

November 2018

Havering CIL – Statement of DCS Representations made

Havering’s Draft Charging Schedule was published from Thursday 16th August 2018 to Monday 1st October, for 6 weeks and 1 day in compliance with Regulation 17(3). The Draft Charging Schedule and accompanying documentation were made available at the Romford Public Advice and Service Centre in The Liberty in Romford, and in all libraries in the borough.

12 representations were received and the main issues raised are summarised below.

Summary of Representations

Representor	Key points of representations
Andrew Curtin, Romford Civic Society	<ul style="list-style-type: none"> • Romford Civic Society welcomes the Draft Charging Schedule • The Society feels that the restoration of the River Rom in central Romford and dredging of the lake at Raphael Park should be mentioned in the IDP • The society are interested in further information from the IDP regarding the Romford Market transformation and tunnelling of the Romford.
Mark Jones	<ul style="list-style-type: none"> • The representor supports the proposals in order to maintain the infrastructure in the borough.
Natural England	<ul style="list-style-type: none"> • Natural England note the importance of funding for the maintenance of green infrastructure. • Natural England suggest that green infrastructure in the Strategic Development Areas should be included as an item for which planning obligations will be sought rather than CIL. • Natural England suggest that the Sustainable Urban Drainage Systems (SUDS) should be included in the category of flood defence / protection measures
Historic England	<ul style="list-style-type: none"> • Recommended that the Council consider the viability of projects that involve heritage issues or historic buildings in developing the Charging Schedule.

Sport England	<ul style="list-style-type: none"> • Sport England suggests that specific projects should be included in the Regulation 123 List rather than a generic heading covering sport and leisure projects, or it considers that sporting contributions could more effectively be sought through planning obligations.
Port of London Authority	<ul style="list-style-type: none"> • The PLA state that it has no principle objections to the documents • The PLA notes that the main areas of its interest are not covered by the Regulation 123 List and will be funded through planning obligations • The PLA notes that the two bridge projects over Rainham Creek in the IDP should be consulted upon with the PLA as these fall within their jurisdiction • The PLA asks for further information regarding the project in the IDP which is called 'Rainham to the River, linking Rainham communities to Thames and Marshes
Ruth Crabb	<ul style="list-style-type: none"> • The representor suggested the opening-up and greening the River Rom as an infrastructure project.
Mercury Shopping Centre in Romford (Mercury Gallagher)	<ul style="list-style-type: none"> • The representor comments that the 6 week consultation period were insufficient to review the evidence and prepare representations • The representor states that the attention given to retail uses in the viability evidence is insufficient, as only two typologies have been used • The representor states that the rates suggested for retail are not supported by sufficient evidence, as they are. Based on testing only one scenario for each retail category • The representor states that further clarity is required regarding what development would be liable for the proposed £175 per sqm charge, as the definition provided is insufficient • The representor notes that larger schemes may attract Section 106 costs which do not appear to have been considered in the viability evidence • The representor expressed concerns regarding the viability evidence for typology 10 in the Romford Strategic Development Area, • Clarity is sought regarding whether the viability evidence has accounted for a realistic level of Section 106 required for residential schemes.

TfL	<ul style="list-style-type: none"> • The representation expresses its concerns regarding the approach towards CIL and planning obligations may restrict the ability to secure funding for transport projects in the Beam Park and Rainham areas, and suggests these should be included in the Regulation 123 list. • Specific observations were made regarding the funding position on a number of projects within the IDP.
Environment Agency	<ul style="list-style-type: none"> • Specific comments were provided regarding a number of flood risk and flood defence projects in the IDP • Regarding CIL, the representation suggested that Section 106 funding could be used for flood alleviation projects.
Portland Capital (Quod)	<ul style="list-style-type: none"> • The representation states that the figures used in the Local Plan Housing Position Statement are well below the requisite minimum levels as set by the London Plan • Regarding residential rates proposed for the 2 zones, the representation states that there are significant delivery issues in the proposed Zone A which will affect delivery and constrain the development of housing, and that the rate proposed for the Housing Zone in zone B should be applied to Zone A. • The representation states that there has been a significant proportional rise in the proposed CIL rate for Zone A from the Preliminary Draft Charging Schedule to the rate in the Draft Charging Schedule, which will have a significant impact on affordable housing and other infrastructure being provided on sites in this zone.
Highways England	<ul style="list-style-type: none"> • The representation notes Highways England's interest in the documents relates to the Council's approach towards identifying and prioritising transport improvements. • The representation states that improvements to the strategic road network are funded through Section 278 Agreements.

Representations and Council Responses

Representor	Representation	Council Response
<p>CIL-SD04: Andrew Curtin, Romford Civic Society</p>	<p>Romford Civic Society welcomes the Draft Charging Schedule.</p> <p>Our organisation deals with the environment of central Romford, and we will limit our comments to matters relative to that.</p> <p>The Society welcomes the inclusion of provision for public art in the schedule, and feels strongly that this will make a very positive contribution to the environment of central Romford.</p> <p>We welcome the provision for the funding of flood protection measures in the schedule.</p> <p>We feel very strongly that specific identification of the restoration and renaturalising of the River Rom in central Romford in the schedule would greatly strengthen its relevance to the environment of the area. We are extremely concerned that the river is not mentioned at all in the report.</p> <p>We note that vital provision for dredging the lake at Harrow Lodge Park is included in the schedule, but that there is no similar provision for the lake at Raphael Park. As there have also been many instances of botulism in the lake at Raphael Park this summer, we feel that this should be included in the schedule too.</p>	<p>Your comments regarding the provision for public art and funding for flood protection in the Draft Regulation 123 List are noted.</p> <p>Regarding the restoration and re-naturalising of the River Rom and dredging the lake at Raphael Park and their inclusion in the List of Infrastructure Projects in Appendix 2 of the Infrastructure Funding Gap Report; these projects are taken from the Infrastructure Delivery Plan (IDP), which is included as a supporting document in the CIL Draft Charging Schedule and is also part of the Local Plan evidence base. The IDP will be subject to examination through the Local Plan Examination in Public, and not be examined as part of the CIL examination.</p> <p>The purpose of including the IDP in the Draft Charging Schedule (DCS) consultation is to identify the total cost of infrastructure that the Council wishes to fund wholly or partly through the levy, and what funding sources are available, based on appropriate evidence. The IDP is considered as appropriate evidence.</p> <p>The projects in the IDP are projects which are required to maintain the existing quality of life in the area and to support further development</p>

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	<p>We are interested to know what the Romford Market transformation, which is included in the document, actually is?</p> <p>We are interested to know more about what the inclusion of provision to tunnel the ring road in Romford means in practice.</p>	<p>to accommodate growth in population and economic activity. Projects including the dredging of the lake at Harrow Lodge Park are in the Green Infrastructure category, and were identified to ensure that parks and green infrastructure fully meet the needs of the existing and future population. Further projects such as those mentioned in the representation would need to be considered as part of any future update to the IDP.</p> <p>The Council therefore considers that no modifications to the Draft Charging Schedule are required as a result of the issues raised in this representation.</p>
CIL-SD05: Mark Jones	<p>Havering Borough needs to maintain its infrastructure going forward. The CIL charges seem well researched and fair. With the huge reduction in central government funding, I support this idea.</p>	<p>The representation is noted. No technical response required.</p> <p>The Council considers that no modifications to the Draft Charging Schedule are required as a result of the issues raised in this representation.</p>
CIL-SD06: Natural England	<p>Thank you for your consultation on the above dated 16 August 2018.</p> <p>Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed</p>	<p>The comments in the representation regarding the funding for the maintenance of infrastructure are noted.</p> <p>Regarding the comment suggesting that green infrastructure be considered for funding through planning obligations in the Rainham</p>

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	<p>for the benefit of present and future generations, thereby contributing to sustainable development.</p> <p>Having reviewed the Draft Charging Schedule and Havering Local Plan we welcome the proactive approach towards Green Infrastructure and the detailed list of projects that will deliver the Local Plan's vision for Green Infrastructure. We do, however, have some specific comments to make:</p> <ul style="list-style-type: none"> • We note the Draft Regulation 123 list states 'The Council intends that it will, or may, spend CIL on part or all of provision, improvement, replacement, operation or maintenance of the infrastructure..'. We understand this is a broad statement intended to cover all aspects of infrastructure, however, we would like to remind you that in order to gain the most benefit from Green Infrastructure, funding must be secured for its maintenance (and if possible enhancement) in perpetuity as well as for its provision and operation. • We note that Green Infrastructure is listed to be funded by the CIL, however, we would, if possible, recommend you consider additional contributions from planning obligations in the Romford and Rainham and Beam Park Strategic Sites. This would ensure that the strategic sites will receive the maximum benefits associated with appropriately-chosen and maintained Green Infrastructure. 	<p>and Beam Park SDAs, this will be considered by the Council prior to the publication of the final Regulation 123 List and / or as part of any subsequent update.</p> <p>Regarding the suggestion that the provision of SUDS be included in the flood defence / protection measures as included on the Regulation 123 List, this will be considered by the Council prior to the publication of the final Regulation 123 List and / or as part of any subsequent update.</p> <p>The Council considers that no modifications to the Draft Charging Schedule are required as a result of the issues raised in this representation.</p>

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	<ul style="list-style-type: none"> We note that the Havering Local Plan incorporates Sustainable Drainage Systems (SuDS) into its policies. We would advise you ensure that the 'Flood defence/protection measures' funded through planning obligations (as per Havering Regulation 123 list) includes the provision and maintenance of SuDS that controls both water quantity and quality. 	
CIL-SD07: Historic England	<p>Thank you for consulting Historic England Preliminary Draft Charging Schedule for the Borough's Community Infrastructure Levy (CIL).</p> <p>As the Government's statutory adviser, Historic England is keen to ensure that conservation and enhancement of the historic environment is fully taken into account at all stages and levels of the planning process although we note that there is a limited relationship between CIL and designated heritage assets as regulations are currently set out.</p> <p>Nevertheless, we would recommend that the Council bear in mind the viability of development projects reusing historic buildings or heritage-led regeneration proposals in developing the draft charging schedule, and look to ensure their eligibility for relief in such circumstances. We would also encourage the involvement of the Council's own historic environment expertise in the process if this has not already been the case, as such staff are often best placed to advise on relevant heritage issues.</p>	<p>The Council remains committed to conserving and enhancing the historic environment and heritage assets. The Council is however restricted in the discretionary relief it can give. We note that CIL is only chargeable on net additional development so would not be charged on change of use for existing buildings. Where an existing heritage building is being reused for an alternative use it will not be eligible for CIL where it has been occupied lawfully for at least six months in the last 3 years. On this basis CIL will have a limited affect the viability of regeneration of heritage assets. We also note that whilst the introduction of a proposed discretionary relief for heritage assets whilst helping to support such conservation could result in enabling development which would have an impact on existing infrastructure. This would need to be financed to ensure that the Council can cope with new development including heritage assets.</p>

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	<p>Please note that this advice is based on the information that has been provided to us and does not affect our obligation to advise on, and potentially object to any specific development proposal which may subsequently arise from these documents, and which may have adverse effects on the environment.</p> <p>I trust these comments are helpful. Please do not hesitate to contact me should you require any further information or clarification.</p>	<p>The Council therefore considers that no modifications to the Draft Charging Schedule are required as a result of the issues raised in this representation.</p>
<p>CIL-SD08: Mark Furnish, Planning Manager, Sport England.</p>	<p>Thank you for consulting Sport England on the above.</p> <p>Sporting and recreation facilities are included within the definition of Community Infrastructure Levy (CIL) infrastructure in the 2008 Planning Act (section 216), which means money raised can be used to fund new or enhanced sports facilities.</p> <p>Sport England does welcomes that the Council are considering to fund sport and leisure facilities but has concerns that the general term, 'Sport and Leisure Facilities', is included within the Draft Regulation 123 List. A general term included within the list could cause difficulties in directing funds to actually be spent on particular sport and leisure projects due to them having to compete with other infrastructure needs. In order to ensure that the CIL funds collected has a chance of being spent on sport, Sport</p>	<p>The comments in the representation regarding the funding for sports and leisure facilities are noted.</p> <p>Regarding the comment suggesting that specific infrastructure projects be specifically mentioned in the Reg 123 List, it is proposed that the Regulation 123 List is amended to include some specific projects from Policy 18, part ix from the Local Plan.</p>

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	<p>England consider that the Regulation 123 list should contain specific projects rather than a generic wide ranging term. Sport England recommend that the Regulation 123 List contains high level priority projects of a strategic nature that CIL has potential to deliver rather including a general term or a long list of projects that CIL will never be able to fund. Since the Council have a Playing Pitch Strategy the key projects and actions contained within that Strategy could be listed in the Regulation 123 List with the other actions/projects being able to be potentially funded by Planning Obligations. This approach, Sport England consider, would increase the likelihood of money into sport and delivery of needed sport and leisure infrastructure that meets current and future needs. Unless the Council identify specific projects on the Strategic Infrastructure List it may be more effective for sporting contributions to be sought through planning obligations, however this is only in the case where it can be linked to a strategic housing development.</p> <p>I hope this is helpful. If you have any queries or require further information, please do not hesitate to contact me.</p>	
<p>CIL-SD09: Michael Atkins, Senior Planning Officer, Port of London Authority</p>	<p>Dear Sir/Madam</p> <p>Thank you for consulting the Port of London Authority (PLA) on the London Borough of Havering's Community Infrastructure Levy (CIL) Draft Charging</p>	<p>The representations are noted. No technical response required.</p> <p>The Council considers that no modifications to the Draft Charging Schedule are required as a</p>

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	<p>Schedule consultation. I have now had the opportunity to review the associated documents and the PLA has no in principle objections.</p> <p>For information, the PLA is the Statutory Harbour Authority for the Tidal Thames between Teddington and the Thames Estuary. Its statutory functions include responsibility for conservancy, dredging, maintaining the public navigation and controlling vessel movement's and its consent is required for the carrying out of all works and dredging in the river and the provision of moorings. The PLAs functions also include for promotion of the use of the river as an important strategic transport corridor to London. This is reflected in the PLAs Vision for the Tidal Thames document (July 2016). It is noted as part of this consultation that of the main areas of the PLA's interest, including transport infrastructure and air quality, that these are not covered under the Regulation 123 list, and will be funded through planning obligations.</p> <p>As part of the consultation documents it is noted that the Infrastructure Delivery Plan states under the transport section that a bus-link bridge is proposed across Rainham Creek between Ferry Lane and Creek Way, there is also support for a cycling/walking bridge over Rainham Creek, to potentially be built between 2016 - 2021. Please note Rainham Creek falls within the PLA's jurisdiction along Creek Way up to the A1306 roundabout with</p>	<p>result of the issues raised in this representation.</p>

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	<p>Bridge Road, as such the PLA should be consulted on these potential crossings as further details become available, particularly as part of the PLA's River Works Licensing Process.</p> <p>It is also noted that there is Green Infrastructure project highlighted in the Infrastructure Delivery Plan called 'Rainham to the River, linking Rainham communities to Thames and Marshes'. Could further information be provided on this project, particularly with regard to promoting access to the Thames? The PLA would broadly be in support of any project which seeks to enhance access to the River Thames and again should be consulted on any proposals.</p> <p>I hope this information is of assistance. If you have any questions at all please let me know</p>	
CIL-SD10: Ms Ruth Crabb	<p>The amount of development going on in the borough provides a unique opportunity to do something visionary with the large amount of CIL money coming from the numerous developers building in Havering. Although the council is receiving less money from central government, it would be short-sighted to use CIL monies to subsidise ongoing expenditure: it would be like getting an unexpected windfall and spending it on something mundane.</p> <p>Something that would greatly benefit Romford would be the opening-up and greening of the River Rom through all parts of the town centre where it is not flowing underground: this would increase the appeal of properties in new developments along Waterloo</p>	<p>The representations are noted. No technical response required.</p> <p>The Council considers that no modifications to the Draft Charging Schedule are required as a result of the issues raised in this representation.</p>

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	<p>Road, Rom Valley Way and North Street; go further to combat air pollution from the ring road; provide natural flood defences; make the river a destination location for visitors to and residents of the area alike, bringing benefits to the local economy.</p> <p>Please do not squander this once in a lifetime opportunity to do something truly positive for the borough, its occupants and those coming to the area to live, work and play.</p>	
<p>CIL-SD11: Mercury Shopping Centre in Romford (Williams Gallagher)</p>	<p>Having reviewed DCS and the various documentation / evidence that underpins this, we wish to make the following observations:</p> <ul style="list-style-type: none"> • As articulated above, we are concerned that LB Havering’s decision to proceed with consultation at a DCS stage (as opposed to a revised PDCS stage) will prejudice those with interests in the Borough. The Council has, in effect, only given consultees a 6 week window in which to review, comment on and prepare representations to a Charging Schedule that is significantly different to that previously consulted upon and one that is now based on a brand new set of viability evidence. The timescales allowed for comment are simply insufficient to enable the relevant parties to make comment and to establish the implications for the viability of schemes within the Borough. • We note that the BNP Paribas Viability Report has focused much of its attention on the appraisal of a series of residential development typologies in order to establish their ability to accommodate CIL. This is to be welcomed given the pressing need to deliver 	<p>The Council have undertaken the required consultation under the CIL Regulations (as amended). In fact the Council have chosen to consult for a 6 week period which is in excess of the requirement set out at Regulation 17 of the in the CIL Regulations which states that “The period which the charging authority specifies... must be a period of not less than four weeks starting on the day on which notice given pursuant to regulation 16(1)(d) is first published.” Moreover the Regulations clearly set out at Regulation 17 (2) that where a person makes representations about a draft charging schedule that “such representations must be... made within the period which the charging authority specifies”</p> <p>To this end the Council considers that it has met its required duty to consult under the CIL Regulations. Moreover it is aware that should there have been significant concerns and issues raised at the DCS stage it had the</p>

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	<p>housing in the Borough and the associated emphasis on housing delivery in the adopted and emerging Local Plan.</p> <p>However, as is so often the case, the attention given to other uses (namely commercial uses) is severely lacking. To elaborate:</p> <ul style="list-style-type: none"> o In respect of retail development, we note that only two typologies have been modelled / tested to establish the proposed CIL rates for Retail Supermarkets, Superstores and Retail Warehouses and All Other Retail (A1 – A5) as follows: <ul style="list-style-type: none"> § Supermarkets and Retail Warehousing – 10,753 sqft (999 sqm) § All Other Retail (A1 – A5 + Sui Generis Akin to Retail) – 2,470 sqft (230 sqm) o No explanation has been put forward by BNP as to how why these particular typologies have been modelled and indeed whether or not they mirror the type of development that is envisaged by the existing and emerging Local Plan. o It is also concerning to note that BNP is recommending a CIL rate of £50 per sqm for all retail development across the Borough (Classes A1 – A5) when only one development <p>5</p> <p>scenario has been tested (a development comprising 230 sqm – location unspecified) to establish whether this rate is achievable. The same concern applies to the proposed rate of £175 per sqm for Retail Supermarkets, Superstores and Retail Warehouses which would apply to schemes over 280 sqm – again,</p>	<p>option and opportunity to consult on a revised draft Charging schedule, as other local authorities have considered it appropriate to do. However, following a detailed and considered review of the representations received, the Council does not consider that such substantive concerns and evidence has been provided that warrants revisions to the Draft Charging Schedule. Given this position the Council does not consider that it would be necessary or appropriate to undertake a further consultation period on the DCS,</p> <p>BNPPRE considers that appropriate available evidence has been used to inform the Council’s charging schedule in line with the requirements of the National Planning Practice Guidance (‘NPPG’) for CIL para 019 which has demonstrated that the proposed levy rate or rates set an appropriate balance between the need to fund infrastructure and the potential implications for the economic viability of development across their area.</p> <p>The typologies chosen have been based on the understanding of development likely to be coming forward in the borough. With respect to the clarity of the definition of retail adopted in the DCS, BNPPRE would highlight that this a definition which has been accepted in numerous other CIL charging schedules which</p>

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	<p>this figure has been arrived at having tested only one scenario – a 999 sqm retail warehouse (again, location unspecified and also without regard to the fact that retail warehousing, superstores and supermarkets attract very different values).</p> <p>o Clarity is also required as to which developments would be liable for the proposed £175 per sqm charge as there is simply insufficient explanation as to what the Council / BNP regards to be a retail supermarket, superstore and / or retail warehouse and how this terminology is relevant to schemes upwards of 280 sqm (it is very difficult to see how a unit comprising, for example, 281 sqm could be regarded as a retail supermarket / superstore and / or warehouse). The ambiguous nature of the wording results in a considerable degree of uncertainty as to what format of retail development would be liable for this charge (and indeed whether it would apply to all locations including the RSDA). (NB this comment is made despite the ** definition set out under the DCS at Page 4)</p> <p>o Lastly, and in respect of the proposed retail rates, we note that larger schemes for redevelopment in the town centre are likely attract on-site Section 106 costs (as illustrated in the Draft Regulation 123 List) – these do not appear to have been accounted for in the BNP appraisals.</p> <p>The lack of attention to the appraisal of commercial development in the BNP appraisal and the ambiguous terminology used to define retail floorspace that would be liable for CIL in the DCS is</p>	<p>have successfully been through examination and adopted by other local authorities. It is considered to be an acceptable and reasonable approach. Other charging schedules which adopt this or very similar approaches include but are not limited to: LB Tower Hamlets, RB Greenwich, LB Bexley, Dacorum BC and Bedford BC. To clarify however, the 280 sq m threshold applied reflects the Sunday Trading Threshold floor area. The reasoning behind adopting this figure is that in BNPPRE’s experience and previous research into this position, units below Sunday Trading Thresholds tend to predominantly be occupied by local convenience store operators, whilst the larger units above Sunday Trading Threshold levels are occupied by the large national operators such as Sainsburys, Tesco etc. The latter are of a stronger covenant strength and therefore result in keener yields, which increases the value of such units and improves viability. The units below 280 sq m are considered to more closely reflect the position appraised in the “all other retail” category and as a result fall into this category.</p> <p>With respect to the comments on the differences between retail warehouses and supermarkets, we take Williams Gallagher’s point, however set out the following response.</p>

Representor	Representation	Council Response
	<p>concerning and provides us with insufficient comfort that the proposed CIL rates will not put at risk retail development within the RDSA, in accordance with the existing and emerging Local Plan.</p> <ul style="list-style-type: none"> • Referring to the rates to be applied to residential development in Zone A, we note that that BNP has appraised ten typologies which reflect different densities and types of development across the Borough and that these have been tested having regard to the Council’s emerging 35% affordable housing requirement (Draft Policy 4). The typology of most relevance to the type of development envisaged in the RSDA is that of Typology 10 which comprises 435 flats on a site comprising 1 hectare. We of course welcome the inclusion of this typology as it is most reflective of the development aspirations of our client. We do however note that the ‘policy-on’ appraisal of this typology (i.e. allowing for 35% affordable housing) appears to be missing from the appendices of the BNP report. It is however summarised in the main report which indicates that this typology is unviable with the imposition of CIL. <p>This reflects the conclusions of our client who (supported by a development viability specialist) has undertaken its own (‘policy-on’) high level assessment of the impact of CIL on its own development aspirations on the sites adjacent to the Mercury Shopping Centre (to include just over 800 units). This appraisal indicates that the proposed CIL rate would have the effect of reducing developer</p> 	<p>In BNPPRE’s experience with setting CIL rates supermarkets and retail warehouses have a similar capacity to absorb CIL charges. Retail warehouses incur significantly lower build costs than supermarkets, which despite rent and yield differences for the assets results in a similar viability profile for such schemes. Our research through our in-house retail warehouse team identified that rents achievable on retail warehouses in the borough are between £20 - £25 per sq ft whilst capitalisation yields for such assets are between 5.5% and 5.25%. BCIS identifies that build costs for retail warehouses are 1,004 per sq m. We have run an appraisal based on these inputs, which is attached to this schedule (CIL-CD12). This demonstrates that such schemes have the capacity to accommodate a maximum CIL charge ranging between £32 per sq m to £504 per sq m. Given this position we remain of the opinion that maintaining a CIL charge of £175 per sq m for such uses remains an appropriate CIL charge.</p> <p>We note that with regard to the testing of “All Other Retail (A1 – A5 + Sui Generis Akin to Retail)” that the assumptions adopted are reasonable inputs for such uses in the borough. Increasing or decreasing or decreasing the size of such development</p>

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	<p>profit to below an acceptable level (i.e. below the 20% profit margin adopted by BNP).</p> <p>The fact that both Typology 10 is showing as unviable with the application of CIL is not unsurprising given BNP's commentary at Para 6.14: "Viability is also identified as being challenging on the higher density schemes. As expected, schemes tested with higher levels of affordable housing and measured against higher benchmark land values also show reductions in viability. However, as identified above, the</p> <p>6</p> <p>imposition of CIL at a zero level on such schemes will not make them viable, rather other factors (i.e. sales values, build costs or benchmark land values) would need to change to make them viable".</p> <p>Whilst we acknowledge this is an approach often employed by BNP (i.e. it takes the view that limited regard is paid to sites that would be unviable even if a zero CIL were adopted as they are unlikely to come forward unless there are significant changes to main appraisal inputs), we are concerned because this approach applies to most residential development in the RSDA.</p> <p>Indeed, it is understood that over 5,300 homes are anticipated to be delivered on large sites in the RSDA across the Plan period which accounts for approximately 30% of the Borough's housing target. Disregarding these sites and applying CIL regardless of whether or not they are viable seems to us</p>	<p>would be a matter of scaling which would result in the same surplus available for CIL charges to be levied against.</p> <p>BNPPRE confirm that in its commercial appraisals an allowance has been included for Mayoral CIL2 (MCIL2) and residual S106. This includes £25 per sq m for MCIL2 and £21.53 per sq m for residual S106 based on £2per sq ft. With respect to residential developments we have accounted for £2,000 per unit. These figures are considered to be a reasonable proxy for likely sums to be sought after CIL is adopted. It is noted however that residual S106 contributions are by their very nature site specific and will change from site to site. Notwithstanding this we would also highlight the comments made at para 18 by the CIL Examiner Mr Simon Emerson in his Report to London Borough of Merton Council in which he stated that, "A significant assumption made for the inputs for all the retail types is that after the CIL is introduced, section 106 costs would be zero. This does not so much reflect an expectation that this would be the case, but more the difficulty of judging an appropriate input when S106 costs for site-specific works (such as highway access) would be likely to vary considerably from site to site. Assuming a fixed sum for S106 costs where circumstances vary widely</p>

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	<p>somewhat careless when it is clear that these sites are critical to the delivery of the Borough's housing targets.</p> <p>BNP should be challenged on this approach and provide evidence to the contrary that it will not undermine the delivery of housing targets in the RSDA.</p> <ul style="list-style-type: none"> • Lastly, clarity is sought as to whether the BNP appraisal has properly accounted for the level of Section 106 that is likely to be required for residential schemes (we note it has applied a figure of £2,000 per unit however there is no justification to support this - we would expect at the very least an analysis of recent approvals / S106 agreements to establish whether this amount is realistic). Our concern is that whilst income from the CIL rate will cover 'big ticket' items such as highways and education, the list of other infrastructure to be funded through Section 106 / other mechanisms is extensive. It is also unclear from the consultation documentation as to whether proper consideration has been given to the pooling restrictions on these big ticket items to ensure that these can be funded through CIL. <p>Conclusion</p> <p>Whilst we do not object to the imposition of CIL, you will note we have expressed a series of concerns in regard to the proposed rates and the evidence base that supports these rates.</p> <p>We would invite LB Havering / BNP Paribas to address these concerns at its earliest convenience.</p> <p>Until such time, we are unable to conclude that the</p>	<p>would be no more accurate than the working assumption of zero costs. The approach is a reasonable choice in the circumstances, subject to a sufficient buffer in the overall assessment of viability (see below.”</p> <p>BNPPRE note that despite their concerns raised Williams Gallagher have not provided any evidence to support their assertion that the rates as proposed for retail developments in the Borough would put such development at risk. We would further highlight that the CIL rates as a percentage of development costs for “all other retail” at £50 per sq m amounts to circa 1.38% of development costs and for “Supermarkets, Superstores and Retail Warehouses (over 280 sq m)” at £175 per sq m amounts to circa 5.31% of development costs. At this level of charge it is not considered that CIL will be the defining factor that would prevent development from coming forward.</p> <p>BNPPRE would highlight that the imposition of CIL is not the element that makes typology 10 unviable. It is identified as being unviable prior to the imposition of CIL. BNPPRE stands by its comments set out at para 6.8 of the viability report which states that:</p>

Representor	Representation	Council Response
	<p>evidence put forward is sufficient to establish whether or not the proposed CIL rate will put overall development in the Borough at risk.</p>	<p>As previously stated, 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 12."</p> <p>Moreover we would highlights that the LB Newham CIL Examiner, Mr A Thickett identified in his report that, "if a scheme is not viable before CIL is levied it is unlikely to come forward and CIL is, therefore, unlikely to be a material consideration in any development decision. Consequently, the Viability Study, sensibly in my view, did not factor in unviable schemes in recommending appropriate rates."</p> <p>We note that Ellandi has identified that it has undertaken testing viability testing of their proposed development, however they have not submitted this to support their assertion that it is the CIL charge proposed that would</p>

Representor	Representation	Council Response
		<p>make their development undeliverable. We would welcome Williams Gallagher's submitting this information to support their client's position.</p>
<p>CIL-SD12: TfL</p>	<p>LB Havering Community Infrastructure Levy ~ Draft Charging Schedule.</p> <p>Thank you for the invitation to comment on the borough's new CIL draft charging schedule. I am responding on behalf of Transport for London and the comments here are based upon the proposed charging schedule itself and the supporting documents, particularly the Viability Study (July 2018), Draft Infrastructure Delivery Schedule (March 2018), Infrastructure Funding Gap Report (August 2018) and Draft Regulation 123 List (August 2018).</p> <p>As you are aware, the Mayor's adopted Charging Schedule (MCIL1) came into effect on 1 April 2012 and the Examination in Public for the proposed Mayoral Charging Schedule 2 (MCIL2) was recently completed. We are pleased to note that the proposed MCIL2 has been taken into account by BNP Paribas Real Estate in their Viability Study Report and subsequently in the rates proposed in your draft charging schedule.</p> <p>I have noted that the Council has included a draft Regulation 123 list, which indicates the types of</p>	<p>The comments in the representation regarding the MCIL2 are noted.</p> <p>The comments regarding the projects in the Infrastructure Delivery Plan (IDP) are noted. These projects are taken from the Infrastructure Delivery Plan (IDP), which is included as a supporting document in the CIL Draft Charging Schedule and is also part of the Local Plan evidence base. The IDP will be subject to examination through the Local Plan Examination in Public, and not be examined as part of the CIL examination. The comments will be considered as part of any future update of the IDP.</p> <p>The purpose of including the IDP in the Draft Charging Schedule (DCS) consultation is to identify the total cost of infrastructure that the Council wishes to fund wholly or partly through the levy, and what funding sources are available, based on appropriate evidence. The IDP is considered as appropriate evidence.</p>

Representor	Representation	Council Response
	<p>infrastructure/infrastructure projects intended to be funded or part funded through CIL and planning obligations. I have also noted the exclusion of transport infrastructure from the list and the intention to secure funding for site specific transport infrastructure along with contributions to Beam Park Station and Rainham Creek Bus/walking/cycling bridge through planning obligations.</p> <p>As you are aware, the proposed growth set out in the Havering draft Local Plan is considered to be dependent upon and facilitated by significant public transport investment and improvements. The supporting Infrastructure Funding Gap Report sets out an overall infrastructure requirement cost of £578 million, of which £115 million relates specifically to transport infrastructure.</p> <p>I am concerned that the proposed approach to CIL and planning obligations may restrict the ability to secure much needed funding for transport infrastructure in the borough. It is also at odds with the Havering draft Local Plan which sets out in paragraph 14.0.20 that <i>“funds secured through CIL will be used to deliver key community infrastructure as such as education, health facilities, libraries, community care, community facilities and transport projects (except certain site specific works).”</i> Therefore, TfL requests that transport be included in the Regulation 123 list so that, where appropriate,</p>	<p>Regarding the comment on the approach towards funding transport infrastructure through CIL, to address concerns of consistency between the CIL Draft Charging Schedule and the Draft Local Plan, the Council proposes to delete paragraph 14.0.20 of its Local Plan and add to the end of the preceding paragraph “Funds secured through CIL will be used in accordance with the Council’s Regulation 123 list.” This will be progressed as part of the proposed modifications to be made to the Local Plan following the Examination in Public and prior to adoption.</p> <p>The Council therefore considers that no modifications to the Draft Charging Schedule are required as a result of the issues raised in this representation.</p>

Representor	Representation	Council Response
	<p>transport infrastructure can be funded to enable and support growth.</p> <p>As TfL may have a key role in the delivery of projects in Havering, we would wish to work closely together in developing transport proposals, ensuring that current thinking on potential transport infrastructure projects and their funding is aligned. We also believe that there would be value in identifying a small number of transport schemes that could be funded or part funded through borough CIL receipts in order to support the growth proposed by the borough. It would be worthwhile exploring the potential for joint working and/or funding in some cases in order to bring forward certain schemes.</p> <p>In respect of the Draft Infrastructure Delivery Plan and Infrastructure Funding Gap Report, I make the following observations:</p> <ul style="list-style-type: none"> <li data-bbox="629 975 1335 1305">i) <u>Romford Station Crossrail Complementary Measures (CCM)</u>: TfL has funded LB Havering £1,667,500 through the CCM programme between 2015/16 and 2017/18 for interchange and public realm improvements at Romford station. This scheme (in terms of TfL CCM funding) has now completed and there is no future funding for this scheme. <li data-bbox="629 1305 1261 1375">ii) <u>Bus stop accessibility</u>: TfL's Bus Stop Accessibility programme has funded 	

Representor	Representation	Council Response
	<p>boroughs to deliver bus stop accessibility over recent years but that programme has now closed. TfL would expect that any new bus stop provision installed in the future would meet accessibility standards. It would be helpful to know the amount remaining to make up the £300k cost in the Table in Appendix 2 of the Infrastructure Funding Gap Report.</p> <p>iii) <u>Gallows Corner Junction</u>: We are aware of LB Havering's aspirations in relation to Gallows Corner and there are ongoing discussions regarding this linked to the current review of the asset condition.</p> <p>iv) <u>Romford Ring Road Liveable Neighbourhood Scheme and Beam Parkway LIP Major Scheme</u>: TfL is currently working with LB Havering on the above two schemes. Funding for implementation will be subject to modelling and scheme approvals, however, we would expect that the Romford scheme would be completed prior to 2021.</p> <p>v) <u>Tram/Light Rail Link</u>: TfL suggest that the scope should be broadened to include high quality bus transit as well as rail modes.</p> <p>I hope that you find these comments useful and please contact me if you wish to discuss anything further.</p>	

Representor	Representation	Council Response				
	<p>I would be grateful if you could note TfL's request to be notified of submission of your draft charging schedule for examination, publication of the examiner's recommendation and approval of the charging schedule by the council.</p> <p>TfL looks forward to working closely with you in ensuring that necessary transport infrastructure is prioritised and delivered in the borough.</p>					
<p>CIL-SD13: Environment Agency</p>	<p>Dear Martyn, Thank you for consulting the Environment Agency on the above document along with the accompanying supporting evidence items. We have reviewed the documents and have provided our comments in table format below.</p> <table border="1" data-bbox="584 863 1344 1390"> <thead> <tr> <th data-bbox="584 863 864 943">Document reference</th> <th data-bbox="864 863 1344 943">Comments</th> </tr> </thead> <tbody> <tr> <td data-bbox="584 943 864 1390"> <p>Infrastructure delivery plan, Pg. 28</p> </td> <td data-bbox="864 943 1344 1390"> <p><i>Further details to consider including:</i> There is known flood risk in the borough, but we are currently updating our fluvial flood modelling to improve understanding of the flood risk along the Beam / Rom. Once this modelling is available we intend to do an initial assessment to look into potential options for</p> </td> </tr> </tbody> </table>	Document reference	Comments	<p>Infrastructure delivery plan, Pg. 28</p>	<p><i>Further details to consider including:</i> There is known flood risk in the borough, but we are currently updating our fluvial flood modelling to improve understanding of the flood risk along the Beam / Rom. Once this modelling is available we intend to do an initial assessment to look into potential options for</p>	<p>The comments regarding the projects in the Infrastructure Delivery Plan (IDP are noted). These projects are taken from the Infrastructure Delivery Plan (IDP), which is included as a supporting document in the CIL Draft Charging Schedule and is also part of the Local Plan evidence base. The IDP will be subject to examination through the Local Plan Examination in Public, and not be examined as part of the CIL examination. The comments will be considered as part of any future update of the IDP.</p> <p>The purpose of including the IDP in the Draft Charging Schedule (DCS) consultation is to identify the total cost of infrastructure that the Council wishes to fund wholly or partly through the levy, and what funding sources are available, based on appropriate evidence. The IDP is considered as appropriate evidence.</p>
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	Section 6.6.9	<p>flood alleviation in / around Romford.</p> <p>This section currently refers to future raising of defences by 2050. We believe this should be corrected to 2065 and 2100 in accordance with the TE2100 Plan.</p>	<p>The Council therefore considers that no modifications to the Draft Charging Schedule are required as a result of the issues raised in this representation.</p> <p>The comments in the representation regarding S106 funding for flood alleviation are noted, and will be considered through any future update of the Council's approach towards planning obligations.</p>
Infrastructure delivery plan, Annex B – Infrastructure provisions & requirements by type, Page B31 & B32	<p><i>For inclusion in 'Assessment of future needs' section:</i></p> <p>Once flood modelling is available we hope to undertake an initial assessment of options for how to alleviate flood risk in/around Romford. However, there is currently no funding available for this initial assessment, so funding contributions would be welcome to allow the investigation of possible flood alleviation schemes.</p> <p><i>London Borough of Havering (LBH) also has 2 schemes looking at surface water flood risk that may also require additional financial support.</i></p>		
CIL Infrastructure Funding Gap Report – Appendix 2 'List of	<p><i>Include in table:</i></p> <p>Rom Flood Alleviation Scheme – Once modelling is available options to alleviate flood risk will</p>		

Representor	Representation		Council Response
	Infrastructure Projects'	<p>be explored. Financial contributions towards doing an initial assessment of options would be appreciate. Cost TBC as we require further information from modelling that is currently in progress.</p> <p><i>Havering should have internal conversations regarding whether the proposed surface water schemes that are being led by the Borough should also be included within the table.</i></p>	
	CIL Draft Regulations	<p>S106 money may be an option once options for flood alleviation have been identified, as can be sought from development within the benefiting area. However, currently we are only looking for money for an initial assessment, looking at the risk within the borough on a wider scale and identifying options to investigate for flood alleviation.</p>	
	<p>I hope you have found these comments helpful. If you have any questions please contact me on 0207 7140 578 or email me at HNLsustainablePlaces@environment-agency.gov.uk, quoting the reference at the beginning of this letter.</p>		

Representor	Representation	Council Response
<p>CIL-SD14: Portland Capital (quod)</p>	<p>Portland Capital do not support the proposed Draft Charging Schedule for the reasons set out below:</p> <p>Havering's Housing Target/Delivery</p> <p>The adopted London Plan (2016) sets a minimum housing delivery target between 2015 and 2025 of 11,701 new homes, equating to 1,170 new homes per annum within the borough.</p> <p>The housing delivery target increased with the adoption of the 2016 London Plan from the previous borough target (970 units per annum) and is set to increase further through the emerging New London Plan (draft published December 2017) to 1,875 units per annum.</p> <p>Using the figures contained within the borough's Final Submission Local Plan Housing Position Statement (2018), housing delivery is well below the requisite minimum levels set in the London Plan as demonstrated in the table below:</p> <p>In the previous five years 2012/13 to 2016/17, a net total of 3,501 dwellings were completed, equating to an average of 700 dwellings per year. This represents a significant under delivery when compared with the London Plan minimum target for the same period of 5,250 Units (shortfall of 1,749 units).</p> <p>The five year land supply calculation is based on a housing target of 1,170 units per annum and includes a 20% buffer in addition to previous under delivery. Havering is unable to identify a sufficient supply of housing land to meet this target in the identified</p>	<p>The CIL charges have been set based on viability testing evidence prepared by BNPPRE. This has taken into account the differences in development inputs in the two areas, and in particular the residential sales values which are identified as being higher in the Zone A area as compared to the Zone B area of the Borough. This has an impact on the viability of schemes, which BNPPRE has appropriately reflected in its recommended residential CIL rates.</p> <p>BNPPRE note that no evidence has been provided by Quod on behalf of Portland Capital to demonstrate that development in Zone A would be put at risk as a consequence of the proposed DCS CIL charge. We would highlight that the representor's comments that the Zone A rate is 79% higher than that previously identified in the PDCS is a misleading measure. We would point out that the charge proposed accounts for a small percentage of development costs (identified as being on average circa 3.8%). This level of cost to a scheme is unlikely to adversely impact on the viability of development in the Borough.</p> <p>The process of setting CIL charges is identified in Regulation 14 (as amended by</p>

Representor	Representation	Council Response
	<p>period, which is further worsened in the context of increasing housing delivery targets.</p> <p>It is clear that the borough is under-delivering against its housing targets. This shortfall should be read in the context of future residential delivery and the impact that the proposed uplifted CIL rates will have upon this.</p> <p>CIL Charging CIL Rates and Charging Zones</p> <p>With regards to residential development, the proposed CIL rates identify two zones with rates of £125 for Zone A (North) and £55 for Zone B (South). These figures are linked to two different geographical zones which are designed to reflect locational difference in viability.</p> <p>The proposed CIL rates relevant to the two areas vary significantly, with the North Zone incurring a rate over twice that applicable to Zone B. Portland Capital do not support this, whilst Zone B seeks to capture the Riverside Opportunity Area (including Rainham and Beam Park Housing Zones), major schemes outside of this Zone particularly those within the Romford Housing Zone will be significantly encumbered by the proposed Zone A rate.</p> <p>Housing Zones are areas where the Mayor seeks to use funding or policy levers in new ways to achieve higher levels of housing delivery based on factors such as good transport accessibility. Therefore CIL rates identified in Zone B should also apply to the Romford Housing Zone. The Zone A and Zone B areas share the same scheme costs and similar values yet proposed CIL rates differ significantly. This</p>	<p>Regulation 5(3) of the CIL Amendment Regulation 2014) which requires that Charging Authorities “<i>must strike an appropriate balance between –</i></p> <p><i>(a) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and</i></p> <p><i>(b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.”</i></p> <p>On this basis BNPPRE consider that the Council is seeking to secure funds from development in the borough to contribute towards the much needed infrastructure that will support this development in line with the viability evidence.</p> <p>We would highlight that the Council is not able to set rates based on policy aspirations such as the Housing Zone designation of the sites in Zone A. This could be considered to be conferring preferential treatment to certain developments which could constitute State Aid. The National Planning Practice Guidance (‘NPPG’) sets out at Paragraph 021 that, “<i>In all</i></p>

Representor	Representation	Council Response
	<p>will act to constrain the necessary large scale housing delivery required to address housing delivery issues as demonstrated in the previous section of this letter.</p> <p>Whilst Portland Capital recognise that the Romford Housing Zone will benefit from Crossrail assisting development in the long-term, this cannot be relied upon to overcome development viability, and the delivery of residential development in the short term. It is important to recognise that the Riverside Opportunity Area also has improved infrastructure planned and the Romford Housing Zone should therefore be viewed in the same context, reflected by an appropriate CIL figure which seeks to facilitate residential development in this area.</p> <p>Given the housing delivery issues outlined previously the effect of the proposed Zone A rate will be significant, further affecting delivery and acting to constrain the necessary large scale hosing required.</p> <p>Changes from the Preliminary Draft Charging Schedule 2015</p> <p>The previous version of the Preliminary Draft Charging Schedule dated 2015 included the following residential CIL Rates:</p> <ul style="list-style-type: none"> • 70 – Open market residential north of the A1306 (Zone A); and • 50 – Open market residential south of the A1306 (Zone B). <p>Whilst the Zone B uplift from 2015 represents a 10% increase on the previous figure, the Zone A figure has risen close to 80% (79%) on the 2015 rate. It is</p>	<p><i>cases, differential rates must not be set in such a way that they constitute a notifiable state aid under European Commission regulations (see State aid section for further information). One element of state aid is the conferring of a selective advantage to any ‘undertaking’. A charging authority which chooses to differentiate between classes of development, or by reference to different areas, should do so only where there is consistent economic viability evidence to justify this approach.”</i></p> <p>With respect to the comment that “Sites were acquired on the Basis of Havering’s 2015 draft CIL rate and now MCIL1 will now have a significantly higher CIL contribution.”</p> <p>BNPPRE would highlight that it is not the role of the planning system to indemnify developers against development risk. As Quod point out, it was a draft and not an adopted rate. The NPPG clearly identifies with respect to viability that <i>“Under no circumstances will the price paid for land be a relevant justification for failing to accord with relevant policies in the plan.”</i></p>

Representor	Representation	Council Response
	<p>unclear why the Zone A rate has increased so significantly in comparison to Zone B. Further to the proposed Havering CIL increase, Mayoral CIL is set to increase from £20 per square metre, to £25 per square metre (from April 2019) via MCIL 2. Portland Capital do not therefore support the significant uplift in the Zone A residential charge. Sites acquired on the basis of Havering's 2015 draft CIL rate and MCIL1 will now have a significantly higher CIL contribution. This will have a significant impact on affordable housing (particularly in the context of the increased 35% affordable housing contributions required by the London Plan) and other infrastructure, while also necessarily driving the scale of proposed developments.</p>	
Highways England	<p>Thank you for your email dated 16th August 2018 regarding the CIL draft charging schedule for the London Borough of Havering.</p> <p>Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.</p>	<p>Your comments regarding the approach towards highways and transport matters are noted.</p> <p>Your comments regarding the use of Section 278 Agreements for highways projects are noted and will be considered in the approach towards planning obligations.</p>

Representor	Representation	Council Response
	<p>Our interest in such strategy documents is specifically focussed on the council's approach to highway and transport matters in relation to regeneration and new development. We are keen to understand how local authorities initially identify and prioritise transport improvements in order to deliver sustainable development. Specifically how local authorities set and implement policy to manage trip demands and ultimately how these might affect the safe and efficient operation of the SRN for which we are responsible. For Havering, our interests lie in the M25 and A13.</p> <p>It should be noted that, in accordance with DCLG guidance, any development contributions towards SRN improvements would be secured via S278 agreements, and not via a CIL Reg123 List or S106. The use of S278s will enable multiple sites to contribute if appropriate, and also secures the Secretary of State's position by ensuring that 100% of contributions go towards the SRN improvement.</p> <p>I trust that the above comments are of assistance to you and look forward to any future consultations.</p> <p>Thank you again for involving us in your consultation process. Please continue to consult us via our inbox: planningse@highwaysengland.co.uk</p>	