Community Infrastructure Levy:
Preliminary Draft Charging Schedule
Summary of Consultation Reponses

London Borough of Tower Hamlets

October 2018

1. INTRODUCTION

1.1 On 11th January 2018 Tower Hamlets Council published its Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule (PDCS) and supporting evidence base. It invited responses from the public including local landowners and developers, as well as other public authorities and statutory consultees. The purpose of the consultation was to invite comments and additional evidence that will help the Council strike an appropriate balance when setting CIL rates.

1.2 In accordance with Regulation 15 (7) of the Community Infrastructure Levy Regulations 2010 (as amended) the Council has taken into account these representations before it publishes its Draft Charging Schedule (DCS). This document summarises how the Council has taken the representations into account alongside other appropriate available evidence. The requirement to “take into account” means that the council is to conscientiously consider the representations but is not bound to accept all or any of them

1.3 The Council received 18 representations in total. Table 1 below shows the parties who submitted representations:

Ref	Representor (Agent)
CIL_PDCS 1	Michael Byrne
CIL_PDCS 2	Port of London Authority
CIL_PDCS 3	Natural England
CIL_PDCS 4	Mayor of London
CIL_PDCS 5	Transport for London
CIL_PDCS 6	Ashbourne Beech Property Limited (DP9)
CIL_PDCS 7	Mid City Properties (MDA Associates)
CIL_PDCS 8	Big Yellow Group PLC (DWDLLP)
CIL_PDCS 9	Londonewcastle (DP9)
CIL_PDCS 10	Canary Wharf Group (DP9)
CIL_PDCS 11	Bishopsgate Goods Yard Regeneration Limited (DP9)
CIL_PDCS 12	Westferry Development Limited (DP9)
CIL_PDCS 13	The Ballymore Group (DS2)
CIL_PDCS 14	St William (Quod)
CIL_PDCS 15	House Builder Consortium (Savills)
CIL_PDCS 16	Berkeley Group (Quod)
CIL_PDCS 17	One Housing group (Quod)
CIL_PDCS 18	UKI Shoreditch and UKI Fleet Street Hill (DP9)

1.4 Please see Appendix A for a document which includes a more comprehensive summary of the representations received and provides the Council’s response in relation to each Representation.

2. THE MAIN ISSUES

Issue 1: Build costs and strategic sites

2.1 This issue relates to strategic site owners in particular being concerned that the build costs allowed for do not reflect reality.

How issue has been accounted for

2.2 The Council has updated its Viability Study which has involved seeking further build cost advice from specialist build cost consultants, WT Partnership.

Issue 2: Residual Section 106 assumptions

2.3 Following the adoption of CIL, the Council still secures Section 106 Planning Obligations contributions for a few non-infrastructure items. These are specific to the site in question and represent a cost to the developer, so an allowance must be made in the Council's Viability Study.

2.4 The Council has made an allowance of £1,220 per unit in respect of payments for Section 106 Planning Obligations within its Viability Study. Several representations contended that this allowance was too low. This allowance was previously agreed as acceptable in the case of the evidence supporting the Council's adopted CIL Charging Schedule.

How issue has been accounted for

2.5 The Council has undertaken research on this matter and found that, per unit, the assumption made is reasonable and significantly higher than the costs developers generally incur in this regard. The exercise undertaken to demonstrate this is set out in the Council's Additional Evidence and Information document which has been published for consultation alongside the Council's Draft Charging Schedule.

Issue 3: Current economic circumstances are too challenging to impose higher CIL rates

2.6 Multiple representors stated that construction cost increases, a challenging sales environment and limited funding opportunities are constraining the delivery of development.

How issue has been accounted for

2.7 The Council has considered this matter and has made sure its viability testing is up to date, so that it reflects market conditions as best as possible. The Council notes that the majority of evidence that informed the Council's adopted Charging Schedule was collected in 2012 and 2013 and that there has been a significant upturn in the economy since this time.

Issue 4: The development efficiencies applied are too high

2.8 Several representors stated that the assumptions relating to the gross to net ratio of floorspace (i.e. the sales area vs the construction area) are too high which artificially improves the viability position.

How issue has been accounted for

2.9 The Council has undertaken research in respect of the gross to net ratios of schemes granted permission since the Council's CIL was adopted. This research found that the gross to net ratios achieved were actually higher than the assumptions adopted, meaning the assumptions made by the Council are reasonable and actually provide a buffer. The exercise undertaken to demonstrate this is set out in the Council's Additional Evidence and Information document which has been published for consultation alongside the Council's Draft Charging Schedule.

Issue 5: The approach to securing on-site infrastructure

2.10 A number of representations describe concerns with the Council's proposed approach to use CIL "In-Kind" mechanisms to secure the delivery of on-site strategic infrastructure and that using Section 106 Planning Obligations is more appropriate.

How issue has been accounted for

2.11 The Council has set out its position in the "Additional Information and Evidence" document published alongside its Draft Charging Schedule. Several representations refer to the review of CIL described in the 2017 budget and some proposed changes to the national system. The Council notes that no changes have yet been made so the Council isn't able to amend its position but will be keeping the situation under close review.

2.12 In terms of using Section 106 Planning Obligations to secure the delivery of strategic infrastructure, the Council has concerns that doing so would fail to meet the three tests described in CIL Regulation 122 and in particular the test relating to "reasonably related in scale".

3. CONCLUSIONS

3.1 Further to this round of public consultation, Tower Hamlets' proposed CIL Charging Schedule has been amended to take account of appropriate available evidence.

Appendix A: Detailed Schedule of Representations and the Council's Responses

Comment ID	Representor (Agent)	Summary of Representation	Proposed Response
CIL_PDCS 1	**Michael Byrne**	Whilst I generally support the ideas contained within your consultation, I would like to suggest that splitting the Isle of Dogs into two separate zones for CIL would have added complexity and drive behaviours that would be undesirable – the whole of the Isle of Dogs should be zone 1. The Mayor has previously ruled that the Isle of Dogs is a homogenous area when he allowed a Local Plan to be written for the area as a whole; to treat it as two separate areas would confuse this and create difficulties in construction of the detailed plan for that area. The Mayor has previously ruled that the Isle of Dogs is a homogenous area when he allowed a Local Plan to be written for the area as a whole; to treat it as two separate areas would confuse this and create difficulties in construction of the detailed plan for that area. There are also developments which span this border from zone 1 to zone 2 which would be unworkable in the future. The Landmark Pinnacle development has two parts to the development – one of them would be in zone 1 and one would be in zone 2. How would you deal with viability and affordable for a development which is spread over two zones? It would be very confusing and would drive developers to 'game' the system over the two.	The Council notes the views set out. Rates must be set with reference to viability and of particular relevance in this regard is sales values – in this regard evidence suggests that there is variation across the Isle of Dogs, pointing to separate rates being required. The fact that certain development may span two zones won't be a particularly challenging matter to deal with in the context of an application - different rates will apply to different areas of the development; this will be able to be accounted for in a CIL and development viability context.
CIL_PDCS 2	**Port of London Authority**	I have now had the opportunity to review the documents and have no comments to make.	Noted.
CIL_PDCS 3	**Natural England**	Whilst we welcome this opportunity to give our views, the topic of the Community Infrastructure Levy Charging Schedule does not appear to relate to our interests to any significant extent. We therefore do not wish to comment.	Noted.
CIL_PDCS 4	**Mayor of London**	The Mayor welcomes the principle of Tower Hamlets seeking to secure appropriate developer contributions in order to support the funding and delivery of improved transport infrastructure. He considers your evidence and the proposed charges derived from the evidence to comply with the requirements of CIL Regulations 14 (1) and 14 (3). He would wish to continue to work together in developing and bringing forward transport proposals in Tower Hamlets. He would like to draw your attention to the comments TFL have made especially concerning the use of Section 106 obligations.	Noted.

CIL_PDCS 5	**Transport for London**	Your proposals / appraisals have generally taken account of the Mayor's revised proposals for his own CIL, together with the current MCIL / Crossrail Funding s106 requirements. We have, separately, made you aware of some instances where the documents could be clearer in showing that these Mayor of London rates have been fully taken into account. You have indicated that you will review these references and this is welcomed. A significant concern to TfL is the Tower Hamlets approach outlined to transport mitigation. This restates the approach outlined in the earlier borough SPD Consultation on s106 Planning Obligations which is considered unworkable. The consequence of such an approach on referred planning applications requiring necessary transport mitigation to make an application acceptable would presumably require a formal arrangement in order that the necessary mitigation could be assured. This is not practical and would have implications for the wider funding of infrastructure across the borough. A review, and modification, of the wording of your proposed Regulation 123 list is strongly encouraged.	Noted. The Council has aimed to make the updated Viability Study clearer. The Council will be reviewing its Regulation 123 List on an ongoing basis and looks forward to working with you to find an appropriate solution.
CIL_PDCS 6	**Ashbourne Beech Property Limited (DP9)**	The BNPP document, Community Infrastructure Levy Review, September 2017, provides at paragraphs 2.43 – 2.44 the Local Policy Context. This includes reference to the emerging draft Local Plan and those policies that are likely to have cost implications for developments. It is unclear, however, why no reference is made to the adopted Core Strategy or Development Management Document as these provide the adopted local planning policy context and advice. The policies in the draft Local plan will be the subject of debate at an Examination in Public (likely later this year) and as such are subject to change. The PDCS should include reference to and an assessment of the policies in the adopted local planning policy documents;	The Council considers basing its proposed charges on its emerging Local Plan is appropriate. The proposed Local Plan which has been formed to be consistent with the emerging London Plan. The emerging Local and London Plans apply more cost burdens to development so the Council consider that the adopted approach is most appropriate.
	Ashbourne Beech Property Limited (DP9)	There does not appear in the BNPP document to be any specific assessment of the policies and guidance of the London Plan (2016) or (if following the approach in respect of the draft Local Plan) to the draft London Plan, December 2017. This is contrary the guidance in the NPPF and PPG. The Mayor of London published in August 2017 his Affordable Housing and Viability SPG which includes guidance that is reflected in the draft London Plan, particularly related to the provision of affordable housing at 35%. How has this guidance (which is currently being treated as policy and in due course most likely will become policy) been assessed in relation to strategic sites and the likely competing priorities associated with infrastructure provision and place creation?	The CIL Viability Study has been based on policies in the Council's emerging Local Plan. The Council's emerging Local Plan has been formed to be consistent with the new draft London Plan.

	Ashbourne Beech Property Limited (DP9)	The PDCS, Table 1, p2, sets out proposed rates. The rates for each category of use to which a levy is to be applied have increased from those in the current Charging Schedule that has been in place since April 2015. The increase in rates ranges from an uplift of circa 10% (for convenience supermarket floorspace) to almost 300% (Zone 2 residential). Whilst the BNPP document concludes that the likely impact of the proposed CIL levy will form a relatively small proportion of the overall costs of development (others will I am sure contest this general assertion) and not be the cause of non-viability, the proposed increase in levy for all categories of development has the potential to significantly impact and hamper the delivery of schemes, and particularly housing, across the borough. Can it be explained how the PDCS has been informed by the GLA DIFS Study that is understood to have been carried out as part of the work associated with the preparation of the OAPF?	The Council has produced appraisals based on appropriate available evidence that indicates that the rates proposed can be accommodated. The extent of increase is not necessarily a relevant factor, particularly given the rates proposed are modest in light of rates adopted in other charging schedules across London.
	Ashbourne Beech Property Limited (DP9)	The PDCS now no longer proposes an exception for Large Allocated Sites. The rationale for this is discussed in the BNPP report at section 7, Strategic Sites. Paragraph 7.19, p48 concludes that the proposed CIL rates should be maintained across the borough "…as they are not deemed to be of a sufficient magnitude that is likely to threaten the development of the strategic sites." There is no mention in the BNPP document to the extensive discussion regarding Allocated Sites that took place at the EIP to the current Charging Schedule. Paragraphs 63 – 86 of the Inspector Decision Letter (PINS/E5900/429/134) to the EIP to the Charging Schedule discuss the consideration of a nil charge for four of the Allocated Sites – Wood Wharf, Westferry Printworks, London Dock and Bishopsgate Goodsyard. At paragraph 80 the Inspector concludes: "…However, I have concluded that there is a reasonable likelihood of the charges proposed by the Council rendering development of the four sites unviable, in which case the developments would be highly unlikely to come forward and, thus, neither the necessary infrastructure nor any CIL payment in respect of the site would be delivered anyway." As noted at the outset of these representations the charging authority is to use appropriate available evidence (section 211(7) Planning Act 2008) to inform the draft charging schedule. The Council should explain why it is now considered that there is no need to exclude Allocated Sites from the CIL levy? The PDCS has been prepared less than 3 years after adoption of the Charging Schedule and now not only proposes that the borough CIL apply to all sites but that the levy be increased (in some instances quite considerably) from that set in 2015;	The Council's proposal to not exclude allocated sites from its proposed Charging Schedule is due to the fact that appraisal evidence indicates that these sites can accommodate CIL charges. The Council notes that a very different opinion was reached in respect of the Examination for the adoption of the CIL for the London Borough of Hackney where the Examiner allowed a charge on large strategic sites such as Bishopsgate Goods Yard which spans both Hackney and the London Borough of Tower Hamlets.

	Ashbourne Beech Property Limited (DP9)	The Crossharbour Town Centre site is an Allocated Site that should benefit from a zero CIL levy. Such an approach would reflect the guidance in the PPG, paragraph 021. As with other Allocated Sites the Local Plan requires that the development of the site deliver significant infrastructure, including a primary school, re-provided health centre and community space. This in-kind provision, no doubt alongside other site specific S106 obligations which will be sought, will ensure that any development proposal secures the delivery of its associated social infrastructure. The Council has a “Payment in Kind and Infrastructure Payments Policy” but it is not considered that the potential for an in-kind contribution will remove the significant cost and viability implications of a borough CIL levy being applied to the development out of the site;	In terms of the viability implications of the proposed CIL, the Council considers that the testing undertaken shows that this site can viably accommodate the proposed CIL rates.
	Ashbourne Beech Property Limited (DP9)	The Council is aware that the Crossharbour Town Centre site benefitted from a November 2014 grant of planning permission for redevelopment – new supermarket, other retail and circa 850 residential units. The Council assessment that is included at the appendix of the BNPP document assesses a scheme of circa 1,650 units. It is not known what assumptions have been made regarding the various inputs to the viability appraisal that has been carried out.	The capacity allowed for in this regard reflects the entire site allocation within the Council's new Local Plan. The Council considers the capacity adopted is reasonable for testing purposes.
	Ashbourne Beech Property Limited (DP9)	What abnormals have been included? The BNPP document (paras 4.34 and 4.35) would imply that no provision is made for the significant abnormal cost of the main sewer diversion across the site.	Abnormal costs have been included where known. These have been established by specific cost consultancy work undertaken.
	Ashbourne Beech Property Limited (DP9)	The planning application submitted in June 2017 proposed circa 2,000 units and included a new supermarket, reconfigured and enhanced bus layover and terminus, additional retail and town centre uses, a 3FE primary school, a community centre, a theatre/arts space and, a new public square. There is no doubt that the site has the potential to fulfil a significant function in terms of housing and other mixed use delivery. The grant of planning permission, BNPP indicative assessment, planning application submission and, Local Plan site allocation, all confirm as much. The 2014 grant of planning permission (PA/11/03670) was in advance of the adoption of the borough CIL in April 2015. It was subject to S106 obligations totalling circa £7M and Mayoral CIL of circa £4M. So, an estimated CIL/S106 liability of £11M. The BNPP assessment of a circa 1,650 unit scheme identifies a borough CIL liability of circa £27M i.e. £16M more than the 2014 scheme of planning permission. The planning application submitted in June 2017 estimated a total CIL liability (borough and Mayoral) of circa £47M i.e. £36M more than the 2014 scheme of planning permission. Based on this estimated CIL the viability assessment that accompanied the application for planning permission identified that the scheme could not support any affordable housing. The submitted scheme proposed 11% by habitable room significantly below the target levels set out by the development plan. Whilst it is acknowledged that a like for like comparison is not possible there is no doubt that the introduction of a borough CIL levy to the proposals for the development of the Crossharbour Town Centre introduces a significant additional cost over that previously required and / or envisaged by ABPL. Such a cost is likely to threaten the ability to viably develop out the site and therefore achieve its contribution to the strategic housing target, affordable housing provision and delivery of other infrastructure, contrary the advice in the NPPF and PPG. What ‘buffer’ has been included in setting the rates (Para 019 PPG)?	The Viability Study supporting the Preliminary Draft Charging Schedule allowed for a buffer of circa 25%. Please refer to the updated Viability Study for the buffer that applies in respect of the rates described in the Draft Charging Schedule.

	Ashbourne Beech Property Limited (DP9)	ABPL strongly believes that the site at Crossharbour Town Centre should be subject of a zero borough CIL rate – Mayoral CIL alone is likely to give rise to a levy of circa £8M in any event. ABPL will pursue this line of representation to the EIP. That said, ABPL would also query the logic associated with the boundaries of the Charging Zones. The site at Crossharbour Town Centre is located on the southern and eastern edge of Zone 1. Properties immediately to the east are in Zone 2 (where the CIL levy is proposed at £180 as opposed to £280). The CIL Zone 1 designation covers City Fringe and North Docklands. It is clearly inappropriate to include Cubitt Town in the same zone. Consideration of the boundaries is clearly of importance to the setting of the levy and ABPL will be further investigating this aspect in advance of the publication of the Draft Charging Schedule;	The appraisal supporting the Crossharbour Town Centre site demonstrates that this site can accommodate the newly proposed local CIL rate. This site is certainly more comparable to other sites in zone 1 than those in zone 2 to the east - the site is able to accommodate higher densities and it has good links to social infrastructure including open space and schools.
	Ashbourne Beech Property Limited (DP9)	The Crossharbour Town Centre site includes an existing supermarket building. This is circa 9,000 sq m GIA – see Scheme 10 summary appraisal sheet in the BNPP document. Paragraph 4.28, p 27 BNPP document states that the appraisals carried out to assess the likely impact of CIL "…assume a deduction of 15% for existing floorspace" bearing in mind the urban nature of Tower Hamlets. The BNPP appraisal summary sheet (Scheme 10) identifies a proposed GIA floor area of circa 180,000 sq m. The existing floorspace of the Crossharbour Town Centre site (circa 9,000 sq m) is circa 5% not 15%. The impact of a CIL levy on the provision of the net additional floorspace is significant and not reflective of the assumptions made by the BNPP document.	BNPPRE have applied the site specific floorspace discount to its calculations for the strategic sites - in this case 8,799 sq m as identified in Appendix 7.
	Ashbourne Beech Property Limited (DP9)	The development out of Crossharbour Town Centre will occur in phases. It is estimated that the scheme could take 8 – 10 years to build out. As per the Regulations, the applicable CIL levy will only be quantified at the start of each phase of development. As such, ABPL is extremely concerned that not only will the likely CIL levy dramatically increase should the PDCS be adopted as currently drafted but that, on the basis the Council only adopted its Charging Schedule in April 2015, further revisions to the levy rates are likely well in advance of the build out of the later stages of this site. This is likely to add cost and significant uncertainty regarding the future development out of the Crossharbour Town Centre.	The Council doesn't disagree that this might be the case, however concerns raised are a factor of the CIL Regulations, not the proposals relating to a new CIL Charging Schedule. As the Law currently stands opportunities will be available to make representations at the point when the charging schedule undergoes a review.
	Ashbourne Beech Property Limited (DP9)	The Council has not published a revised Regulation 123 list. It is important to understand the type of infrastructure that the proposed CIL is intended to fund and whether the list covers any infrastructure required to be provided to support the development out of the Crossharbour Town Centre? This should be clarified in order that the assumptions regarding the allowance for S106 costs contained in the BNPP document (para 4.26, p27) are reasonable.	The Council did publish a revised Regulation 123 List, in its *Supporting Evidence and Funding Gap Report*.
	Ashbourne Beech Property Limited (DP9)	ABPL is concerned that the PDCS proposes to significantly increase the proposed rates for the CIL. This has real potential to frustrate the delivery of the Crossharbour site and other development across the borough threatening the ability to achieve strategic housing targets and delivery of infrastructure. There is a good case for Crossharbour Town Centre to be an Allocated Site that is subject to zero CIL. If the CIL is to apply at the current rates the levy will add circa £36M of cost to that which was previously anticipated. The Council should look carefully at the charging zones that are proposed relating to the application of the various levy rates.	The appraisal supporting the Crossharbour Town Centre site demonstrates that this site can accommodate the newly proposed local CIL rate.

	Ashbourne Beech Property Limited (DP9)	The market commentary in section two notes that prices since the date of the 2013 study and the height of the market in 2008 have risen considerably. DS2 would not disagree with the Land Registry data presented in Figure 2.23.1, however, it would be worth analysing new build values rather than general market trends. Feedback from agents active in the market is that there has been considerable under-performance in new build sales values with volumes also significantly down over the last 12-18 months which in turn has had an impact on the use of incentives and discounts. The new build market is currently facing significant headwinds and uncertainty is now at a level comparable with 2008. Whilst table 2.24.1 reflects a range of agents' forecasts, these are inherently positive and there are several independent economic forecasts that present a less optimistic outlook;	The sales values adopted are based on available evidence of transactions of units, units available on the market and BNP Paribas Real Estate's extensive understanding of values from viability assessments undertaken on site specific schemes in the Borough on behalf of the Council.
	Ashbourne Beech Property Limited (DP9)	The section identifies that Argus has been used to model the scenarios but no Argus appraisals are provided. We would ask that these are provided.	The Council and its consultants are considering its position with regards to the publication of Argus Appraisals
	Ashbourne Beech Property Limited (DP9)	The site area in the Viability Study is 6.06 ha – the Managing Development Document Site 19 refers to 4.89 ha as does the draft Local Plan. The BNPP figure requires clarification.	It is considered that the size of 6.06 HA reflects an appropriate area of site to undertake testing against.
	Ashbourne Beech Property Limited (DP9)	The current proposal is for a scheme to be delivered in three distinct phases. The first phase incorporates the delivery of a new retail store whilst their operations in the existing store continue (i.e. no disruption). The programme is elongated because of these operational requirements. It would be helpful if BNPP would provide their Argus appraisal with attached timings i.e. how are the five phases modelled structured timing wise.	The Council and its consultants are considering its position with regards to the publication of Argus Appraisals
	Ashbourne Beech Property Limited (DP9)	The (private sales rate of £900 psf) figure included in the BNPP appraisal is c. 5% more than that in the Developer's own appraisal. In the current market that has been significantly impacted by the UK's decision to exit the European Union and changes to the SDLT regime, it is unlikely that this can be achieved, on a present-day basis, whilst seeking to maintain the sales absorption that is noted below. The market commentary section of the Viability Study also refers to significant value uplift since 2013. Further examination of new build inflation is being considered as the figures referred to in the Study relate to the market as a whole, whereas new build property has underperformed.	The sales values adopted are based on available evidence of transactions of units, units available on the market and BNP Paribas Real Estate's extensive understanding of values from viability assessments undertaken on site specific schemes in the Borough on behalf of the Council.
	Ashbourne Beech Property Limited (DP9)	(The affordable sales rate is) Reasonable in the main. It would be helpful to see BNPP's calculation on shared ownership properties which may not be affordable at this price point (particularly in relation to the larger units). The £psf rate for intermediate rent (as opposed to SO) would be lower given the lack of equity sale.	Noted.
	Ashbourne Beech Property Limited (DP9)	(In respect of Commercial timings) BNPP to provide assumptions albeit the zero void suggests capitalisation at PC.	No void and rent free period have been assumed as the tenant (ASDA) is known for the space and will be moving in on practical completion after the 36 month construction period.

	Ashbourne Beech Property Limited (DP9)	Ground rent income is being excluded from a number of the large Surveying teams' Red Book valuation. This needs to be removed potentially or as a minimum, the yield increased to reflect risk.	The appraisal exercise undertaken represents an assessment of the value generated by the development on the basis that planning permission is in place. At the current time, there is no legislation in place which prevents ground rents being charged on leasehold flats. We are therefore not in a position to disregard the investment value of ground rents. Furthermore, any legislation which the government may choose to bring forward would be to remove 'onerous lease terms'. It is considered unlikely that the assumptions made in the updated Viability Study could be considered onerous. There is no timetable for bringing legislation before parliament on this matter.
	Ashbourne Beech Property Limited (DP9)	(Regarding the Build Cost, this) Appears to relate to typology 8 from Table 4.16.1 on page 26 of the Viability Study. As a blended average this is significantly lower than the current cost plan for the emerging scheme for discussion.	The Council has sought further specialist advice to inform the costs applied in the appraisals that support this rates described in the Draft Charging Schedule. Please refer to the Council's updated Viability Study.
	Ashbourne Beech Property Limited (DP9)	(Regarding the contingency of 5%) this is a very large complicated site and 7.5% to 10% would not be unreasonable in terms of combined design and construction contingency.	In our experience a 5% development contingency is a reasonable market assumption to allow for build cost contingency.
	Ashbourne Beech Property Limited (DP9)	(Regarding exceptional/abnormal costs) A range of exceptional costs including but not limited to the delivery of a new retail store, temporary car park, energy centre, sewer diversion works, utilities connections, theatre costs and a community hub.	The updated Viability Study considers these matters in more detail.
	Ashbourne Beech Property Limited (DP9)	(Regarding the allowances for Sales, Marketing & Legals (Resi.)) current market conditions would suggest that a combined figure for agent and marketing fees is at circa 5% over lifetime of the development.	The Council and its advisors consider an allowance of 3.5% is a reasonable market allowance.
	Ashbourne Beech Property Limited (DP9)	(Regarding the allowances for Disposal, Sales & Marketing (Comm.)) 15% for joint agency on the letting fee %.	The Council does not consider the allowance of 10% made is unreasonable.
	Ashbourne Beech Property Limited (DP9)	Clarification required on the CUV calculation.	This is based on capitalisation of supermarket and petrol forecourt VOA rateable market value assessment of £2,106,264 pa at 4.5% - which is the same yield as that adopted in the new store.
	Ashbourne Beech Property Limited (DP9)	DS2 reserve judgment on the IRR derived until the Argus appraisal has been provided. The target rate of return is deemed to be 13% on a present day basis which is below other comparable schemes and there is no justification in the BNPP report for what is a low target return (note BNPP returns on BGY and Westferry – 14/15% respectively).	In BNPPRE and the Council's experience large multi-phased and complex schemes come forward on ungrown IRRS of 13%.

CIL_PDCS 7	**Mid City Properties (MDA Associates)**	Why the southside of the A1203 should be treated any differently to the northside? There is evidence supplied by DWD on behalf of Big Yellow Group that demonstrates how residential values differ across this area. The higher values relate in particular to the recent London Dock scheme to the south of Pennington Street and other developments in Wapping leading down to the River Thames. The land north of Pennington Street, fronting The Highway is in a completely different environment and new residential development is very unlikely to achieve similar sales figures. In fact, as part of the London Dock development, the affordable housing element was located directly on The Highway rather than in the development scheme itself. Mid City Properties have been in discussion with the Council for some time now about the redevelopment of their site which would secure a new facility for VW (and retain local jobs) and provide new residential above. However, the current CIL charge of £200, is such that the Viability Assessment cannot justify the redevelopment costs involved let alone the delivery of any affordable housing. Consequently, we have direct evidence to show that this current level of CIL charge (£200) cannot be sustained in this location and therefore the proposed new charge of £280 cannot be justified.	The Council has reconsidered the location of this boundary and has revisited appraisal work to test its appropriateness. The position is clarified in the updated Viability Study.
	Mid City Properties (MDA Associates)	Why arterial routes are not considered separately? We would also ask that in respect of the Residential Charging Zones, the CIL rates should be reviewed completely for sites located on arterial routes such as The Highway, which are directly affected by noise and air quality issues. These factors add significantly to the development costs associated with creating good internal environments for the new properties and should therefore be factored in.	The Council does not consider there is sufficient evidence to create separate CIL zones along arterial routes. The Council would presume that the value-affecting characteristics asserted would apply in other charging areas, however the Council is not aware of any examples of zoning undertaken in this manner.
	Mid City Properties (MDA Associates)	Our representations therefore request the following: 1. In respect of the CIL boundary between Zone 1 and Zone 2, this should be repositioned to fall along Pennington Street rather than The Highway. 2. Careful consideration should be given to creating separate CIL zones along arterial routes such as The Highway where much lower CIL rates would apply for residential development given the greater cost associated with developing in these locations. 3. The re-examination of the CIL rates for both Zones 1 and 2, given the affect these rates are having on fringe sites in both Zones.	1. The Council has considered the relocation of the boundary and has concluded that there is insufficient evidence to support the relocation of this boundary. 2. The Council does not consider there is sufficient evidence to create separate CIL zones along arterial routes. The Council would presume that the value-affecting characteristics asserted would apply in other charging areas, however the Council is not aware of any examples of zoning undertaken in this manner. 3. Appraisal evidence indicates the rates in zones 1 and 2 are appropriate.
CIL_PDCS 8	**Big Yellow Group PLC (DWDLLP)**	We consider that the draft Charging Schedule Zone 1 boundary should be moved so that it is positioned along Pennington Street not The Highway. Land between Pennington Street and The Highway should not be grouped with higher value locations to the south in Wapping and land closer to the River Thames. This land should form part of Zone 2 as it is not considered viable for residential development on this land to support a CIL payment of £280 per sqm.	The Council has considered the relocation of the boundary and believes that there is insufficient evidence to support the relocation of this boundary.

	Big Yellow Group PLC (DWDLLP)	Properties fronting the south side of The Highway are more aligned in value with property prices on the north side of The Highway. The residential values of land fronting The Highway are impacted by the proximity to this busy road with 4 lanes of traffic. This land differs considerably to the quieter and narrower roads located to the south which are proximate to the Canals and River Thames and attract higher residential values. This is supported by the Zoopla Zed Index Heat Map, which indicates that the average property values for properties to the north are lower than those located south of Pennington Street and closer to the River Thames (see Figure 1 below). For this reason land along the southern side of The Highway should not be classed at the same CIL rate as the higher value land to the south.	The Council has considered the relocation of the boundary and believes that there is insufficient evidence to support the relocation of this boundary.
	Big Yellow Group PLC (DWDLLP)	The difference in property prices is particularly evident when exploring the current quoting prices for the St George London Dock development. The quoting prices further highlight that residential properties fronting The Highway attract a lower value than those further to the south. Properties within Admiral Wharf and Clipper Wharf, which are located within the southern part of the London Dock development are on the market at a quoting price of 11-27% more than units within Emery Wharf, which fronts onto The Highway. The quoting prices are set out within Table 1 below and the Site Layout Plan for the St George London Dock development, see Figure 2 below, shows the position of these units within the development. These quoting prices are particularly comparable as the units are within the same scheme; they are designed to the same specification; they benefit from the same services; and they are on the market at the same time.	The Council notes the comments made. The Council has considered the relocation of the boundary and believes that there is insufficient evidence to support the relocation of this boundary.
	Big Yellow Group PLC (DWDLLP)	We therefore propose that the boundary line demarcating CIL Zone 1 should be amended and be positioned along Pennington Street instead of The Highway, thus excluding land between The Highway and Pennington Street from Zone 1. The CIL rate for this land should be re-examined and a lower rate adopted to ensure that development is not prohibited because of unviable CIL obligations.	The Council notes the comments made. The Council has considered the relocation of the boundary and belives that there is insufficient evidence to support the relocation of this boundary.
CIL_PDCS 9	**Londonewcastle (DP9)**	The supporting Viability Study prepared by BNP Paribas dated September 2017 suggest that adopted rates of CIL could increase without adversely impacting on the viability of developments. The Viability Study does not appear to take into consideration the current market conditions which have developed, in part, following Brexit. It is our clients view that Brexit has created a challenging commercial climate as a result of increased construction costs and falling sales values. In addition, constraints around funding the delivery of larger site are making it even more difficult to deliver commercially viable schemes. The proposed increase in CIL as set out within the PDCS, in addition to the challenging climate means that our client does not support the findings of the Viability Study and the proposed increase is considered to be unjustified.	The Council notes the comments around there being a challenging economic environment. The Council has undertaken new appraisal work to support its rates proposed in its Draft Charging Schedule. The new appraisal work is based upon up to date evidence. It should however be noted that the majority of evidence that informed the Council's adopted Charging Schedule was collected in 2012 and 2013 and that, irrespective of Brexit, there has been a significant upturn in the economy since this time.

	Londonewcastle (DP9)	The NPPG notes that charging authorities should strike an appropriate balance between desirability of funding infrastructure from the levy and the potential economic impact. Based on the evidence provided within the BNP Paribas Viability Study, our client does not consider the proposed CIL increase, which is nearly threefold, to strike an appropriate balance. The current LBTH Charging Schedule was adopted in April 2015 and it is unclear as to what has dramatically changed since its adoption to warrant a significant increase in CIL rates. Conversely, the uncertainty of Brexit on the property market should be a key consideration with appropriate buffers accounted for to ensure the PDCS does not stifle future development.	The Council's Viability Study clearly describes significant changes in economic circumstances since the evidence that underpinned the adopted Charging Schedule was collected (mostly in 2013).
	Londonewcastle (DP9)	CIL is considered to be a form of taxation on development which sits outside of Section 106 obligations. A significant increase in the CIL rate will directly impact the viability of schemes which in turn will impact the ability to provide affordable housing. This contradicts both the Mayor's aspirations to deliver affordable housing and the London Borough of Tower Hamlet's own Local Plan aspirations.	The Council notes this comment. It is inevitable that the imposition of any level of CIL will impact the delivery of affordable housing to some degree. The Council considers that the rates proposed strike an appropriate balance between securing funding to deliver infrastructure and the ability to secure affordable housing moving forward.
	Londonewcastle (DP9)	Section 4.4. of the Community Infrastructure Levy Review ('CILR') evidence base states that Land Registry identifies that borough values have increased by 65% since the date of the 2013 Viability Evidence. This is not disputed. However, in order to provide the correct context it would be helpful to provide an analysis of new build pricing trends when compared to the wider market and also make reference to significant cost inflation over the same time period.	The Council notes that the Viability Study that supported its Preliminary Draft Charging Schedule consultation acknowledged that the increase in sales values had been partially offset by increases in build costs. This factor has therefore already been taken into account

	Londonewcastle (DP9)	Section 3.18 of the CILR under the heading Viability Benchmark makes reference to the 'market testing' of benchmark land values and that testing against market value is highly unreliable. We would not wholly disagree, however there is insufficient testing of the benchmark land values in the CILR. The Lord Harman report 'Viability Testing of Local Plans' prefers to a CUV based approach to benchmark land values however states on page 19 'Reference to market values can still provide a useful 'sense check' on the threshold values that are being used in the model (making use of cost-effective sources of local information), but it is not recommended that these are used as the basis for the input to a model'. The PPG, in relation to area-wide viability testing also states at paragraph 14 that 'site value should be informed by comparable, market-based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of this exercise'. Failure to do so potentially artificially deflates the cost of land to an unrealistic level and one at which sites may not be delivered. This in turn, puts the delivery of development sites and the subsequent delivery of the objectives of the Development Plan, at risk.	An EUV + approach to benchmark land values has been adopted. This has been accepted as a reasonable approach to assessing viability and in particular policy testing by numerous Examiners and Inspectors for CIL Charging Schedules and Local Plan testing. It has also as well as in respect of site specific testing within Tower Hamlets. As identified in the Viability Study supporting the Preliminary Draft Charging Schedule, we have significant concerns as to the use of site purchase prices/market values and in particular set out why we consider these to be unreliable as follows: "3.18 Commentators also make reference to "market testing" of benchmark land values. This is another variant of the benchmarking advocated by respondents outlined at paragraph 3.13. These respondents advocate using benchmarks that are based on the prices that sites have been bought and sold for. There are significant weaknesses in this approach which none of the respondents who advocate this have addressed. In brief, prices paid for sites are a highly unreliable indicator of their actual value, due to the following reasons: ■ Transactions are often based on bids that 'take a view' on squeezing planning policy requirements below target levels. This results in prices paid being too high to allow for policy targets to be met. If these transactions are used to 'market test' CIL rates, the outcome would be unreliable and potentially highly misleading. ■ Historic transactions of housing sites are often based on the receipt of grant funding, which is no longer available. ■ There would be a need to determine whether the developer who built out the comparator sites actually achieved a profit at the equivalent level to the profit adopted in the viability testing. If the developer achieved a sub-optimal level of profit, then any benchmarking using these transactions would produce unreliable and misleading results. Developers often build assumptions of growth in sales values into their appraisals, which provides a higher gross development value than would actually be achieved today. Given that our appraisals are based on current values, using prices paid would result in an inconsistent comparison (i.e. current values against the developer's assumed future values). Using these transactions would produce unreliable and misleading results. 3.19 These issues are evident from a recent BNP Paribas Real Estate review of the differences between the value ascribed to developments by applicants and the amounts the sites were purchased for by the same parties. The prices paid exceeded the value of the consented schemes by between 52% and 18,000%."

	Londonewcastle (DP9)	The CILR contains only nine scenarios below those sites which are considered to be strategic. Given that the PDCS includes a three-fold increase in the CIL rates for sites in Zone 2, and 6 of the 9 scenarios contain only 50 units or less, we would request more comprehensive testing of the sites that are in excess of 50 homes within Zone 2. We also request clarification of how the scenarios have been timed in terms of construction. Similarly, the evidence base for build costs based on BCIS rates needs further work as the rates are low when compared to current tender prices. It is not clear whether the BCIS rates have been sense checked against submitted viability assessments on projects of similar sizes and this is a key concern in the analysis.	In respect of the typology testing undertaken, the Council is Confident that its approach is reasonable and robust. In respect of the Council's approach to accounting for build costs, the Viability Study supporting the Draft Charging Schedule has taken a more robust approach.
	Londonewcastle (DP9)	In respect of the development efficiencies, the appraisals assume 35% on-site affordable housing. Given the need to provide separate entrances and cores for social rented housing, the proposed efficiencies on the smaller schemes appear very optimistic and clarification is required as to whether the delivery of on-site affordable and its impact on efficiency where there is only one building, has been considered.	The efficiencies allowed for account for the provision of on-site affordable housing. Further work undertaken identifies that the Council has been modest in the gross to net ratios that apply in respect of the appraisals.
	Londonewcastle (DP9)	Regarding fees, the document identifies 3% for residential marketing and agent's fees. This is not reflective of the market and is generally insufficient to achieve the values and sales rates that are incorporated into the appraisals.	In BNP Paribas Real Estate's experience, 3.5% is a reasonable allowance for marketing, agent's and legal fees.
	Londonewcastle (DP9)	Similarly, the weighted return, comprising 20% on GDV for private residential and 6% for affordable, is not reflective of the market requirements, particularly on schemes that are modelled with 35% affordable housing. No analysis is provided for example, of the major PLC's target rate of returns for speculative development, which must be a key consideration in the effective 'market' rate.	The profit allowance made is reflective of the vast majority of schemes that seek planning permission in Tower Hamlets. These levels were also deemed acceptable in respect of the Council's adopted CIL Charging Schedule. The Council also notes that recently published Planning Practice Guidance expresses that between 15 and 20% return on GDV is likely to be an acceptable level on market tenure residential development.
	Londonewcastle (DP9)	The PDCS has been published at a time when other related policy documents are also being considered. The NPPG states that charging authorities should consider linking a review of their charging schedule to any substantive review of the evidence base for the relevant Plan. There are clear advantages in coordinating the review of all documents to inform the PDCS. In particular, we note that the Council Draft Local Plan is at an advanced stage of review, the new draft London Plan and the Mayors own revised draft Charging Schedule (MCIL2) is currently the subject of consultation.	The Council notes this point. The Council's proposed CIL Charging Schedule has been formed with careful reference to emerging policy documents and the Mayor of London's newly proposed CIL.
	Londonewcastle (DP9)	The evidence base supporting the draft London Plan identifies a range of new policies that will present additional costs to developers in London. It would appear that the cumulative impact of the draft London Plan have not been considered in the CILR and this should be a material consideration in the viability of sites.	The CIL Viability Study has been based on policies in the Council's emerging Local Plan. The Council's emerging Local Plan has been drafted to be in general conformity with the new draft London Plan. As such, the cumulative cost impacts of the new draft London Plan have been accounted for.

CIL_PDCS 10	**Canary Wharf Group (DP9)**	The Council’s PDCS makes no distinction for strategic sites. This is a fundamental change compared to the current adopted Charging Schedule, which sets a nil rate for four of the Borough’s strategic sites (Bishopsgate Goods Yard, Wood Wharf, Westferry Printworks and London Dock). This is concerning given the conclusion made by the Examiner in his assessment of the current Charging Schedule in November 2014. This is still a very recent (only a little more than 3 years has past) and relevant conclusion. At the time the Examiner considered that there is ‘a reasonable likelihood that the proposed charge rates would render unviable development on the four large allocated sites’. He explained that ‘the charge would, in a material way, reduce the schemes’ IRRs’ and that ‘the proposed CIL charges could be determinative of whether or not one or more of the large allocated site schemes would be likely to come forward’.	The Council's decision to not exclude allocated sites from it's proposed Charging Schedule is due to the fact that appraisal evidence indicates that these sites can accommodate CIL charges.
	Canary Wharf Group (DP9)	CWG is not aware of any change since November 2014 that would have materially improved the viability outlook for the strategic sites. If anything, the factors impacting development viability have grown more challenging and uncertain. CWG is of the considered opinion that, in terms of market conditions, the delivery of the strategic sites is now as challenging commercially, as any time over the last decade. Significant cost increases combined with a very challenging sales environment caused in part by Brexit, and limited development funding opportunities, are constraining the delivery of large sites.	The Council notes the comments around there being a challenging economic environment. The Council has undertaken new appraisal work to support its rates proposed in its Draft Charging Schedule. The new appraisal work is based upon up to date evidence. It should however be noted that the majority of evidence that informed the Council's adopted Charging Schedule was collected in 2012 and 2013 and that, irrespective of Brexit, there has been a significant upturn in the economy since this time.
	Canary Wharf Group (DP9)	The explanatory notes and supporting evidence base for the PDCS do not provide any explanation as to why viability for the strategic sites has materially improved since November 2014. CWG request that the Council fully considers all of the points relevant to the strategic sites in the Examiner’s Report and clearly sets out why a fundamentally different approach is now justified? This is especially relevant to the strategic sites previously considered by the Examiner (i.e. Bishopsgate Goods Yard, Wood Wharf, Westferry Printworks and London Dock) as well as any new strategic sites, namely North Quay.	The Council's updated Viability Study clearly describes that Tower Hamlets has seen significant changes in economic circumstances since the evidence supporting the adopted Charging Schedule was collected. New evidence has been gathered and used to form appraisals based on appropriate available evidence. These appraisals indicate that strategic sites can accommodate CIL charges.
	Canary Wharf Group (DP9)	The combination of the adopted ‘Managing Development Document DPD’ (2013) and the Draft Local Plan (2017) allocate various sites that are strategically important to the overall objectives and policies of the Council’s Development Plan being met. Not all of these sites are included for assessment within the supporting Viability Study. Wood Wharf, for instance, is missing. No explanation is provided as to why this is the case. In this respect, CWG draw the Council’s attention to the NPPG which specifically highlights that ‘when reviewing their charging schedule, charging authorities should take account of the impact of revised levy rates on approved phased developments, as well as future planned development.’ Wood Wharf falls into the category of an approved phased development.	Please refer to the Council's Additional Evidence and Information document published alongside its Draft Charging Schedule which sets out the approach taken to selecting sites for testing.

	Canary Wharf Group (DP9)	The absence of any appraisal of Wood Wharf is very concerning in light of the detailed and thorough assessment and examination of it as part of the preparation of the current Charging Schedule and the Examiner's findings, as noted above. In essence, Wood Wharf is proposed to go from a nil rate across all land uses to a charge of, for example in relation to residential use, £280 per sqm. This is a change of 100% without any explanation for a site that was considered not able to accommodate any CIL previously.	Please refer to the Council's Additional Evidence and Information document published alongside its Draft Charging Schedule which sets out the approach taken to selecting sites for testing.
	Canary Wharf Group (DP9)	The Viability Study (at Appendix 7) does include an appraisal for North Quay. This has been reviewed and CWG's high-level comments are, as follows:	Noted
	Canary Wharf Group (DP9)	The CIL appraisal is based on a policy compliant 35% affordable housing offer and an IRR of 32.43%, assuming a Benchmark Land Value of just £12m, despite the North Quay site benefiting from an extant planning consent for a commercial scheme. In this respect, we also note that the IRR is higher than that which was reported in viability evidence prepared to support the Draft Local Plan (2017), which was an IRR of 29.35%. It is unclear why this is the case.	The Benchmark Land Value has been updated to reflect the viability evidence supporting the draft local Plan.
	Canary Wharf Group (DP9)	CWG has recently withdrawn a planning application for the redevelopment of North Quay. Viability work undertaken to support this planning application, which the Council is aware of, demonstrates that the CIL appraisal is not robust and unreflective of the actual viability associated with bringing the site forward.	The Council notes that the application was withdrawn and the viability position was not agreed. The Council does not consider that the negotiations that took place lead to a conclusion that the appraisal in the Council's Viability Evidence Base carried out is not reflective of reality.
	Canary Wharf Group (DP9)	The CIL appraisal is unrealistic, insofar that it fails to relate to how a reasonable land owner would act. Simply on the basis of the viability provided the land owner would not release the site for development as there is insufficient incentive versus the value of the site with extant planning permission. Development of this site would be frustrated. The viability does not reflect commercial reality or risk, using the recent North Quay planning application, for example:	The updated Viability Study amends the approach to the Benchmark Land Value.
	Canary Wharf Group (DP9)	Benchmark Land Value – the CIL appraisal assumes an EUV+ of £12.89m on the basis of a cleared vacant piece of land. This site benefits from an extant planning permission and the landowner has received valuation advice on the value of this extant consent. The landowner will not release this site for development for a land value of £12.89m	The updated Viability Study amends the approach to the Benchmark Land Value.
	Canary Wharf Group (DP9)	Build costs – Within the CIL appraisal the build cost assumption, on the basis of BCIS + abnormal costs, equates to c£830m. This approach is not satisfactory for a scheme of the complexity of that proposed. The build costs assumed are c. £450m below those that CWG's specialist advisor has costed. This also affects other assumptions which are linked to cost e.g. professional fees and contingency.	The Council has sought further specialist advice to inform the costs applied in the appraisals that support this rates described in the Draft Charging Schedule. Please refer to the Council's updated Viability Study.

	Canary Wharf Group (DP9)	Ground rents - The CIL appraisal includes a revenue for ground rents. Given recent Government announcements, and the clear direction of travel stopping revenue from ground rents for all new leasehold properties, this is not a feasible assumption to be included at the CIL feasibility testing stage.	The appraisal exercise undertaken represents an assessment of the value generated by the development on the basis that planning permission is in place. At the current time, there is no legislation in place which prevents ground rents being charged on leasehold flats. We are therefore not in a position to disregard the investment value of ground rents. Furthermore, any legislation which the government may choose to bring forward would be to remove 'onerous lease terms'. It is considered unlikely that the assumptions made in the updated Viability Study could be considered onerous. There is no timetable for bringing legislation before parliament on this matter.
	Canary Wharf Group (DP9)	Car parking – The CIL Study assumes 187 car parking spaces generating revenue, this quantum of car parking is not considered to be feasible, nor would it be acceptable to the Council, and is 375% higher than what CWG consider is feasible, meaning revenue is significantly over stated.	The number of car parking spaces tested is based on what emerging planning policy says on the number of spaces that can be provided on the site. The updated Viability Study
	Canary Wharf Group (DP9)	The reliance on reporting IRR and no comment on profit on GDV is of concern in providing a realistic view on the site's viability.	Please refer to the Council's updated Viability Study and Additional Evidence and Information document published alongside the Council's Draft Charging Schedule for further information on this matter.
	Canary Wharf Group (DP9)	**Cumulative Assessment of Planning Policies** The PDCS has been published at a time when a number of other related policy documents are also in differing stages of preparation and consultation. The NPPG states that charging authorities should consider linking a review of their charging schedule to any substantive review of the evidence base for the relevant Plan (i.e. documents comprising the Development Plan). Even if the original charging schedule was not examined together with the relevant Plan, there may be advantages in coordinating the review of both. In particular, we note that the Council Draft Local Plan is at an advanced stage of review (Regulation 19 consultation having recently completed) and the new draft London Plan is currently the subject of consultation. We also note that the Mayor of London has recently completed a second round of consultation on his proposed 'MCIL2'.	The Council notes this point. The Council's proposed CIL Charging Schedule has been drafted by careful reference to emerging policy documents and the Mayor of London's newly proposed CIL.
	Canary Wharf Group (DP9)	Paragraphs 173-177 of the NPPF are concerned with ensuring viability and deliverability in plan-making. Of particular note, is the point at paragraph 174, that the cumulative impact of all policies is to be taken into account in order to demonstrate that the implementation of the Development Plan is not put at risk. CWG is concerned that the viability work supporting the PDCS has not taken into account the full cumulative costs on development of all policies set out in the draft Local Plan, draft London Plan and draft MCIL2. We are conscious that there are the obvious costs associated with the provision of affordable housing, but many others that are relevant, for example, to name a few: zero carbon target; urban greening; low cost business space; affordable work space; affordable retail units; and, social infrastructure.	The Council considers that the viability appraisals undertaken do take account of the cumulative costs of the policies within the development plan.

	Canary Wharf Group (DP9)	CWG request that the Council supplements and expands its viability evidence base to include a cumulative assessment, so that the PDCS can be considered alongside all other possible policy costs.	The policy costs allowed for are based on the emerging Local Plan which are understood to be in accordance with the London Plan policies and in this regard we consider that the cumulative impact of planning policies has been appropriately addressed.
	Canary Wharf Group (DP9)	**Proposed Office and Residential Charging Rates** As a general comment and observation, CWG is very concerned about the lack of explanation and evidence associated with very significant increases in the CIL charging rates compared to the current Charging Schedule (including for indexation). This is especially the case in relation to the office rate for North Docklands and the residential rates across all charging zones.	The rates proposed are supported by appraisal evidence.
	Canary Wharf Group (DP9)	Firstly, in relation to the office rate, the Viability Study suggests a significant increase in viability and remarks that this is backed up by research. No research appears to have been provided. CWG request clarification from the Council in this respect before providing any further comment. CWG is very concerned that the proposed rate for North Docklands will fetter office development, especially when considering the examination into the current Charging Schedule concluded that a CIL charge for office within North Docklands was not viable. This examination, as highlighted elsewhere in these representations, was recent and CWG would be surprised if any research could credibly demonstrate a material change in circumstance.	The rents and yields for offices achievable in the Docklands and Canary Wharf area have improved significantly since the evidence for the adopted CIL Charging Schedule was gathered. Research identified that yields in the area on such space are at 4.75% with prime rental levels of £45 per sq ft (see reports on this by BNP Paribas Real Estate and Colliers) and headline rents reported at Canary Wharf of £47.50 per sq ft (JLL). We note that Savills have recently reported rents to be between £45 per sq ft and £50 per sq ft. An allowance of 24 months has been made to reflect a rent free and void period. Assumptions made in respect of the adopted Charging Schedule were values of circa £35 per sq. ft, yields of 6.25% and a 30 month rent free and void period. We note that during the course of the production of the Council's adopted CIL Charging Schedule the yield contracted to 5.75%. We would highlight that the CIL charge proposed is identified as being 1.67% of development costs.
	Canary Wharf Group (DP9)	Secondly, in relation to the residential rates, we are alarmed that the Viability Study explicitly highlights that the evidence demonstrates that viability of residential development is currently challenging, but then leaps to a recommendation that CIL rates can be materially increased. It is also unclear whether the proposed rates have been recommended on the basis of 35% affordable housing or on the basis of a high level of affordable housing, namely 50% - which is the policy target at both a local (Core Strategy / Draft Local Plan) and regional (London Plan) level. It is worth emphasising that the Draft Local Plan policy is for a minimum of 35%, therefore, clearly the CIL rates solely for this reason should be set assuming a higher than 35% requirement. We request clarification from the Council on this point before providing any further comment.	The reason the Council has chosen 35% affordable housing as the appropriate level to justify the charging of CIL is because this is the Council's site-by-site affordable housing requirement. 50% is a strategic target. We also note that the Mayor of London has adopted a "Threshold Approach" to viability where schemes can process through the planning application process without providing viability evidence. As such relying on the provision of 50% affordable housing to recommend CIL rates would be artificial and inappropriate.

	Canary Wharf Group (DP9)	The Council will, of course, recall that the Examiner during his consideration of the current Charging Schedule was especially focused on affordable housing assumptions and was concerned about the level of 'flex' the Council was assuming could be achieved to demonstrate that sites could come forward viably, alongside CIL. The Council will be aware of the very significant political and public attention on affordable housing and the new policies set out in the Draft London Plan as a response to this. It is unclear how the Draft London Plan approach has been taken into account – especially in terms of how the London Plan differentiates between sites in public and private ownership as well as site's in particular allocations e.g. Strategic Industrial Locations. A much clearer response to Draft London Plan affordable housing policies within the Viability Study is required.	The viability evidence underpinning the Council's newly proposed Charging Schedule is based on the policies described in the Council's new draft Local Plan which has been drafted to be in general conformity with the new London Plan.
CIL_PDCS 11	**Bishopsgate Goods Yard Regeneration Limited (DP9)**	The methodology applied is consistent with that presented in the 2013 Viability Study in that the residual value of the strategic sites is compared to a benchmark land value, being in turn based on the Current Use Value of the Sites plus a premium. DS2 agree that the methodology is acceptable albeit the Viability Study needs to ensure that the CUVs are robust;	Noted.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	The market commentary in section two notes that prices since the date of the 2013 study and the height of the market in 2008 have risen considerably. DS2 would not disagree with the Land Registry data presented in Figure 2.23.1, however, it would be worth analysing new build values rather than general market trends. Feedback from agents active in the market is that there has been considerable under-performance in new build sales values with volumes also significantly down over the last 12-18 months which in turn has had an impact on the use of incentives and discounts. The new build market is currently facing significant headwinds and uncertainty is now at a level comparable with 2008. Whilst table 2.24.1 reflects a range of agents' forecasts, these are inherently positive and there are several independent economic forecasts that present a less optimistic outlook;	The Council notes the comments around there being a challenging economic environment. The Council has undertaken new appraisal work to support its rates proposed in its Draft Charging Schedule. The new appraisal work is based upon up to date evidence.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	The section identifies that Argus has been used to model the scenarios but no Argus appraisals are provided. We would ask that these are provided.	The Council and its consultants are considering its position with regards to the publication of Argus Appraisals
	Bishopsgate Goods Yard Regeneration Limited (DP9)	BNPP reduce the number of residential units to reflect the inclusion of the provision of 5 a-side football pitches, in accordance with Sport England information. We understand there is currently no adopted policy which requires the provision of 5 a-side football pitches.	The assumption made in this regard relates to policies in the Council's emerging Local Plan.

	Bishopsgate Goods Yard Regeneration Limited (DP9)	Assumptions have been made by BNPP in the quantum that can be delivered on the Site but difficult to understand on what basis? Does the assumptions allow for the provision of community uses such as an Ideas Store?	The capacity assumptions for this site are based on: • Using the previously submitted application as a proxy for capacity. • Reducing the unit numbers to reflect concerns relating to overdevelopment. • Reducing development to account for the provision of a leisure facility as required by the new draft Local plan. The Council should be clear that this is a high level exercise, not one based on a specific Masterplan of the site. If Bishopsgate Goods Yard Regeneration Limited do not consider the quantum appropriate then the Council would welcome clarification of what capacity should apply alongside reasons.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	It is not clear why this unit mix has been adopted as it is not aligned with LBTH policy mix, which is as follows: Market housing should be 1B 50%, 2B 30% and 3B 20%. Intermediate should be 1B 25%, 2B 50% and 3B 25%. Social rent should be 1B 30%, 2B 25%, 3B 30% and 4B 15%.	The Council's testing is reflective of the unit mix in the Council's emerging Local Plan which carries weight and is the mix against which schemes that are being referred for decision are being tested against.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding development efficiency, the rates applied is) Not Applicable for a complex scheme such as Bishopsgate Goods Yard. The Site has a considerable amount of ground constraints, with only 30% of the Site being foundable. The Site is likely to have a lower development efficiency than that assumed by BNP Paribas. We would like to understand how these figures have been arrived at.	The Council considers its allowance in respect of development efficiencies for this site as acceptable.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding construction timings) It would be useful to understand how these timings have been derived and what information they are based upon. The Site is extremely complex and will require a significant amount of ground works prior to any substantial work taking place. Consideration have to be given to working around the East London Line, 4 Opencut Rail lines, 2 suburban line tunnels, 8 track, listed arches and other historic The programme seems significantly optimistic given BNP Paribas have assumed that a circa 2.3m sq ft GIA scheme is to be delivered. This has a fundamental impact on the results given that BNP Paribas are adopting an IRR profit target. We would ask that the Argus appraisal and cashflow/phasing is provided.	An allowance for a total timescale of 9 years and 8 months for this scheme (117 months) has been made. The further two 9 month allowances for pre-construction works during phases 2 and 3 are run concurrently with the final 9 months of construction of the previous phases. These timescales are based on the experience of BNP Paribas in respect of timescales for such schemes. Information on what the applicant considers reasonable would be welcome.

	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding the Private Sales Rate) The figure included in the BNPP appraisal seems high, especially in this current market. We would ask for supporting information in order to support this assumption. It is very unlikely that a rate of £1,350 per sq ft could be achieved on the Tower Hamlets part of the Site.	The Council and its advisors note the following in respect of this matter: • Values on the nearby Mondrian/Godfrey Place scheme have been achieving an average of £995 pr s sq ft. This scheme contains 193 residential units and buildings are from one to nine stories in height. Given the scale of BGY site and the quantum of amenities that will be created as a result of the scheme, significantly increased sales values will be achieved on the site by comparison to the Mondrian/Godfrey Place scheme. • The Long & Waterson scheme north of the site includes the erection of a new 10-storey building and two-storey extensions to the existing buildings at 1-3 Long Street and 5-9 Long Street to create 6-storey buildings along with associated refurbishment works to provide for 73 residential units. We understand that as of December 2017 47 of the 73 units had sold (64%) and values achieved were between £1,503 per sq ft and £1,077 per sq ft with an average of £1,358 per sq ft. • The Stage (Plough Yard) scheme in LB Hackney at Curtain Road is less than 0.2 miles from the site achieving sales values of between £2,083 per sq ft and £1,251 per sq ft with an average of £1,622 per sq ft. We understand that 160 units have been sold off plan by the end of Q4 2017 (38%) with completion identified as being Spring 2020. • Principal Tower (Principal Place / Bishops Place), adjacent to The Stage and of a similar distance from BGY site on Worship Street Norton Folgate - Bowl Court - Plough Yard - Hearn Street - Curtain Road in LB Hackney is achieving between £2,608 per s sq ft and £1,439 per sq ft with an average value of £1,818 per sq ft. At the end of 2017 the scheme is reported to be 60% sold with completion due in Q1 2019. • The Stage and Principal Tower schemes accommodate residential units in tall buildings of 40 storeys and 50 storeys respectively . Given this context and the smaller schemes identified above, which lie to the north of the site we consider our assumption of £1,350 not to be unreasonable.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding the Affordable Sales Rate) Reasonable in the main with some comments. It is very unlikely that at market values of £1,350 per sq ft that shared ownership properties will be affordable at this price. It would be helpful to see BNPP's calculation on shared ownership properties. The £ psf rate for intermediate rent (as opposed to SO) would be lower given the lack of equity sale	The testing undertaken accounts for the Council's draft policy D.H2 in its new Local Plan. The supporting text for this policy describes that shared ownership will not be an appropriate product where values exceed £600,000. The Council's Viability Study describes the approach to valuing shared ownership properties and is based on the following assumptions: • Registered Providers will sell 25% initial equity stakes and charge a rent of up 2.75% on the retained equity based on the London Plan AMR household income cap of £90,000. • A 10% charge for management is deducted from the rental income and the net amount is capitalised using a yield of 5%.

	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding sales absorption) 50% off plan sales in this current housing market seems reasonable however a rate of 10 units sold post practical completion per month seems optimistic.	BNP Paribas have identified a number of comparable developments where this level of off-plan sales was achieved.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding office values, yield and incentives) The rate per sq ft seems reasonable but the yield seems a little optimistic. We would request that evidence is provided to support this assumption as a yield of 5.25% is more reasonable.	A rent of £58 per sq ft and a yield of 4.75% have been adopted. In terms of additional justification for this rate: • Aldgate Tower, E1 achieved a yield of 4.86% in April 2016. • Central House, 25 Camperdown Street, E1 achieved 4.17% in December 2016. • BNP Paribas Real Estate's Office Report identifies rents of £65 per sq ft for City Fringe locations and Colliers Report identifies rents of £60 - £65 per sq ft for city fringe locations and yields of 4.75% for Clerkenwell and Aldgate. • We are aware that We Work have taken a pre-let at The Stage development of 240,000 sq ft of office space for a rent of more than £65 per sq ft, which means the scheme is fully pre-let two years prior to completion. • We note that Brookfield Asset Management (UK) sold 1,754 Net sq m (18,876 sq ft) of Retail (A1) - General Retail space and 56,092 Net sq m (603,769 sq ft) of Business (B1a) - Office space at Principal Place, 115 Worship Street, London, EC2A 2BA to Ente Nazionale di Previdenza ed Assistenza Medici (ENPAM) for £400 million in May 2016 reflecting a yield of 4.25%. • We understand that Amazon took a lease of 8,300 Net sq m (89,342 sq ft) At the Stage in March 2017 in addition to their existing lease of 7,970 Net sq m (85,791 sq ft) agreed in June 2016 and 40,034 Net sq m (430,917 sq ft) in September 2014 the latter reported to be at £50 per sq ft. • We are also aware that Arnold Great Eastern Street guiding rents are from £65 per sq ft and this was sold recently achieving. In light of the above and following discussions with our colleagues in our City investment team our assumptions are conservative and in fact the development could likely achieve £65 per sq ft and a 4.25% yield.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding office timings) Unclear if any void period has been assumed. Dependent upon the quantum of office space being let, it is likely a void period will be required in order to achieve a blended average of £58 per sq ft.	An allowance of void/rent free of 24 months has been included.

	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding retail values, yield and incentives) The rate per sq ft seems reasonable but must be a blended rate, the early phases will be lower to try and establish a location. Therefore a yield of 5.25% would be reasonable.	We note that Brookfield Asset Management (UK) sold 1,754 Net sq m (18,876 sq ft) of Retail (A1) general retail space at The Stage at 4.25%. It is considered that this rate is reasonable.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding retail timings) Unclear if any void period has been assumed. Dependent upon the quantum of retail space being let, it is likely a void period will be required in order to achieve a blended average of £50 per sq ft.	An allowance of 18 months has been made to reflect a rent free and void period.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding additional income and in particular ground rents of£600 @ 5%) Ground rent income is being excluded from a number of the large Surveying teams' Red Book valuation. This needs to be excluded in light of Government comments (detail), or at the very least, the yield needs to be pushed out (GLA are suggesting 10%)	The appraisal exercise undertaken represents an assessment of the value generated by the development on the basis that planning permission is in place. At the current time, there is no legislation in place which prevents ground rents being charged on leasehold flats. We are therefore not in a position to disregard the investment value of ground rents. Furthermore, any legislation which the government may choose to bring forward would be to remove 'onerous lease terms'. It is considered unlikely that the assumptions made in the updated Viability Study could be considered onerous. There is no timetable for bringing legislation before parliament on this matter.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding Build Costs) The relatively low build costs reflect an artificial viability position and further work in analysis the cost of delivering the site should be undertaken. We would request that a Argus appraisal is provided which indicates the total construction costs assumed for delivering the proposed scheme.	The Council has sought further specialist advice to inform the costs applied in the appraisals that support the rates described in the Draft Charging Schedule. Please refer to the Council's updated Viability Study.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	This is a complex scheme and therefore a contingency of 5% is not reasonable.	The Council considers its allowance for contingency is within a reasonable range..
	Bishopsgate Goods Yard Regeneration Limited (DP9)	A figure of £100,000,000 has been included for decontamination and abnormal costs at pre-construction. We would request that a breakdown of how this figure has been derived at is provided.	This figure has been updated to reflect the abnormal costs submitted to the Council by DS2 as part of the Examination process of the Council's adopted charging Schedule but updated to reflect build cost inflation. Please refer to the Council's updated Viability Study.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding the allowances for Sales, Marketing & Legals (Resi.)) Current market conditions would suggest that a combined figure for agent and marketing fees is at circa 5% over lifetime of the development. A budget for a marketing suite would sit separately to the rates stated.	In BNPPRE's experience our allowance of 3.5% is a reasonable market allowance.

	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding the allowances for Disposal, Sales & Marketing (Comm.)) 15% for joint agency on the letting fee %	The Council considers the assumptions made are reasonable.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding 12% professional fees) Again, this is a complex scheme and therefore a professional fees allowance of 12% is not reasonable.	Professional fees tend to range between 8%-12% and so 12% fees is at the top end of this scale and on a significant build cost should in our experience be a suitable allowance for such developments. Notwithstanding this we would be happy to receive and consider further evidence on this point.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding S106 allowances) What is the basis for assuming £1,220 per unit?	The assumption made in this regard is derived from the approach adopted in the case of the viability evidence supporting the Council's adopted CIL Charging Schedule. Due to unknown factors which will only be clarified on the submission and consideration of a planning application, it can be challenging to identify all of the S106 costs that would apply in respect of development. The Council's has undertaken some research (please refer to the "Additional Evidence and Information" document published alongside the Draft Charging Schedule) that identifies the allowance of £1,220 per unit is a very reasonable allowance and is higher than it could be.
	Bishopsgate Goods Yard Regeneration Limited (DP9)	(Regarding the benchmark land value) Clarification required on the CUV calculation	Current use on the site identified to be: Shoreditch High Street Overground Station; "Box Park", Football Pitches and Vacant Land The existing use value of the site is based on a site area of 4.24 HA valued at £5,535,771 per HA based on open storage land valued at £3 per sq ft, capitalised at a yield of 7%, allowing for a premium of 20%.
CIL_PDCS 12	**Westferry Development Limited (DP9)**	The absence of any assessment of the Site is very concerning in light of the detailed and thorough assessment and examination of it as part of the preparation of the current Charging Schedule and the Examiner’s findings, as noted above. In essence, the Site is proposed to go from a nil rate across all land uses to a charge of, for example in relation to residential use, £280 per sqm. This is a change of 100% without any explanation for a site that was considered not able to accommodate any CIL previously.	Please refer to the Council's Additional Evidence and Information document published alongside its Draft Charging Schedule which sets out the approach taken to selecting sites for testing.
	Westferry Development Limited (DP9)	The methodology applied is consistent with that presented in the 2013 Viability Study in that the residual value of the strategic sites is compared to a benchmark land value, being in turn based on the Current Use Value of the Sites plus a premium. DS2 agree that the methodology is acceptable albeit the Viability Study needs to ensure that the CUVs are robust and the figures presented appear low and make no reference to alternative use values which in many cases would be higher;	The updated Viability Study provides more information on approaches to benchmark land values adopted.

	Westferry Development Limited (DP9)	The build costs in the strategic sites appraisals are low when compared to the subject Site appraisal and the other strategic sites (of which DS2 have sight of). The low build costs reflect an artificial viability position and further work in analysing the cost of delivering the strategic sites should be undertaken. The build costs, when compared back to those included in the 2016 FVA for Westferry Printworks are lower which you would not expect given the costs were undertaken over a year ago and therefore through cost inflation you would assume they would now be higher;	The Council has sought further specialist advice to inform the costs applied in the appraisals that support this rates described in the Draft Charging Schedule. Please refer to the Council's updated Viability Study.
	Westferry Development Limited (DP9)	In terms of profit return the 2016 FVA targeted a 17.5% Internal Rate of Return. BNPP in their review for the Council targeted a 15% present day IRR as opposed to the 13% that is now quoted in the Viability Study. Deloitte who were also appointed by the Council to review the FVA concluded that a 17.42% present day IRR was acceptable. A 13% IRR return is clearly not at a market acceptable level;	In BNP Paribas' experience, schemes do come forward against an IRR of 13%. Please refer to the Council's updated Viability Study and Additional Evidence and Information document published alongside the Council's Draft Charging Schedule for further information on this matter.
	Westferry Development Limited (DP9)	The market commentary in section two notes that prices since the date of the 2013 study and the height of the market in 2008 have risen considerably. DS2 would not disagree with the Land Registry data presented in Figure 2.23.1, however, it would be worth analysing new build values rather than general market trends. Feedback from agents active in the market is that there has been considerable under-performance in new build sales values with volumes also significantly down over the last 12-18 months which in turn has had an impact on the use of incentives and discounts. The new build market is currently facing significant headwinds and uncertainty is now at a level comparable with 2008. Whilst table 2.24.1 reflects a range of agents' forecasts, these are inherently positive and there are several independent economic forecasts that present a less optimistic outlook.	The Council notes the comments around there being a challenging economic environment. The Council has undertaken new appraisal work to support its rates proposed in its Draft Charging Schedule. The new appraisal work is based upon up to date evidence.
	Westferry Development Limited (DP9)	In addition, the evidence base presents a positive scenario in terms of headline values however the analysis does not recognise the significant market headwinds that currently exist and the significant rise in costs over the same time.	The Council notes the comments around there being a challenging economic environment. The Council has undertaken new appraisal work to support its rates proposed in its Draft Charging Schedule. The new appraisal work is based upon up to date evidence.
	Westferry Development Limited (DP9)	The Landowner would also note that the evidence base does not appear to make reference to the potential cumulative impact of the proposed policies in the draft London Plan.	The policy costs allowed for are based on the emerging Local Plan which are considered to be in consistent with the London Plan policies and in this regard we consider that the cumulative impact of planning policies has been appropriately addressed.
CIL_PDCS 13	**The Ballymore Group (DS2)**	It is unclear whether the viability work supporting the PDCS has taken into account the full cumulative costs on development of all policies set out in the draft Local Plan, draft London Plan and draft MCIL2.	The policy costs allowed for are based on the emerging Local Plan which are understood to be in accordance with the London Plan policies and in this regard we consider that the cumulative impact of planning policies has been appropriately addressed.
	The Ballymore Group (DS2)	We also note that the Mayor of London has recently completed a second round of consultation on his proposed 'MCIL2'. The BNP Viability report was prepared prior to the publication of these various documents and therefore does not appear to take these into consideration.	The full rates set out in respect of the Mayor of London's proposed CIL rates have been taken into account in the Viability Study. The Viability Study has been updated to make this fact clearer.

	The Ballymore Group (DS2)	It is considered that the residential charging rate will impact on the ability of site(s) to provide an acceptable level of affordable housing due to its inevitable impact on viability. This contradicts both the Mayor's aspirations to deliver affordable housing and the London Borough of Tower Hamlet's own Local Plan aspirations.	The Council notes this comment. It is inevitable that the imposition of any level of CIL will impact the delivery of affordable housing to some degree. The Council considers that the rates proposed strike an appropriate balance between securing funding to deliver infrastructure and the ability to secure affordable housing moving forward.
	The Ballymore Group (DS2)	Section 3.18 under the heading Viability Benchmark makes reference to the 'market testing' of benchmark land values and that testing against market value is highly unreliable. We would not wholly disagree, however the there is insufficient testing of the benchmark land values in the CILR. The Lord Harman report 'Viability Testing of Local Plans' prefers to a CUV based approach to benchmark land values however states on page 19 'Reference to market values can still provide a useful 'sense check' on the threshold values that are being used in the model (making use of cost-effective sources of local information), but it is not recommended that these are used as the basis for the input to a model'. The PPG, in relation to area-wide viability testing also states at paragraph 14 that 'site value should be informed by comparable, market-based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of this exercise'. Failure to do so potentially artificially deflates the cost of land to an unrealistic level and one at which sites may not be delivered. This in turn, puts the delivery of development sites and the subsequent delivery of the objectives of the Development Plan, at risk;	An EUV + approach to benchmark land values has been adopted. This has been accepted as a reasonable approach to assessing viability and in particular policy testing by numerous Examiners and Inspectors for CIL Charging Schedules and Local Plan testing. As identified in the Viability Study supporting the Preliminary Draft Charging Schedule, we have significant concerns as to the use of site purchase prices/market values and in particular set out why we consider these to be unreliable as follows: "3.18 Commentators also make reference to "market testing" of benchmark land values. This is another variant of the benchmarking advocated by respondents outlined at paragraph 3.13. These respondents advocate using benchmarks that are based on the prices that sites have been bought and sold for. There are significant weaknesses in this approach which none of the respondents who advocate this have addressed. In brief, prices paid for sites are a highly unreliable indicator of their actual value, due to the following reasons: ■ Transactions are often based on bids that 'take a view' on squeezing planning policy requirements below target levels. This results in prices paid being too high to allow for policy targets to be met. If these transactions are used to 'market test' CIL rates, the outcome would be unreliable and potentially highly misleading. ■ Historic transactions of housing sites are often based on the receipt of grant funding, which is no longer available. ■ There would be a need to determine whether the developer who built out the comparator sites actually achieved a profit at the equivalent level to the profit adopted in the viability testing. If the developer achieved a sub-optimal level of profit, then any benchmarking using these transactions would produce unreliable and misleading results. Developers often build assumptions of growth in sales values into their appraisals, which provides a higher gross development value than would actually be achieved today. Given that our appraisals are based on current values, using prices paid would result in an inconsistent comparison (i.e. current values against the developer's assumed future values). Using these transactions would produce unreliable and misleading results. 3.19 These issues are evident from a recent BNP Paribas Real Estate review of the differences between the value ascribed to developments by applicants and the amounts the sites were purchased for by the same parties. The prices paid exceeded the value of the consented schemes by between 52% and 18,000%."

	The Ballymore Group (DS2)	Section 4.4. of the Community Infrastructure Levy Review (CILR) evidence base states that Land Registry identifies that borough values have increased by 65% since the date of the 2013 Viability Evidence. This is not disputed. However, in order to provide the correct context it would be helpful to provide an analysis of new build pricing trends when compared to the wider market and also make reference to significant cost inflation over the same time period. The 65% reference is misleading when taken out of context;	The Council notes that the Viability Study that supported its Preliminary Draft Charging Schedule consultation acknowledged that the increase in sales values had been partially offset by increases in build costs.
	The Ballymore Group (DS2)	The Viability Study assumes a range of average sales values dependent upon the CIL Zone. Further information should be provided to understand how the average values £ per sq ft values have been arrived at i.e. CIL Zone 1 – High assumes an average £ per sq ft value of £1,200.	Please refer to the updated Viability Study supporting the Council's Draft Charging Schedule.
	The Ballymore Group (DS2)	The evidence base supporting the draft London Plan identifies a range of new policies that will present additional costs to developers in London. It would appear that the cumulative impact of the draft London Plan have not been considered in the CILR and this should be a material consideration in the viability of sites across the Charging Authority area;	The CIL Viability Study has been based on policies in the Council's emerging Local Plan. The Council's emerging Local Plan has been formed to be consistent with the new draft London Plan. As such, the cumulative cost impacts of the new draft London Plan have been accounted for.
	The Ballymore Group (DS2)	The CILR contains only nine scenarios below those sites seemed to be strategic. Given that the PDCS includes a three-fold increase in the CIL rates for sites in Zone Two, and 6 of the 9 scenarios contain only 50 units or less, we would request more comprehensive testing of the sites that are in excess of 50 homes within Zone Two;	In respect of the typology testing undertaken, the Council is confident that its approach is reasonable and robust.
	The Ballymore Group (DS2)	It is not clear how the scenarios have been timed in terms of construction and this requires clarification;	The updated Viability Study contains timescales for the construction programmes for the typology testing.
	The Ballymore Group (DS2)	Similarly, the evidence base for build costs, based on BCIS rates needs further work as the rates are low when compared to current tender prices. It is not clear whether the BCIS rates have been sense checked against submitted viability assessments on projects of similar sizes and this is a key concern in the analysis;	The Council has sought further specialist advice to inform the costs applied in the appraisals that support the rates described in the Draft Charging Schedule. Please refer to the Council's updated Viability Study.
	The Ballymore Group (DS2)	In respect of the development efficiencies, the appraisals assume 35% on-site affordable housing. Given the desire of Registered Social Landlords ('RSL') to provide separate entrances and cores for social rented housing for ease of leaving/management, the proposed efficiencies on the smaller schemes appear very optimistic and clarification is required as to whether the delivery of on-site affordable and its impact on efficiency where there is only one building, has been considered;	The efficiencies allowed for account for the provision of on-site affordable housing. Further work undertaken identify that the Council has been modest in the gross to net ratios that apply in respect of the appraisals.
	The Ballymore Group (DS2)	In the current market, 3% for residential marketing and agent's fees is not reflective of the market and is generally insufficient to achieve the values and sales rates that are incorporated into the appraisals;	In BNP Paribas Real Estate's experience, 3.5% is a reasonable allowance for marketing, agent's and legal fees.
	The Ballymore Group (DS2)	This weighted return, comprising 20% on GDV for private residential and 6% for affordable, is not reflective of the market requirements, particularly on schemes that are modelled with 35% affordable housing. No analysis is provided for example, of the major PLC's target rate of returns for speculative development, which must be a key consideration in the effective 'market' rate;	The profit allowance made is reflective of the vast majority of schemes that seek planning permission in Tower Hamlets. These levels were also deemed acceptable in respect of the Council's adopted CIL Charging Schedule. The Council also has had regard to the recently published Planning Practice Guidance expresses that between 15 and 20% return on GDV is likely to be an acceptable level on market tenure residential development.

	The Ballymore Group (DS2)	The non-strategic sites do not appear to contain non-residential uses. These uses are often a planning requirement and can have a significant impact on the viability of a residential scheme;	It is not suitable to assume multiple uses for appraisals for the non-strategic sites. This is because certain uses may cross-subsidise other uses, making it difficult to establish what appropriate levels rates should be set at.
	The Ballymore Group (DS2)	No actual appraisals are provided and these are required in order to effectively analyse the appraisal work that has been collated.	The Council and its consultants are considering its position with regards to the publication of Argus Appraisals
CIL_PDCS 14	**St William (Quod)**	The retention of any Gasholders also has very significant cost implications. Even if not re-purposed for an active use their retention requires them to be dismantled, transported significant distances for refurbishment, reinforced when returned to the site during reassembly, and maintained and insured by future residents. The Draft Plan policies currently require retention of some of the heritage assets associated with the Gasworks on two of the sites: Leven Road and Marian Place/Oval. The impact of this on development capacity and costs does not appear to have been taken into account in the viability assessments. Furthermore, a recent application has been made by a third party to statutorily list the remaining buildings at Bow Common in addition to the Locally Listed building known as Bow Common Cottage.	The Council's updated appraisals account for the costs of retaining the gas holders.
	St William (Quod)	<u>Regarding the Leven Road Site</u> The Council’s Draft Local Plan places requirements and restrictions on the site. These include:	
	St William (Quod)	• Requirements for employment floorspace. Generic policies also require ‘affordable workspace’. No allowance appears to have been included for this in the Viability Assessment.	The updated Viability Study incorporates testing of the proposed draft affordable workspace policy in the Council's new draft Local Plan.
	St William (Quod)	• Retention, re-use or enhancement of the Poplar Gasholder, an issue which St. William is engaging with the Council on in pre-application discussions. No allowance appears to have been made for either the land take or other cost implications of this in the Viability Assessment;	The Council's updated appraisals account for the costs of retaining the gas holders.
	St William (Quod)	• As well as the provision of a 1 ha space the Plan also seeks to specify its location and uses and requires any developer to “provide and secure the necessary land to facilitate the delivery of a new bridge over the River Lea.” No allowance for this land, nor for the capital cost of Open Space or enhanced public realm is made in the Council’s Viability Assessment other than a deduction of land from the developable area and a general allowance for ‘externals’.	The Council's updated Viability Study deals with these matters in more detail.

	St William (Quod)	<u>Regarding the Bow Common Site</u> The Council's Draft Local Plan places requirements and restrictions on the site. These include: • Active frontages along the railway to enhance the use and setting of the railway arches as a non-designated heritage asset; • Active frontages along the railway to enhance the use and setting of the railway arches as a non-designated heritage asset; • 'Multi-functional leisure and recreation uses' on the open space; • Family housing overlooking the open space; • 'Replace employment numbers' despite there being no employment on the site; and • Provision of SME spaces, creative uses and retail. • Again none of these considerations, including the capital cost of the open space, appears to be included in the Viability Assessment. In addition to the above, the capital cost and impact on the development of the retention of the remaining buildings on site, as a result of a statutory listing has also not been considered. •	The Council's updated Viability Study considers these matters and requirements in more detail.
	St William (Quod)	• St. William's response to the Draft Local Plan confirms that in practice the only way this site will be able to come forward viably is if the secondary school and/or the strategic open space allocations are reduced or removed.	Noted.
	St William (Quod)	<u>Regarding the Marian Place Gas Works Site</u> • With the exception of land take for the open space, no account appears to have been taken of the other requirements in the CIL viability assessment. As policy currently stands both the main restrictions and obligations sit on the part of the site in which St. William has an interest. Therefore, notwithstanding the fact that indicative viability assessments are included, neither the Local Plan or CIL viability assessments have considered properly the viability of the Strategic Allocation or the Gasworks part of the site within that and how it could be delivered.	The Council considers that the updated appraisal work undertaken has taken account of the policy requirements that will apply to this site. This includes the costs of retaining the gas holder infrastructure.
	St William (Quod)	In addition to these site specific requirements the Draft New London Plan (2018) includes a range of generic policies which will apply to all development across London and will further increase development costs and obligations. These include: • Affordable housing tenure mix (H5 and H7) • Design standards, including fire safety and housing standards (D3 and D4) • Urban greening (G5) • Energy/Zero carbon (GG6) • Parking standards and electric vehicle charging (T6 and T6.1) and cycle parking (T5) • Digital connectivity to exceed building regulations (SI6) • Air quality positive in Opportunity Areas (SI) • Industrial land and replacement employment uses (Policies E5 to 8) We note that given the significant additional obligations relating to design, energy, transport, air quality and building standards in the draft new LBTH Local Plan and London Plan the assumed £1,220 per dwelling for S106 obligations is almost certainly a significant underestimate.	The Council does not consider the allowance made is a significant underestimate. Policy requirements are generally included within build costs. Where further financial contributions may be required they are covered by the £1,220 per unit assumption. The Council's has undertaken some research (please refer to the "Additional Evidence and Information" document published alongside the Draft Charging Schedule) that identifies the allowance of £1,220 per unit is a very reasonable allowance and is higher than it could be.

	St William (Quod)	We note, in the case of Marian Place Gasworks, the Local Plan Viability Study (2017) using the same methodology, concluded that the site was marginally viable. The new study concludes it is not. It can therefore only be the additional CIL liability (MCIL and LBTH) that has caused this change. As we note above an assessment of the Gasworks part of the site alone, given the constraints, obligations and requirements placed on it by policy would make it not just marginally unviable but very significantly unviable like the other two sites.	The Council notes this comment.
	St William (Quod)	In relation to site remediation and land values St. William is also concerned that the approach to site remediation costs and land value does not meet the requirements to provide 'competitive returns to a willing buyer and willing seller' of paragraph 173 of the NPPF. This is particularly important for sites that are owned by a utility company which needs to be appropriately incentivised to bring its land forward for development and can take a long-term view of that. It also has a London-wide and national portfolio of sites and if sites aren't viable is able to prioritise its resources elsewhere. Without a reasonable return there is a significant risk that sites crucial to plan delivery will not be brought forward for development. We are therefore of the view that the approach suggested in paragraph 7.17 is both incorrect and inconsistent with guidance.	The approach to land value is based on EUV+ as recommended by Guidance and accepted by Examiners and Inspectors at CIL and Local Plan Examinations. We have based our analysis of the site areas used for open storage purposes at a rent of £3 per s sq ft capitalised at a yield of 7% and allowing for a 20% premium on top of this. We have allowed for significant decontamination costs on the sites of £3.2 million which we understand to be reasonable costs for such sites in London. The testing undertaken has assumed a worst case scenario in our testing in that we have allowed for the full EUV plus a 20% premium of the site as well as the decontamination bill being paid by the developer. In reality a developer is likely to take these costs into consideration in bidding for the site or alternatively the landowner will bear the cost of the decontamination, delivering a clean site to the market and recovering the costs through a higher purchase price than would otherwise have been achieved.
	St William (Quod)	It is therefore the view of St. William that, consistent with Guidance and the Council's own evidence, the Council should provide a zero CIL rate for the three Gasworks sites. This would not set a precedent for other sites as the viability study does not identify other sites that are required to provide on-site infrastructure and demonstrate significant viability issues.	The Council takes an evidence based view that development in its borough, including the sites referred to, can afford to pay a CIL to contribute towards the delivery of infrastructure to support development. In terms of the delivery of the infrastructure identified, the Council's assumptions in this regard are clarified in the Additional Evidence and Information document published alongside the Draft Charging Schedule.
	St William (Quod)	We note that LBTH has suggested previously, and with the new PDCS, that it would seek to mitigate CIL impacts on strategic sites through the acceptance of in kind contributions of land and infrastructure. St. William is grateful for the Council's constructive approach but regards this as a less effective approach than setting a zero-rate given the legal and technical issues relating to securing and delivering such contributions. St. William notes that in its response to the recent review of CIL in the 2017 Budget the Government proposed to change the restrictions set out in Regulation 123 of the CIL regulations in relation to strategic sites. An announcement on that matter is expected along with the proposed revisions to the National Planning Policy Framework shortly. This may offer a better and more flexible approach to securing contributions from Strategic Sites that are required to provide on-site infrastructure than charging them CIL.	At the time writing, the government has not made any substantive changes on this matter. The Council remains concerned that securing strategic infrastructure requirements through S106 would not meet the requirements of the tests described in CIL Regulation 122.

CIL_PDCS 15	**House Builder Consortium (Savills)**	It is noted that the viability of delivery that is set out within the BNP Viability Study, is assessed on the basis of any individual scheme delivering affordable housing at a rate of 35%. Though it is acknowledged that draft this is lower than the overall 50% target adopted in the current Local Plan and proposed for the Replacement Local Plan. The proposed change in policy to require a minimum of 35% affordable housing (subject to viability) from individual residential development sites is in accordance with recent GLA guidance but this potentially adds further pressure on the Council to achieve the overall target of 50% affordable housing. In light of this and given the existing under-delivery of both homes generally and affordable housing specifically versus the adopted Development Plan targets when considered against the current CIL Charging Schedule, any proposal to increase the adopted rates must be considered carefully so as not to negatively impact upon the delivery of the Development Plan overall (Ref: NPPF, paragraphs 173 and 174).	The reason the Council has chosen 35% affordable housing as the appropriate level to justify the charging of CIL is because this is the Council's site-by-site affordable housing requirement. 50% is a strategic target. We also note that the Mayor of London has adopted a "Threshold Approach" to viability where schemes can process through the planning application process without providing viability evidence. As such relying on the provision of 50% affordable housing to recommend CIL rates would be artificial and inappropriate.
	House Builder Consortium (Savills)	It is imperative that a CIL rate is not set which could have a negative impact on housing delivery.	The Council notes this comment. It is inevitable that the imposition of any level of CIL will impact the delivery of affordable housing to some degree. The Council considers that the rates proposed strike an appropriate balance between securing funding to deliver infrastructure and the ability to secure affordable housing moving forward.
	House Builder Consortium (Savills)	The approach to viability testing must be grounded on the viability of strategic sites and other developments needed to support the delivery of the housing requirement identified in the adopted Local Plan Strategy and which supports the PDCS.	The Council has undertaken testing of strategic sites as required.
	House Builder Consortium (Savills)	The cost of Section 278 infrastructure is a relevant consideration for the viability evidence.	These costs are incorporated within the wider build costs allowed for.
	House Builder Consortium (Savills)	Gross to Net Assumption: Disagree the Consortium are aware of their own schemes over 25 units which demonstrate a lower gross to net. Further evidence should be provided in this regard.	The Council has provided further evidence in an Additional Evidence and Information Document which demonstrates the Council's assumptions are modest.
	House Builder Consortium (Savills)	Dwelling sizes: Clarification sought as to the inclusion of garages within GIA.	Whilst the Council doesn't necessarily fully understand this question, the Council can confirm it has not allowed for garages within its viability assessments.
	House Builder Consortium (Savills)	Sales Values (Market): No evidence has been provided to justify these rates.	Please refer to the updated Viability Study supporting the Council's Draft Charging Schedule.
	House Builder Consortium (Savills)	Acquisition Costs: Confirmation if the following costs have been assumed should be provided: 1.5% Agent's Fee; 0.75% Legal Fee; SDLT at HMRC rate.	Total site acquisition costs of 6.8% have been allowed for which include agents and legal fees and Stamp Duty.

	House Builder Consortium (Savills)	MCIL: It is unclear what has been accounted for.	The full rates set out in respect of the Mayor of London's proposed CIL rates have been taken into account in the Viability Study. The Viability Study has been updated to make this fact clearer.
	House Builder Consortium (Savills)	Construction programme: Clarification is required.	The updated Viability Study contains timescales for the construction programmes for the typology testing.
	House Builder Consortium (Savills)	Sales program: The Consortium are concerned that the sales rates is too high and based on their experience would expect a sales rate of 4-6 units pcm to be a more reasonable assumption.	The Council and advisors considers the sales rate adopted is reasonable. We would welcome evidence of this from the consortium.
	House Builder Consortium (Savills)	Typologies: In light of the status of the Local Plan, we highlight that there is no guarantee that schemes similar to the typologies tested will be delivered. We therefore recommend that more typologies to reflect a wider range of scenarios are tested. These should include mixed housing and flatted schemes and more schemes between 5-400 units at varying densities. In addition, given the makeup of the borough, the Consortium would expect to see mixed use developments including within modelling e.g. retail / resi and office space.	In respect of the typology testing undertaken, the Council is confident that its approach is reasonable and robust. Testing mixed use schemes is not appropriate in terms of typology testing. This is because some uses may cross subsidise others, making it difficult to establish what appropriate CIL rates are.
	House Builder Consortium (Savills)	Benchmark Land Values: We note that no transactional evidence has been provided to support the Benchmark Land Values adopted by BNP. Furthermore, it is unclear if the BLVs are reflective of all potential sites in the Borough. We would urge that any supporting evidence relied upon by BNP from additional sources is summarised and tabulated within consultation documentation with the source and date of document clearly stated.	The updated Viability Study provides more information on approaches to benchmark land values adopted.
	House Builder Consortium (Savills)	Build Costs: The Consortium have a vast amount of experience in delivering a wide range of typologies sizes across the Charging Zones and as such, they are concerned that the build costs assumed are far too low. The Consortium have indicated that flatted schemes of circa 300 units would cost over 10% more than the highest cost assumed. We would ask that BNP undertake additional research to sense check their build cost assumptions against delivered schemes within the Charging Area.	The Council has sought further specialist advice to inform the costs applied in the appraisals that support this rates described in the Draft Charging Schedule. Please refer to the Council's updated Viability Study.
	House Builder Consortium (Savills)	S106 financial Contributions: The Council have not published information relating to the extent to which the Council has met its S106 targets. The Council has outlined that the viability appraisals incorporate an assumption of £1,220 per dwelling however there is no evidence provided which supports this assumption. The Consortium are concerned that this assumption on a per unit basis is low and have provided evidence to highlight that additional contributions are also being sought by the GLA. The Consortium would therefore ask for further detail on the anticipated Section 106 contributions to be sought by LBTH to ensure that a realistic figure is included in the viability assessments.	The Council did publish information relating to the extent to which it met its S106 targets. This was incorporated within its "Supporting Evidence and Funding Gap Report". It should be noted that policy requirements will generally be included within build costs. The Council's has undertaken some research (please refer to the "Additional Evidence and Information" document published alongside the Draft Charging Schedule) that identifies the allowance of £1,220 per unit is a very reasonable allowance and is higher than it could be.

	House Builder Consortium (Savills)	Abnormal costs: Abnormal costs capture the impact of additional development costs such as archaeological investigation, water diversion, ground remodelling and stabilisation and pumping stations, which may be required on both Brownfield and Greenfield sites. BNP make no allowance for these works within the Viability Appraisal. We therefore urge that an appropriate allowance is modelled either within a combined cost per dwelling for infrastructure or as a standalone development cost.	Abnormal costs such as remediation and decontamination, archaeological investigation, water diversion, ground remodelling and stabilisation and pumping stations understandably vary from site to site in terms of scale and actual requirement for such expenditure. This cannot be taken account of in such a study when such costs are so site specific. The buffer from the maximum rate of CIL that could be charged is considered to be reasonable to allow for such abnormal costs. Additionally we note that a similar point was raised in Bristol (a City with a range of Brownfield sites being redeveloped) and the Examiner concluded that it was not acceptable to burden all sites in viability testing with what would be a worst case scenario of abnormal costs.
	House Builder Consortium (Savills)	Contingency: Whilst a 5% contingency has been allowed within the generic modelling, it has been calculated against the sum of the construction costs. No contingency has been assumed for other development costs such as fees, servicing and infrastructure. We would strongly disagree with this approach and advocate that a 5% contingency is applied to wider development costs, inclusive of infrastructure.	BNPPRE's appraisals model professional fees on construction costs, externals and other additional costs as well as the 5% contingency allowance, which is calculated on the aforementioned construction costs, externals and other additional costs allowed for.
	House Builder Consortium (Savills)	Research carried out by Savills and the House Builders' Federation indicates that the minimum profit level used within viability testing should be the minimum KPIs (the hurdle rates) indicating a Site Level Net Margin of 20% - 25% on GDV, blended across all tenures, subject to also achieving a minimum site level hurdle rate of 25% Return on Capital Employed (ROCE). We would advocate than a minimum allowance of between 20-25% of Gross Development Value is assumed. This range is reflective of the complexity of the project, scale and embedded sales risk and we consider this to be reasonable in the current market conditions for previously developed land.	The profit allowance made is reflective of the vast majority of schemes that seek planning permission in Tower Hamlets. These levels were also deemed acceptable in respect of the Council's adopted CIL Charging Schedule. The Council also notes that recently published Planning Practice Guidance expresses that between 15 and 20% return on GDV is likely to be an acceptable level on market tenure residential development.

	House Builder Consortium (Savills)	Interpretation of results: It is clear that a number of the typologies across the three charging zones when the four BLVs are applied, are unviable. The Consortium have fundamental concerns with this approach which essential renders the majority of the policy compliant appraisals obsolete. This is particularly concerning in light of incorrect value assumptions being applied within the viability analysis. By only analysing the results of those scheme showing viability to propose rates across the entire borough will only consider those sites falling within the lower value BLV3 and BLV4 categories. In reality, sites will be delivered in the BLV1 and BLV2 categories. Furthermore, as included within Appendix 1 of the BNP Viability Study, all of the results across all four BLVs for typologies 6-9 show no viability across all values zones when modelled at the policy level 50% affordable housing.	As identified in the Viability Study supporting the PDCS, in assessing the results it is important to clearly distinguish between two scenarios; namely, schemes that are unviable regardless of the level of CIL (including a nil rate) and schemes that are viable prior to the imposition of CIL at certain levels. If a scheme is unviable before CIL is levied, it is unlikely to come forward and CIL would not be a critical factor. We have therefore disregarded the 'unviable' schemes in recommending an appropriate level of CIL. The unviable schemes will only become viable following a degree of real house price inflation, or in the event that the Council agrees to a lower level of affordable housing in the short term. However, as shown by the sensitivity analyses (which reduce affordable housing to 40%, 30% and 20%) even a reduction in affordable housing does not always remedy viability issues. In these situations, it is not the presence or absence of planning obligations that is the primary viability driver – it is simply that the value generated by residential development is lower than some existing use values. In these situations, sites would remain in their existing use. The Council has undertaken some further work to identify against what benchmarks that development has historically come forward against. the results of this exercise which is described in detail the Additional Evidence and Information Document published alongside the Council's Draft Charging Schedule shows that nearly all planning applications permitted over the past few years have uses on them that are most similar to either benchmark 3 or 4.
	House Builder Consortium (Savills)	Buffer: Upon calculation of the maximum borough CIL across the typologies and value zones, bearing in mind the unviable results were discounted, a buffer of 25% was applied to calculate the proposed updated CIL rates. The Consortium are concerned that this is not a sufficient buffer in light of the status of the emerging Local Plan and therefore the inability to be certain on the nature of the sites to be delivered over the plan period. We would therefore strongly recommend that a minimum viability cushion of 50% should be adopted.	The Council considers the buffer allowed for is appropriate and in line with buffers allowed for by other Charging Authorities.
	House Builder Consortium (Savills)	Boundaries: The Consortium are concerned that insufficient evidence has been undertaken in order to justify the change in zone boundaries and the differential rates.	The Council disagrees with this contention, fine grained consideration of sales values and boundary locations has occurred. In addition, a range of different scheme typologies have been tested.

	House Builder Consortium (Savills)	Relief: We suggest that Tower Hamlets clearly sets out whether the discretionary Social Housing, Exceptional Circumstances and Discretionary Charitable Relief are available from the adoption of the updated CIL Charging Schedule.	The Council notes that this is not a requirement attached to the adoption of a Charging Schedule. The Council has never allowed claims for exceptional circumstances relief or the types of discretionary relief set out in the representation.
	House Builder Consortium (Savills)	Instalments Policy: The Consortium suggests the instalments proposed reflect the length of the permission granted, with equal instalments due annually post commencement of development. For example, if the permission has a time limit requiring commencement within 5 years, 20% of the CIL tariff should be due annually for the 5 consecutive years post commencement. This is particularly applicable to those permissions with CIL liabilities over £500,001.	The Council is content with its new approach to an Instalments Policy and has no immediate plans to change it.
	House Builder Consortium (Savills)	Payment in kind: The scope to reduce the CIL liability via utilisation of Payment in Kind is restricted to those items of infrastructure which are not required to mitigate the impact of a development, which for large sites would exclude most (if not all) site-specific and 'scheme specific' infrastructure. Payment in Kind is therefore not a credible option, which further emphasises the need to ensure that the Regulation 123 List does not include any items of infrastructure intended to be delivered through Section 106 agreements.	The Council is concerned that securing the strategic infrastructure requirements from the Council's allocated sites through S106 would not meet the requirements of the tests described in CIL Regulation 122.
CIL_PDCS 16	**Berkeley Group (Quod)**	We note that LBTH has suggested previously, and with the new PDCS, that it would seek to mitigate CIL impacts on strategic sites through the acceptance of in kind contributions of land and infrastructure. Berkeley Group is grateful for the Council's constructive approach but regards this as less effective than setting a zero rate given the legal and technical issues relating to securing and delivering such contributions.	The Council is concerned that securing the strategic infrastructure requirements from the Council's allocated sites through S106 would not meet the requirements of the tests described in CIL Regulation 122.
	Berkeley Group (Quod)	We would note, in the case of London Dock that although the site has commenced it is a phased development that will be completed over a number of years and that changes to the current permission, either through Section 73 applications or new applications could be liable for the new LBTH CIL, in the latter case in full. The Council has provided no evidence on this site to suggest that the zero rating should be removed and Berkeley would submit that the current designation should be maintained.	The Council takes the evidence based view that development in its borough, including London Dock, can afford to pay a CIL to contribute towards the delivery of infrastructure to support development.
	Berkeley Group (Quod)	It is therefore the view of the Berkeley Group that the Council should retain the zero rating for London Dock, and also, based on its own evidence, extend that to the Gasworks sites. This would be consistent with Government guidance and the Council's own evidence base. It would not undermine the delivery of infrastructure to support development in the Borough, in fact the opposite, it will help those sites come forward to deliver items of strategic infrastructure which have been allocated in the new Draft Local Plan. Further, it would only apply to the small number of sites with evidenced viability issues from LBTH's own evidence base.	The Council takes the evidence based view that development in its borough, including the sites referred to, can afford to pay a CIL to contribute towards the delivery of infrastructure to support development. In terms of the delivery of the infrastructure identified, the Council's assumptions in this regard are clarified in the Additional Evidence and Information document published alongside the Draft Charging Schedule.

	Berkeley Group (Quod)	Four large allocated sites have a zero CIL charge for all uses, including one in which Berkeley has an interest, London Dock. Tower Hamlets council had intended to charge standard CIL rates for the relevant zones for those sites. However, based on evidence provided at the Examination of the Draft Charging Schedule the Examiner concluded that they should be zero rated. The conclusions on this matter are set out in paragraphs 63 to 86 of this report but it is worth re-stating some of the key principles: • A minimum IRR of 20% was a reasonable benchmark for whether sites would be brought forward (para 68); • That although CIL requirements would be a relatively low proportion of development costs, what was important was that it would still have a material impact on returns and therefore viability (para 74); • Those sites for which evidence was presented should have a zero CIL rate, this didn't extend to all strategic sites but did to those where evidence was available and presented (para 76) • The delivery of individual strategic sites should be considered when striking 'the appropriate balance', i.e. they are material to the delivery of the Local Plan when considering the statutory tests for CIL setting (paras 78 and 79) There is no reason for any of those principles to have changed since that examination and as we have noted above the cumulative requirement placed on developments, and sites, in the Borough is proposed to be increased through the Draft New Local Plan, the Draft New London Plan and through the Mayor of London's proposed increases to his CIL rates.	The Council's updated Viability Study describes that Tower Hamlets has seen significant changes in economic circumstances since the evidence supporting the adopted Charging Schedule was collected. New evidence has been gathered and used to form appraisals based on appropriate available evidence. These appraisals indicate that strategic sites can accommodate CIL charges.
CIL_PDCS 17	**One Housing group (Quod)**	The main change on the Isle of Dogs is that Zones 2 and 3 have been merged, at the proposed higher rate (Zone 2). The Viability Study accompanying the PDCS does not provide any explanation of the revisions to these zones or the detailed drawing of the boundary line. Paragraphs 4.4 to 4.6 seem to imply it is based on development values but this is not explicit and simply lists broad value assumptions by zone, covering wide parts of the Borough. There appears to be no commentary or plotting of values against boundaries in the supporting maps.	The merging of the zones in the southern section of the Isle of Dogs has been done to reflect similarities in viability characteristics across this section of the Isle of Dogs.
	One Housing group (Quod)	The precise boundary between the east and west of the Isle of Dogs has been revised to, it would appear, take account of the social housing estates around Eastferry Road, including them in the lower charging Zone (now Zone 2, previously Zone 3) although the benefit of this has been significantly reduced by the very significant increase in proposed rate: from £35 to £180. Nevertheless, it was a suggestion made by One Housing in response to the consultation on the adopted Charging Schedule and is therefore welcomed.	Noted.

	One Housing group (Quod)	The proposed CIL rates could have very significant effects on the ability to bring forward such options due to the specific costs associated with Estate Regeneration projects, a point reinforced by the policies in the Draft Local Plan, Draft New London Plan, and the Mayor of London's Best Practice Guide on Estate Regeneration. Policy requirements include: • Policy DH2 (5) & (6) of the New Draft Local Plan which sets out the criteria for assessing estate regeneration proposals (noted at Paragraph 2.44 of the Viability Study); • Policy H10 of the Draft New London Plan; • Various elements of the Best Practice Guidance including the approach on offers to existing tenants, leaseholders and freeholders. One Housing recognises that it is difficult for the Council to consider the viability issues relating to such obligations in the absence of any clear proposals. As noted above, One Housing is working with residents to consider the potential for proposals including viability and deliverability issues. Should this result in proposals which have the support of residents, One Housing would be keen to engage with the Council to consider CIL implications at that point. Ideally this would be before the Draft Charging Schedule is published to allow time to consider revisions if necessary.	The Council would welcome engagement to discuss Estate Regeneration and CIL matters.
CIL_PDCS 18	**UKI Shoreditch and UKI Fleet Street Hill (DP9)**	The PDCS has been published at a time when a number of other related policy documents are also in differing stages of preparation and consultation. The NPPG states that charging authorities should consider linking a review of their charging schedule to any substantive review of the evidence base for the relevant Plan (i.e. documents comprising the Development Plan). There are clear advantages in coordinating the review of all documents to inform the PDCS. In particular, we note that the Council's Draft Local Plan (October 2017) is at an advanced stage of review (Regulation 19 consultation having recently completed) and the new draft London Plan (December 2017) is currently the subject of consultation. The evidence base supporting the draft London Plan identifies a range of new policies that will result in additional costs to developers in London. It would appear that the cumulative impact of the additional costs proposed within the draft London Plan have not been considered in the Community Infrastructure Levy Review (CILR), and this should be a material consideration in assessing the viability of sites across the Charging Authority area.	The CIL Viability Study has been based on policies in the Council's emerging Local Plan. The Council's emerging Local Plan has been formed to be consistent with the new draft London Plan. The Council considers that the Viability Study does take account of the cumulative policies of relevant material considerations.
	UKI Shoreditch and UKI Fleet Street Hill (DP9)	We also note that the Mayor of London has recently completed a second round of consultation on his proposed 'MCIL2' where an increase to the LBTH CIL rate from £35 per sqm to £60 per sqm is proposed for residential developments. The BNP Viability report (September 2017) was prepared prior to the publication of these various documents and therefore does not appear to take these into consideration.	The full rates set out in respect of the Mayor of London's proposed CIL rates have been taken into account in the Viability Study. The Viability Study has been updated to make this fact clearer.

	UKI Shoreditch and UKI Fleet Street Hill (DP9)	It is questioned whether the viability work supporting the PDCS has not taken into account the full cumulative costs on development of all policies set out in the draft Local Plan, draft London Plan and draft MCIL2. We are conscious that costs associated with the provision of affordable housing, reduction in carbon emissions, affordable work space, urban greening, low cost business space, affordable retail units and social infrastructure are applicable to many planning applications and any increase in costs such as these by way of changes in policy should be taken into account as part of the viability assessment associated with the CILR.	The policy costs allowed for are based on the emerging Local Plan which are understood to be in accordance with the London Plan policies and in this regard we consider that the cumulative impact of planning policies has been appropriately addressed.
	UKI Shoreditch and UKI Fleet Street Hill (DP9)	Our client would argue that market conditions, and delivery of developments is as challenging commercially as any time over the last decade. Significant construction cost increases combined with a very challenging sales environment (caused in part by Brexit), and limited development funding opportunities are constraining the delivery of sites. As such, an increase in CIL rates is considered to decrease the viability of developments and we therefore do not support the findings of the BNP Viability Study. The three-fold increase in residential rates within CIL Zone 2 are therefore unjustified.	The Council notes the comments around there being a challenging economic environment. The Council has undertaken new appraisal work to support its rates proposed in its Draft Charging Schedule. The new appraisal work is based upon up to date evidence.
	UKI Shoreditch and UKI Fleet Street Hill (DP9)	Section 3.18 (Viability Benchmark) of the Viability Study, makes reference to the 'market testing' of benchmark land values and highlights that testing against market value is highly unreliable. We would not wholly disagree, however the there is insufficient testing of the benchmark land values in the CILR. The Lord Harman report 'Viability Testing of Local Plans' prefers to use a CUV based approach to benchmark land values however states on page 19 'Reference to market values can still provide a useful 'sense check' on the threshold values that are being used in the model (making use of cost-effective sources of local information), but it is not recommended that these are used as the basis for the input to a model'. The PPG, in relation to area-wide viability testing also states at paragraph 14 that 'site value should be informed by comparable, market-based evidence wherever possible. Where transacted bids are significantly above the market norm, they should not be used as part of this exercise'. Failure to do so potentially artificially deflates the cost of land to an unrealistic level and one at which sites may not be delivered. This in turn, puts the delivery of development sites and the subsequent delivery of the objectives of the Development Plan, at risk.	An EUV + approach to benchmark land values has been adopted. This has been accepted as a reasonable approach to assessing viability and in particular policy testing by numerous Examiners and Inspectors for CIL Charging Schedules and Local Plan testing. As identified in the Viability Study supporting the Preliminary Draft Charging Schedule, we have significant concerns as to the use of site purchase prices/market values and in particular set out why we consider these to be unreliable as follows: "3.18 Commentators also make reference to "market testing" of benchmark land values. This is another variant of the benchmarking advocated by respondents outlined at paragraph 3.13. These respondents advocate using benchmarks that are based on the prices that sites have been bought and sold for. There are significant weaknesses in this approach which none of the respondents who advocate this have addressed. In brief, prices paid for sites are a highly unreliable indicator of their actual value, due to the following reasons: ■ Transactions are often based on bids that 'take a view' on squeezing planning policy requirements below target levels. This results in prices paid being too high to allow for policy targets to be met. If these transactions are used to 'market test' CIL rates, the outcome would be unreliable and potentially highly misleading. ■ Historic transactions of housing sites are often based on the receipt of grant funding, which is no longer available. ■ There would be a need to determine whether the developer who built out the comparator sites actually achieved a profit at the equivalent level to the profit adopted in the viability testing. If the developer achieved a sub-optimal level of profit, then any benchmarking using these transactions would produce unreliable and misleading results. Developers often build assumptions of growth in sales values into their appraisals, which provides a higher gross development value than would actually be

			achieved today. Given that our appraisals are based on current values, using prices paid would result in an inconsistent comparison (i.e. current values against the developer's assumed future values). Using these transactions would produce unreliable and misleading results. 3.19 These issues are evident from a recent BNP Paribas Real Estate review of the differences between the value ascribed to developments by applicants and the amounts the sites were purchased for by the same parties. The prices paid exceeded the value of the consented schemes by between 52% and 18,000%."
	UKI Shoreditch and UKI Fleet Street Hill (DP9)	The CILR contains only nine scenarios below those sites deemed to be strategic, six of which relate to 50 units or less. The appraisals should test a wider range of development sites which should be spread across the Borough and be of varying sizes in order to present a more representative outcome. We would request more comprehensive testing of sites in this regard.	In respect of the typology testing undertaken, the Council is Confident that its approach is reasonable and robust.
	UKI Shoreditch and UKI Fleet Street Hill (DP9)	Further clarification is required in relation to the assumed timeframes for construction associated with each of the scenarios presented as part of the appraisals, and additional evidence in relation to build costs should be provided as the rates currently presented are low when compared to current tender prices. It is not clear whether the BCIS rates have been sense checked against submitted viability assessments on projects of similar sizes and this is a key concern in the analysis.	The updated Viability Study contains timescales for the construction programmes for the typology testing. Viability appraisals undertaken have been updated, including in respect of build costs.
	UKI Shoreditch and UKI Fleet Street Hill (DP9)	In respect of the development efficiencies, the appraisals assume 35% on-site affordable housing. Given the need to provide separate entrances and cores for social rented housing, the proposed efficiencies on the smaller schemes appear very optimistic and clarification is required as to whether the delivery of on-site affordable housing and its impact on efficiency where there is only one building, has been considered.	The Council has provided further evidence in an Additional Evidence and Information Document which demonstrates the Council's assumptions are modest.

	UKI Shoreditch and UKI Fleet Street Hill (DP9)	In the current market, 3% for residential marketing and agent's fees is not reflective of the market and is generally insufficient to achieve the values and sales rates that are incorporated into the appraisals.	In BNP Paribas Real Estate's experience, 3.5% is a reasonable allowance for marketing, agent's and legal fees.
	UKI Shoreditch and UKI Fleet Street Hill (DP9)	The weighted return, comprising 20% on GDV for private residential and 6% for affordable, is not reflective of the market requirements, particularly on schemes that are modelled with 35% affordable housing. No analysis is provided for example, of the major PLC's target rate of returns for speculative development, which must be a key consideration in the effective 'market' rate.	The profit allowance made is reflective of the vast majority of schemes that seek planning permission in Tower Hamlets. These levels were also deemed acceptable in respect of the Council's adopted CIL Charging Schedule. The Council also notes that recently published Planning Practice Guidance expresses that between 15 and 20% return on GDV is likely to be an acceptable level on market tenure residential development.
	UKI Shoreditch and UKI Fleet Street Hill (DP9)	Finally, no actual appraisals are provided and these are required in order to effectively analyse the appraisal work that has been collated.	The Council and its consultants are considering its position with regards to the publication of Argus Appraisals