 version of the plan.	No change in policy approach so no need for further testing in Lambeth CIL VR.
H15B(1)	Specialist older persons housing	Specialist older persons housing (Use Class C3) provision should deliver affordable housing in accordance with Policy H5 Delivering affordable housing, and Policy H6 Threshold approach to applications.	Policy number changed to H13B(1) No change in policy approach. Clearer definition provided in supporting text of definition of specialist older persons' housing	No change in policy approach so no need for further testing in Lambeth CIL VR.
H17A(4)	Purpose-built student accommodation	Boroughs should seek to ensure that local and strategic need for purpose-built student accommodation is addressed, provided that - the maximum level of accommodation is secured as affordable student accommodation as defined through the London Plan and associated guidance. a) to follow the Fast Track Route, at least 35 per cent of the accommodation must be secured as affordable student accommodation or 50 per cent where the development is on public land or industrial land appropriate for residential uses in accordance with Policy E7 Industrial intensification, co-location and substitution b) where the requirements of 4a above are not met, applications must follow the Viability Tested Route set out in Policy H6 E Threshold approach to applications.	Policy number changed to H15A(4) PBSA Identical wording but new subclause (c) added: The affordable student accommodation bedrooms should be allocated by the higher education provider(s) that operates the accommodation, or has the nomination right to it, to students it considers most in need of the accommodation.	No change in policy approach. The additional clause does not have implications for viability. Therefore no need for further testing in Lambeth CIL VR.
H18(8)	Large-scale purpose-built shared living (co-living)	LSPBSL development must meet all the following criteria…. It delivers a cash in lieu contribution towards conventional C3 affordable housing. Boroughs should seek this contribution for the provision of new C3 off-site affordable housing as either an: a) Upfront cash in lieu payment to the local authority; or b) In perpetuity annual payment to the local authority In both cases developments are expected to provide a contribution that is equivalent to 35 per cent of the units, or 50 per cent where the development is on public sector land or industrial land appropriate for residential uses…to be provided at a discount of 50 per cent of the market rent. All LSPBSL schemes will be subject to the Viability Tested Route set out in Policy H6, however, developments which provide a contribution equal to 35 per cent of the units at a discount of 50 per cent of the market rent will not be subject to a Late Stage Viability Review.	Policy number changed to H16(9) LSPBSL Identical wording to that in the July 2019 version of the plan.	No change in policy approach so no need for further testing in Lambeth CIL VR.

Policy number cited in VR	Subject of policy	Policy approach in Draft London Plan -Consolidated changes version July 2019	Policy approach in published London Plan March 2021	Implications for Lambeth CIL Viability Report
D4	Housing quality and standards	Sets out detailed standards for minimum private internal space in new dwellings (in Table 3.1) and various other requirements – Draft Revised Lambeth Local Plan defers to these. Sets minimum standards for private outside space in new dwellings where there are no higher local standards in the borough development plan documents (NB – there are higher standards in Draft Revised Lambeth Local Plan).	Policy number changed to D6 Housing quality and standards No change in standards from those in the July 2019 version of the plan.	No change in standards so no need for further testing in Lambeth CIL VR.
D5	Accessible housing	To provide suitable housing and genuine choice for London's diverse population, including disabled people, older people and families with young children, residential development must ensure that: 1) at least 10 per cent of dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(3) 'wheelchair user dwellings' 2) all other dwellings (which are created via works to which Part M volume 1 of the Building Regulations applies) meet Building Regulation requirement M4(2) 'accessible and adaptable dwellings'.	Policy number changed to D7 Accessible housing No change in standards from those in the July 2019 version of the plan.	No change in standards so no need for further testing in Lambeth CIL VR.
SI2C		A minimum on-site reduction of at least 35 per cent beyond Building Regulations 2013 is required for major development. Residential development should achieve 10 per cent, and non-residential development should achieve 15 per cent through energy efficiency measures. Where it is clearly demonstrated that the zero-carbon target cannot be fully achieved on-site, any shortfall should be provided, in agreement with the borough, either: 1) through a cash in lieu contribution to the borough's carbon offset fund, or 2) off-site provided that an alternative proposal is identified and delivery is certain.	Identical wording to that in the July 2019 version of the plan.	No change in policy approach so no need for further testing in Lambeth CIL VR.
T6.1	Residential parking	New residential parking should not exceed the maximum parking standards set out in Table 10.3 and various other requirements.	No change in policy wording. The final direction from the Secretary of State in December 2020 changed some of the maximum residential parking standards in Table 10.3, but this only affected standards for Outer London boroughs.	No change in standards affecting Lambeth so no need for further testing in Lambeth CIL VR.

Appendix 2

Status of schemes being brought forward by parties submitting representations to the CIL Examination

To assist the Examiner, we provide below the current status of applications submitted by parties which have submitted representations to the CIL examination:

Oval gasworks (Berkeley Homes plc) 17/05772/EIAFUL granted on 23 August 2018 amended by S96a 20/00646/NMC on 27 Mar 2020 (to enable phased development through 5 phases) and also by S73 20/00987/VOC on 17 July 2020 (to create 3 more phases, delete 1 phase and keep 3 phases).

Each phase is a separate chargeable development. Only Phase 1 (demolition) has pre-commencement conditions. All other phases have no pre-commencement conditions. For phased developments, pre-commencement conditions determine date when planning first permits development and therefore the charging schedule that will be applied. Development expected to commence in 2021/22. Final phase to commence in 2022/23.

Tesco Kennington Lane (Berkeley Homes plc) 18/02597/EIAFUL granted on 21 Dec 2018 amended by S96a 19/03649/NMC on 31 Oct 2019 and 20/00786/NMC on 27 Mar 2020 and also by 20/02203/VOC on 30 Mar 2021. The amendments enable phased development through 4 phases and also include changes in floorspace.

As with the Oval gasworks, only Phase 1 has pre-commencement conditions. Development commenced in August 2019. Phase 3 will commence in 2021/22 and the Phase 4 in 2022/23.

Elizabeth House (HB Reavis) 19/01477/EIAFUL granted on 18 February 2021. Still awaiting decision on S96a 21/01505/NMC (to enable changes in external appearance and layout). Not a phased development. Expected to commence soon but still awaiting CIL infrastructure payment in kind agreement as required by CIL Regulations prior to commencement.

Montford Place (Connected Living London Ltd) 20/01086/FUL approved by PAC 15 Dec 2020 but still awaiting decision notice and S106. No further details yet with CIL.

10 Pascal Street (Connected Living London Ltd) 20/02331/FUL approved by PAC 20 Apr 2021 but still awaiting decision notice and S106. No further details yet with CIL.