Background

In order for CIL to be adopted, it is required by the CIL Regulations 2010 (as amended) that the Council holds a minimum of two rounds of public consultation. The first round of consultation was the Preliminary Draft Charging Schedule (PDCS) held April 2013 - May 2013 and the second round was the Draft Charging Schedule held January 2014 – March 2014. The Council has also held stakeholder engagement session on 5th November 2012 in order to gauge the opinions of developers, commercial agents, planning agents and other organisations with an interest in development in Kingston.

Regulations 15 and 16 of the CIL Regulations specify the consultation bodies that the Council must consult for the PDCS and DCS. The Council has consulted beyond the statutory minimum requirement to ensure that a wider range of consultation bodies were given the opportunity to make representations.

Regulation 17 specifies that any person may make representations about a Draft Charging Schedule which a Charging authority proposes to submit to the examiner and that the period for consultation on the DCS must be no less than four weeks.

Regulation 19 relates to the submission of documents and information to the examiner; this includes a statement setting out if representations were made in accordance with Regulation 17, the number of representations made and a summary of the main issues raised by the representations. In addition, it requires the charging authority to publish a statement of modifications in accordance with Regulation 16, if the charging authority modified the DCS before it is submitted to the examiner.
As the adoption of a CIL is embedded within planning legislation, regulations and guidance and its purpose is to support the funding of infrastructure associated with the planned growth set out within the adopted Local Plan, it is appropriate to align the consultation arrangements for CIL with the Council’s adopted Statement of Community Involvement (SCI) (2007), where possible. The Council's SCI sets out the consultation strategy for informing, consulting and feeding back to the community on the production of the Local Plan/Local Development Framework. As such, the SCI along with statutory consultation requirements of the CIL Regulations (as set out above), helped form the basis for who has been consulted on CIL and how this was achieved.

Following publication of the Draft Charging Schedule (DCS) and representations duly received, a number of minor changes are proposed to the DCS. These are contained in the Statement of Modifications, which has been prepared in accordance with Regulations 11 and 19 of the CIL Regulations 2010 (as amended)

**Consultation: The Draft Charging Schedule**

Before submitting the DCS for Examination, the Council, as Charging Authority (CA), is required to publish for consultation, the DCS along with the relevant evidence on infrastructure costs, other funding sources and economic viability. The purpose of this round of consultation was to get the opinions of local communities, developers and businesses on the final proposed Draft Charging Schedule. Note that at the same time the Council consulted on its Draft Planning Obligations Supplementary Planning Document (SPD).

**The following methods of consultation were used:**

The Council published its DCS for consultation over an eight week period from 10\textsuperscript{th} January 2014 until 7\textsuperscript{th} March 2014 in accordance with Regulation 16 of the Community Infrastructure Levy Regulations 2010 (as amended).

Regulation 19 requires the Council to produce a statement setting out if representations were made in accordance with Regulation 17, the number of representations made and a summary of the main issues raised by the representations.

The methods of consultation used are detailed below;

(i) Public Notices in the local press to initiate the start of the consultation and to set out the representations procedure and the availability of the document for inspection, including the places at which the published documents can be inspected; sent on 24\textsuperscript{th} January 2014 in the Surrey Comet (Appendix 1)
Information about the consultation, including documents and how to respond, were made available on the Council’s public website (Appendix 2).

‘Planning Resource’ article (published 10th January 2014) mentions that Kingston upon Thames Council has published its CIL draft charging schedule for consultation (Appendix 3).

Notification to the statutory consultation bodies (Statutory bodies listed in Appendix 4) and in line with the Council’s adopted SCI. The consultation letters/emails were sent to the entire Local Plan Database that the Council holds for developing local planning documents, including any previous respondents on the PDCS consultation stage, and therefore other companies, organisations and individuals in the development sector that may have an interest in CIL were also consulted. This was combined with the consultation of the Council’s Draft Planning Obligations SPD. See Appendix 5 for copies of the consultation letters and emails.

The locations of where the DCS and supporting documents were made available for inspection:

The DCS and relevant evidence were available for public inspection at the following locations.

- **The Council’s principal office.**
  A paper copy of the DCS and relevant evidence was held at Kingston Council reception in Guildhall 2, High Street, Kingston upon Thames, KT1 1EU

- **Kingston Council Website**
  An electronic copy of the DCS and relevant evidence was available on the Council’s website by visiting: [http://www.kingston.gov.uk/downloads/download/42/cil-preliminary_draft_charging_schedule_and_supporting_documents](http://www.kingston.gov.uk/downloads/download/42/cil-preliminary_draft_charging_schedule_and_supporting_documents)

- **Local libraries**
  A paper copy of the DCS and relevant evidence was held for public inspection on request for the duration of the consultation period at seven main libraries in the Borough.

Summary of the main issues raised by the representations in accordance with Regulation 17 and 19 of the CIL Regulations (as amended):

In accordance with the CIL Regulations, all responses had to be made in writing or by way of electronic communications and received within the consultation period. Following the closure of the DCS consultation period, those representations received were collated, an overview of the comments made generated and where appropriate response of the CA prepared. Both the original representation and the overview was published on the Council’s website and submitted to the Examiner as additional evidence to accompany all other DCS related documents. The Council received 37
representations and 3 requests were made, to be heard by the examiner. Some of the key issues arising from the DCS consultation were

- Elmbridge Borough Council (respondent No. 1) No comment.
- Russ Hayton (respondent No. 2) Confusion over terminology.
- Emma Forest Civil Aviation Authority (respondent No. 3) No comment.
- B.G. Wilson (respondent No. 4) Commented on CIL rates, exceptional circumstances, instalments policy and CIL spend.
- J Knowles (respondent No. 5) Support for the proposals
- David Hussey, Highways Agency (respondent No. 6) No comment.
- Kingston College, (respondent No. 7) Support for £0 rate on public services and community facilities, Draft Regulation123 List, Clarification over the principle of pooling of contributions from up to 5 developments.
- Kingston Town Neighbourhood Committee (respondent No. 8) Commented on the proportion of CIL spend allocated to neighbourhoods and infrastructure projects on Draft Regulation123 List, possible reduction in the delivery of affordable housing once CIL is implemented, CIL regulations and Mayoral CIL.
- Kingston upon Thames Society (respondent No. 9) Commented on projects CIL spending / Draft Regulation123 List.
- Surbiton Neighbourhood Committee (respondent No. 10) No concerns were raised.
- Maldens and Coombe Neighbourhood Committee (respondent No. 11); Concerns on the proportion of CIL spend allocated to neighbourhoods and Draft Regulation123 List.
- Surrey County Council (respondent No. 12); Commented on cross boundary infrastructure projects such as transport and education being added to Draft Regulation123 List.
- English Heritage (respondent No. 13) Commented with regards to heritage assets and the need to consider exceptional relief from CIL where the levy could endanger the viability of heritage assets. Suggested minor amendment to Planning Obligations SPD with regards to heritage assets.
- Savills on behalf of Thames Water Utilities Ltd (respondent No. 14) Commented that water, wastewater and sewerage infrastructure developments should be exempt from CIL, and considered for CIL spending / Draft Regulation123 List.
- The Theatres Trust (respondent No. 15) Supports the nil rate for Public Services and Community Facilities.
- South of the Borough Neighbourhood Committee (respondent no. 16) Commented on the proportion of CIL spend allocated to neighbourhoods and CIL spending / Draft Regulation123 List.
- Turley Associates on behalf of Sainsbury’s (respondent No. 17) Objected to the proposed CIL rates for retail development and commented that there is a lack of viability evidence with regards to retail development; comments were also made on state aid implications; forthcoming CIL reforms; and exemptions and relief policies.
- Norbiton Village Residents Association (respondent No. 18) In general support of the methodology of the BNP Paribas study which underpins the proposed CIL Charging Schedule and the proposed CIL rate for student
accommodation. They questioned the difficulty of finding an appropriate "balance" between providing required infrastructures funded by CIL and meeting policy requirements such as affordable housing and Code for Sustainable Homes level 5. They also commented on CIL spending / Draft Regulation123 List.

- Natural England (respondent No. 19) Commented with regard to the natural environment infrastructure requirements and the role of CIL.
- Mrs Mandeeb Jutley (respondent No. 20) Commented on CIL and development of the Council waste infrastructure.
- Councillor Trevor Heap (respondent No. 21) Concerned about the CIL levy for student accommodation being higher than residential levy.
- E. D. Turner (respondent No. 22) General support of CIL.
- Nathaniel Lichfield & Partners on behalf of Kingston University (respondent No. 23); objected to the proposed CIL rate for student accommodation, commented that no allowance was made for geographical location and the evidence use to justify rate. They support some of the projects on the Draft Regulation 123 List. Requested that additional/amended text be added to Planning Obligation particular on Affordable Housing, Community Safety and Visitor information, Employment Development, Training and Business Support, Transport Requirements, Public Open Space, play… and Sustainable Construction and Climate Change.
- Mayor of London (respondent No. 24) Acknowledged that the Mayoral CIL has been taken into account in viability testing and was content that the CIL proposals will not put at risk the objectives and detailed policies in the London Plan.
- B. Maskell (respondent No. 25) Commented on development pressures on infrastructure.
- Environment Agency (respondent no. 26) commented on flood management infrastructure and CIL spending / Draft Regulation123 List.
- Transport for London (respondent No. 27) commented on strategic transport infrastructure and draft Regulation123 List.
- McCarthy & Stone Retirements Lifestyles Ltd and Churchill Retirement Living Ltd (respondent No. 28) Support the separate levy rates for care homes and extra care home in the Draft Charging Schedule.
- Savills on behalf of Crest Nicholson (respondent No.29) Commented on viability and on the approach taken in assessing the Bench Land Value, proposed CIL rate combined with current policies such as affordable housing and Codes for Sustainable housing, instalment policy, the proposed viability cushion of 20%, and assumptions use such as section 106.
- London Fire & Emergency Planning Authority (LEPPA) (respondent No. 30) Commented on draft Regulation 123 List.
- Savills on behalf of Enstar Capital (respondent No. 31) Commented on viability testing, raising details on the assumptions and comparables used in particular in relation to student accommodation. Objected to the proposed financial contributions in the sustainable Construction/Climate Change Section of the Draft Planning Obligation SPD.
- Environment Agency (respondent No.32) Commented on flood management infrastructure and CIL spending / Draft Regulation123 List. In support of text
in Draft Planning Obligation on Sustainable construction and climate change, and Public open space, play, biodiversity and public realm.

- Deloitte Real Estate on behalf of Eden Walk GP Ltd (respondent No.33) commented on viability testing, raising details on the assumptions and comparables used in particularly in relation to retail and housing. Commented on projects on the draft Regulation 123 list. Suggested that a nil rate be given for all uses in the Eden Walk shopping Centre site and a nil rate for all retail development in the town centre. Objected to the requirements for BREEAM and Codes for Sustainable Homes in the Construction/Climate Change Section of the Draft Planning Obligation SPD.

- Nathaniel Lichfield & Partners on behalf of Chessington World of Adventure (respondent No. 34) Commented on the proposed nominal rate of £20 for all other uses and suggested that a nil rate be used as a precautionary approach. Suggested amendments to Planning Obligations SPD with regards Employment Development, Training and Business support and Site Specific Transport Requirement. Objected to the proposed financial contributions in the sustainable Construction/Climate Change Section of the Draft Planning Obligation SPD.

Appendix 6 of this report sets out all the consultation responses received during the DCS consultation, including the Council’s (and the Council’s consultants’) analysis of the responses and whether any modifications to the DCS are required as a result of the responses.
Appendix

Appendix 1: Public Notices of DCS
Appendix 2: Council website for DCS Consultation

Community Infrastructure Levy (CIL)

Kingston CIL charging schedule

The charging schedule describes how we work out and set the scale of charges that will be applied to developments across the borough. We try to balance:

- the advantage of CIL completely or partly funding the total cost of infrastructure development
- the potential effects of introducing CIL on the economic viability of development

Before the charging schedule is adopted it has to be agreed through two consultations and a public examination. The production timetable is:

- consult on the preliminary draft charging schedule - 2 April to 14 May 2013
- consult on the draft charging schedule - 10 January to 7 March 2014
- examine the charging schedule - Autumn 2014
- adopt the charging schedule - Winter 2014/15

Prior to public consultation that commenced on 10 January 2014, the Draft Charging Schedule was considered by the Council's 28 November Place and Sustainability Committee. The report to that Committee is available at Place and Sustainability Committee.

The Draft Charging Schedule, Draft Revised Planning Obligations Supplementary Planning Document and supporting documents can be downloaded from this section, and are available for inspection in libraries and our main Guildhall 2 reception.

We welcome your comments via the following means:
- online consultation portal
- email - cplr@bk.kingston.gov.uk
- post - DPR Team, Planning Department, Guildhall 2, High Street, KT1 1EU

Representations received will be taken into consideration before submitting the CIL Charging Schedule (in accordance with Section 212 of the Planning Act) for independent examination in public by an independent inspector.

If you make a representation you can request the right to be heard by the examiner. Please let us know if you would like to:

1. be notified when the Draft Charging Schedule is submitted to the examiner (in accordance with section 212 of PA 2009)
2. be notified when the examiner's recommendations and the reasons for those recommendations are published
3. be notified when we approve the Charging Schedule

Please specify the address where notification should be sent. If you have any questions please contact us at dplr@bk.kingston.gov.uk or on 020 8547 5000.
Appendix 3: ‘Planning Resource’ article (CIL Watch)

Kingston-upon-Thames Council - CIL draft charging schedule published

10 January 2014, Be the First to Comment

Kingston-upon-Thames Council published its Community Infrastructure Levy draft charging schedule for consultation on 10 January 2014. Kingston-upon-Thames Council published its CIL draft charging schedule for Consultation. Closing date for consultation is 21 February 2014. The Levy will be charged per square metre. Proposed charges include:

- Residential - Zone 1 £210, Zone 2 £130, Zone 3 £85, Zone 4 £50
- Care Homes and Retirement Housing - Zones 1 & 2 £50, Zones 3 & 4 £20
- Extra Care Housing - £20
- Student Housing - £220
- Supermarkets/Superstores and Retail Warehousing - £200
- All other Retail (A1-5) - Kingston Town Centre £200, Rest of Borough £20
- All other Uses - £20

All these charges are in addition to the Mayoral CIL of £35sq m

Available at: http://www.planningresource.co.uk/article/1226854/kingston-upon-thames-council---cil-draft-charging-schedule-published
Appendix 4: List of Statutory Consultation bodies for Kingston Council in accordance with the CIL Regulations (Regulation 15)

Adjoining local planning authorities

- London Borough of Merton
- London Borough of Richmond
- London Borough of Sutton
- London Borough of Wandsworth
- Elmbridge Borough Council
- Epsom and Ewell Borough Council
- Mole Valley district Council

Adjoining County Council:

- Surrey County Council

Responsible Regional Authority

- Greater London Authority (GLA)
- Natural England
- Highway Agency
- Kingston NHS Primary Care Trust
- Transport for London (TFL)
Appendix 5: DCS Consultation Letter/Email

Dear Sir/Madam

Consultation on: Kingston Council’s Community Infrastructure Levy Draft Charging Schedule and the Draft Revised Section 106 Planning Obligations Supplementary Planning Document

Further to our letter of 10th January we write to advise that the public consultation period has been extended by two weeks from the previously advertised 21 February closing date. This is to coincide with a revised Public Advertisement Notice published in the Surrey Comet on 24th January 2014. The consultation will now close on 7 March 2014.

The Community Infrastructure Levy (CIL) is a new source of funding that will enable future development to contribute to the cost of providing local infrastructure such as schools, facilities for health care, sustainable travel and new and improved public realm and open space to support growth. It will also provide a transparent process that will give greater certainty and confidence for developers. The CIL will replace Section 106 as the main method for obtaining developer contributions, with Section 106 scaled back and used only for site-specific infrastructure and for the provision of affordable housing.

The Council consulted on its CIL Preliminary Draft Charging Schedule in spring 2013, and received representations from 31 organisations / individuals, and took these into account in preparing this latest version – the Draft Charging Schedule, which is now published for consultation.
The Council is also consulting on the Draft Revised Planning Obligations Supplementary Planning Document. Publishing the Revised draft at this time ensures that land owners, developers and other interested parties have a clear understanding of the likely combined level of the Borough CIL and Section 106 planning obligations.

In accordance with Regulation 16 of the CIL Regulations 2010 (amended 2011 and 2012) and Regulation 12 of the Town & Country Planning (Local Planning) England Regulations 2012, comments are invited on the Draft Charging Schedule and Draft Revised Planning Obligations Supplementary Planning Document, during the consultation period - 10 January to 7th March 2014 to inform the Charging Schedule’s Independent Examination.

The Draft CIL Charging Schedule, the Draft Revised Planning Obligation Supplementary Planning Document, and supporting documents – the Infrastructure Funding Gap Assessment (including the CIL Regulation 123 List), the Statement of Consultation on the Preliminary Draft Charging Schedule that sets out the representations made and the Council’s responses, and the CIL Viability Study that evidences the proposed rates are all available for inspection:

- online at: [http://www.kingston.gov.uk](http://www.kingston.gov.uk) follow the links to the Community Infrastructure Levy pages
- in the Borough’s libraries and
- at the Council’s main Guildhall 2 Reception.

We welcome your comments via the following means:

- the online consultation portal: a link is available from the Council’s Community Infrastructure Levy webpages
- email: dpr@rbk.kingston.gov.uk
- post: DPR Team, Planning Dept, Guildhall 2, High St, Kingston upon Thames, KT1 1EU

Representations received on the Draft Charging Schedule will be taken into consideration before the Council submits the CIL Charging Schedule later this year (in accordance with Section 212 of the Planning Act 2008) for independent examination in public by an independent inspector.

If making a representation you can request the right to be heard by the examiner. Please let us know if you would like to:

1. be notified when the Draft Charging Schedule is submitted to the examiner (in accordance with section 212 of PA 2008),
2. be notified when the examiner’s recommendations and the reasons for those recommendations are published and/or,
3. be notified when we approve the Charging Schedule.

Please specify the address where notification should be sent.

If you have any questions please contact us via: dpr@rbk.kingston.gov.uk or 020 8547 5002.

Yours faithfully, DPR Team
Development, Planning and Regeneration Team
Royal Borough of Kingston
## Appendix 6: Full Responses to the Kingston DCS Consultation

<table>
<thead>
<tr>
<th>ID No.</th>
<th>Respondent</th>
<th>Response Method</th>
<th>Comment</th>
<th>RBK Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Amy Tawton Elmbridge Borough Council</td>
<td>Email (21/01/2014)</td>
<td>No comment.</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Russ Hayton 5 Keston Court</td>
<td>Letter (20/01/2014)</td>
<td>Confusion over terminology.</td>
<td>Comment noted</td>
</tr>
<tr>
<td>3</td>
<td>Emma Forest Civil Aviation Authority</td>
<td>Email (24/01/2014)</td>
<td>No comment. Standard text letter.</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>B G Wilson</td>
<td>Email (26/01/2014)</td>
<td>Questioning whether CIL rates have been set high enough due to funding gap. Should ensure that rates are comparable to those in similar areas.</td>
<td>RBK CIL rates were set to strike a balance between how much CIL can be raised to deliver new infrastructure projects and the impact of CIL on the viability of new development schemes.</td>
</tr>
<tr>
<td>4</td>
<td>B G Wilson</td>
<td>Email (26/01/2014)</td>
<td>Exceptional circumstances relief should be made as tight as possible. Developers opting out should submit evidence in an open and transparent way.</td>
<td>A charging authority wishing to offer or withdraw Exceptional relief must first publicise the fact on its website, and through a statement which can be viewed at one of its offices and other locations it considers appropriate. The public statement must indicate the day on which claims will first be considered, or cease to be considered. It is also useful to note that all the steps behind this process and any claim for this relief will need Committee approval and is therefore made open and transparent. However the Council is not proposing at this stage to offer relief for exceptional circumstances but the need for such a policy will be kept under review</td>
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<tr>
<td></td>
<td>Name</td>
<td>Date</td>
<td>Email Address</td>
<td>Comments</td>
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<tr>
<td>4</td>
<td>B G Wilson</td>
<td>(26/01/2014)</td>
<td>Email</td>
<td>Having only 15% of CIL money being spent in the neighbourhood where development occurs is wrong. If money is spent elsewhere in the Borough the principle is wrong. There is no ring fencing with CIL unlike the specific mitigation link required under the s106 regime. Therefore once CIL is collected it will be held in a central 'pot', the CIL monies will then be directed to the infrastructure that is required to deliver plan-led development.</td>
</tr>
<tr>
<td>4</td>
<td>B G Wilson</td>
<td>(26/01/2014)</td>
<td>Email</td>
<td>Hard to justify CIL rate for supermarkets being less than residential development or student accommodation.</td>
</tr>
<tr>
<td>4</td>
<td>B G Wilson</td>
<td>(26/01/2014)</td>
<td>Email</td>
<td>CIL rates should rise in line with inflation or the area’s house rise inflation.</td>
</tr>
<tr>
<td>4</td>
<td>B G Wilson</td>
<td>(26/01/2014)</td>
<td>Email</td>
<td>Contradiction that the zone with the lowest CIL rates includes the area of Green Belt within the Borough.</td>
</tr>
<tr>
<td>4</td>
<td>B G Wilson</td>
<td>(26/01/2014)</td>
<td>Email</td>
<td>No obvious reason for CIL on larger developments being allowed to be paid in instalments.</td>
</tr>
<tr>
<td>4</td>
<td>B G Wilson</td>
<td>(26/01/2014)</td>
<td>Email</td>
<td>CIL policy needs to prevent offices being built to then be turned into flats without the need for planning permission.</td>
</tr>
<tr>
<td>5</td>
<td>J Knowles</td>
<td>(02/02/2014)</td>
<td>Email</td>
<td>Support for the proposals.</td>
</tr>
<tr>
<td>6</td>
<td>David Hussey</td>
<td>(03/02/2014)</td>
<td>Email</td>
<td>No comment.</td>
</tr>
<tr>
<td>Agency</td>
<td>Email (10/02/2014)</td>
<td>Support for the zero rating of public services and community facilities.</td>
<td>Support noted</td>
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<tr>
<td>7 Kingston College C/o L Morton (Quadrant Town Planning Ltd)</td>
<td></td>
<td>Kingston College should be a recipient of CIL and request that it is added to the Regulation 123 List, with reference to the following projects:</td>
<td>The draft 123 list should not be viewed as the ultimate spending plan for CIL. No list of this type can be exhaustive. It will be subject to regular review, taking account of latest available evidence on costed infrastructure projects. Please also bear in mind that CIL monies will be directed to the infrastructure that is required to deliver plan-led development.</td>
<td></td>
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<tr>
<td>7 Kingston College</td>
<td></td>
<td>Clarification is sought over the principle of pooling of contributions from up to 5 developments to pay for an infrastructure item, as stated in the Draft Planning Obligations SPD.</td>
<td>After April 2015 the use of pooled contributions collected through S106 obligations (tariffs) will be limited for all authorities. For those adopting the CIL before April 2015 the restrictions will come into place on its adoption. This is consistent with the principle that the vehicle for future collection of pooled contributions for infrastructure should be CIL. The impact of this provision is that authorities will only be able to accept a maximum of five contributions towards infrastructure projects or types of infrastructure that could otherwise be funded from the CIL.</td>
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<td>No.</td>
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<td>Text</td>
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<tr>
<td>7</td>
<td>Kingston College</td>
<td>Email</td>
<td>(10/02/2014)</td>
<td>If they have agreements in place for more than five S106 contributions after April 2010 for a project or type of infrastructure (such as a school extension or public realm improvements), from April 2015 or the date they adopt CIL if earlier, they will not be able to collect any more contributions for that purpose.</td>
</tr>
<tr>
<td>8</td>
<td>Kingston Town Neighbourhood Committee</td>
<td>Email</td>
<td>(12/02/2014)</td>
<td>Members were concerned about the consistently low levels of affordable housing arising from developments and noted that under the new arrangements a developer will have to make the case that viability of their scheme is threatened if affordable housing and infrastructure demands are too high and were not confident that the new arrangements would deliver the significant affordable housing needs.</td>
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</table>
level actually provided is negotiated at lower levels to ensure the delivery of new homes. Even at nil CIL rate would not ensure that 50% affordable housing could be delivered on all sites.

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<thead>
<tr>
<th></th>
<th>Kingston Town Neighbourhood Committee</th>
<th>Email (12/02/2014)</th>
<th>Some members expressed the view that this legislation is poor and this message needs to be passed on. They particularly noted the loss of connection between the development and local infrastructure and suggested that local power has been lost not gained.</th>
<th>Comment noted</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>Kingston upon Thames Society</td>
<td>Email (13/02/2014)</td>
<td>Agree that CIL funding should support the principle of an equitable charging rate that spreads the burden of community infrastructure provision broadly but ask that the Council undertake to provide the necessary community infrastructure in a timely fashion. It seems crucial that as the population increases that facilities such as schools, health centres, open spaces and other necessary amenities are provided and available in time to support the demands of the borough's growing residential and working populations.</td>
<td>Support noted. The Regulation 123 list is important to ensure CIL monies are directed to the infrastructure that is required to deliver growth and plan-led development. It will also be subject to regular review, taking account of latest available evidence on infrastructure needs.</td>
</tr>
<tr>
<td>9</td>
<td>Surbiton Neighbourhood Committee</td>
<td>Email (13/02/2014)</td>
<td>At its meeting on 28 November 2013 the Place and Sustainability Committee approved the Council’s Community Infrastructure Levy (CIL) – Draft Charging Schedule and the Draft Revised Planning Obligations Strategy (S106) Supplementary Planning Document for public consultation. The consultation commenced on 10 January and runs for eight weeks ending on 7th March 2014. RESOLVED that the Draft Charging Schedule and S106</td>
<td>Comment noted</td>
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<tr>
<td></td>
<td>Maldens and Coombe Neighbourhood Committee</td>
<td>Email (13/02/2014)</td>
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<td>11</td>
<td>With regards to the Infrastructure Funding Gap Assessment and R123 List, the final paragraph concerning the Council’s Capital Programme (pg.8) is not detailed enough. More information could be added utilising information from within the Asset Strategy.</td>
<td>Comment noted</td>
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<tr>
<th></th>
<th>Maldens and Coombe Neighbourhood Committee</th>
<th>Email (13/02/2014)</th>
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<tbody>
<tr>
<td>11</td>
<td>The physical infrastructure list (pg.10 of the Infrastructure Funding Gap Assessment and R123 List) shows an estimated spend of £990,000 for New Malden public realm improvements and £1,200,000 for Surbiton public realm improvements. In terms of business, New Malden takes 2.5 times the amount of business as Surbiton. There are concerns as to whether the balance between Surbiton and New Malden is correct.</td>
<td>The infrastructure funding gap assessment and Regulation 123 list seeks to ensure CIL monies are directed to the infrastructure that is required to deliver plan-led development. The draft 123 list should not be viewed as the ultimate spending plan for CIL. No list of this type can be exhaustive. It will be subject to regular review, taking account of latest available evidence on costed infrastructure projects.</td>
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<tr>
<th></th>
<th>Maldens and Coombe Neighbourhood Committee</th>
<th>Email (13/02/2014)</th>
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<tr>
<td>11</td>
<td>The Draft Planning Obligations SPD’s section on Leisure, Culture and Community Facilities (pg.20) does not mention funding towards any community buildings or spaces.</td>
<td>The following amendments were made to the Leisure, Culture, Heritage and Community Facilities section of the Draft Planning Obligations SPD. ‘Planning Obligations will be sought where an assessment of current and future community facilities capacity shows that major residential development scheme or cluster of neighbouring development (no more than five separate developments) establishes a site specific need for additional or enhanced community facilities…….’</td>
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<tr>
<th></th>
<th>Maldens and Coombe Neighbourhood Committee</th>
<th>Email (13/02/2014)</th>
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<td>11</td>
<td>Consideration should be given to including cemeteries within the definition of open spaces as set out on page 18 of the Draft Planning Obligations SPD.</td>
<td>Comment noted</td>
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<tr>
<td>12</td>
<td>John Howells</td>
<td>Email</td>
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<td>12</td>
<td>John Howells</td>
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<tr>
<td>13</td>
<td>Katharine Harrison</td>
<td>Email</td>
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<td>14</td>
<td>Katharine Fletcher</td>
<td>Email</td>
</tr>
<tr>
<td>Date</td>
<td>Email Address</td>
<td>Draft Planning Obligations SPD (2):</td>
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<td>------------------------------------------------------------------------------------------------------</td>
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<tr>
<td>14/02/2014</td>
<td>Katharine Fletcher</td>
<td>We also welcome the caveat in paragraph 3.5 to the priorities set out in the document not being exhaustive, and that the Council may wish to negotiate other forms of planning obligations depending on the individual circumstances of the site. This flexible approach is helpful since heritage issues will be only be relevant in relation to certain sites and proposals. (Note: Paragraph 3.5 should refer to earlier paragraph 2.3 for the relevant tests).</td>
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<td></td>
<td>Email (14/02/2014)</td>
<td>Support noted</td>
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<tr>
<th>Date</th>
<th>Email Address</th>
<th>Draft Planning Obligations SPD (3):</th>
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<tr>
<td>14/02/2014</td>
<td>Katharine Fletcher</td>
<td>English Heritage welcomes the references in paragraph 3.31, bullet points 4, 5 and 6 relating to improvements to the public realm, upgrading places and enhancing distinctiveness. Given that the historic environment is an element of environmental considerations, it would be helpful to include a reference here to restoration and/or maintenance of heritage assets and their settings, although we note that this matter is identified in the examples in paragraph 3.35, within cultural considerations. It would be appropriate to highlight the potential for planning obligations to be applied to the investigation, recording and public interpretation of archaeological remains. This could be mentioned in paragraph 3.33 or 3.45.</td>
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<td></td>
<td>Email (14/02/2014)</td>
<td>Support noted, amendments to reference this was made under Sub Heading: Leisure, Culture, Heritage and Community facilities'</td>
</tr>
</tbody>
</table>
|   | Katharine Fletcher  
|   | English Heritage  
|   | Email  
|   | (14/02/2014)  
|   | **Draft Planning Obligations SPD (4):**  
|   | You may wish to point out in the document that the Historic Environment Record (held by English Heritage for London) and evidence base documents such as conservation area appraisals and management plans, should be consulted by prospective developers early on. This will help to identify the nature of mitigation and/or enhancement measures that could be applicable to a given site, including those which may be required through a planning obligation.  
|   | Comment noted  

|   | Katharine Fletcher  
|   | English Heritage  
|   | Email  
|   | (14/02/2014)  
|   | **CIL Draft Charging Schedule:**  
|   | English Heritage made comments on the CIL Charging Schedule by letter dated 23 May 2013. We do not have any additional comments to make at this stage. We note that the Royal Borough does not intend at this juncture to publish a policy relating to exceptional relief from CIL (paragraph 3.6). Should you review this position at a future date we hope that you will consider such relief where the levy could endanger the viability of heritage assets.  
|   | Comment noted.  

|   | Thames Water  
|   | C/o D Wilson  
|   | (Savills)  
|   | Email  
|   | (17/02/2014)  
|   | **The Draft Charging Schedule Table sets out that it is proposed that Community Infrastructure Levy will be charged at a rate of £20 for “All other uses” (including sui generis uses). Thames Water object to this as it could cover essential water and wastewater/sewerage infrastructure.**  
|   | **Thames Water provides essential water and wastewater infrastructure in order to support growth and deliver environmental improvements. That infrastructure provision can incorporate the provision of buildings such as a new sewage pumping station or new water treatment building for example. The nature of such infrastructure buildings means that there is no impact on other forms of infrastructure requirements such as buildings, into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery, are not liable to pay the levy. As such, essential water and wastewater infrastructure, such as pumping stations and treatment buildings are most likely to be excluded from CIL, in line with the CIL regulations.**  
|   | Buildings, into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery, are not liable to pay the levy. As such, essential water and wastewater infrastructure, such as pumping stations and treatment buildings are most likely to be excluded from CIL, in line with the CIL regulations.
15 Thames Water  
Email (17/02/2014)  
We therefore consider that water and wastewater infrastructure buildings should be exempt from payment of the Community Infrastructure Levy.  
Comment noted. The draft 123 list should not be viewed as the ultimate spending plan for CIL. No list of this type can be exhaustive. It will be subject to regular review, taking account of latest available evidence when costed infrastructure projects becomes available.

16 Rose Freeman  
The Theatres Trust  
Email (20/02/2014)  
We support the nil rate for Public Services and Community Facilities.  
Support noted.

17 South of the Borough Neighbourhood Committee  
Email (21/02/2014)  
In relation to the retention by each Neighbourhood of 20% of the receipts derived from developments in that Neighbourhood (ref paragraph 16 of the report), South of the Borough Neighbourhood Committee is disappointed that there is no system to equalise Neighbourhood receipts, given the significant difference in value of developments in South of the Borough compared with, for example, Kingston Town, which will result in significantly less funding for infrastructure in South of the Borough.  
There is no ring fencing with CIL and therefore CIL monies would be directed to the infrastructure that is required to deliver plan-led development.

The Chessington District Residents Association requested more information on the entitlement of 25% of CIL receipts to constituted Neighbourhood Forums (ref paragraph 17 of the report) – for example, details as to what constitutes a Neighbourhood Forum and what constitutes a Neighbourhood Plan - and whether ongoing maintenance of a swimming pool would classify as infrastructure which could be funded from the CIL.  
The Regulations allow for a meaningful proportion of CIL receipts (25% with neighbourhood plan and 15% without) raised in a local neighbourhood area (as distinct from a Council Neighbourhood) to be given to constituted Neighbourhood Groups to fund local infrastructure. Information with respect to the criteria for setting up a
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<th></th>
<th>South of the Borough Neighbourhood Committee</th>
<th>Email (21/02/2014)</th>
<th>With reference to paragraph 24 of the report, it was queried whether the exemption from CIL charging for 'charities' and 'community facilities' could provide a potential loophole for some developers to reclassify developments in order to avoid the CIL charge. To ensure that relief from the levy is not used to avoid proper liability for the levy, the regulations require that any relief must be repaid, a process known as 'clawback', if the development no longer qualifies for the relief granted within a period of seven years from commencement of the chargeable development.</th>
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<tr>
<td>17</td>
<td>Sainsbury's C/o K Ubbi (Turley Associates)</td>
<td>Email (25/02/2014)</td>
<td>Overall, Sainsbury’s remain in objection to the proposed CIL rates for retail development as set out in the DCS (January, 2014). Although it is acknowledged that the proposed CIL rates for retail development have been reduced for large convenience based supermarkets, superstores and retail warehouses from £250 per sq.m to £200 per sq.m borough wide and similarly, for A1-A5 uses within Kingston Town Centre Primary Shopping Area from £250 per sq.m to £200 per sq.m, it is considered the extent of this reduction is not sufficient. As such Sainsbury’s cannot support the proposed CIL rates proposed for retail development within the DCS (January, 2014). The CIL rates for retail development were not set at the limits of viability, a margin or contingency to allow for change and site specific viability issue was factored in.</td>
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<tr>
<td>18</td>
<td>Sainsbury's C/o K Ubbi (Turley Associates)</td>
<td>Email (25/02/2014)</td>
<td>Evidence Base: From reviewing the CIL Viability Study (December, 2013) it is evident that only five retail development appraisals have been undertaken to inform the proposed CIL rates including two appraisals for convenience retail. Therefore only a limited number of development appraisals have been undertaken to consider retail development within the Borough. It is considered that additional viability testing needs to be As identified at para 6.33 in BNPPRE's Viability assessment,' It is acknowledged that size does not necessarily result in the higher values generated by convenience based supermarkets and superstores and retail warehousing uses. Rather, is it a combination of factors including:</td>
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undertaken to properly inform the proposed CIL rate for retail development within the Borough as the proposed rates have currently not been informed by an appropriate or credible evidence base.

To this extent, it is considered that the proposed retail CIL rates do not meet the tests of Regulation 14 of the CIL Regulations (2010) (As Amended).

Accordingly, Sainsbury’s remain in objection to the proposed rates for retail development.

We trust that the content of these representations and also those submitted to the PDCS will be taken on board in advance of submitting the CIL: Charging Schedule for Examination.

We also wish to reserve the right to appear at the Examination.

| 1 | The availability of car parking; |
| 2 | The operational economics of supermarkets/superstores (these uses are known to be efficient at generating volume sales whilst having low operating costs); |
| 3 | The rents that retailers are willing to pay to occupy these units tend to be high (particularly with regard to comparison retailing as these locations will command prime rents in the area); |
| 4 | The value which the investment market ascribes to such units is high. This is due to such units being occupied by operators with greater covenant strength, which results in lower yields being applied; and |
| 5 | Such large developments are also likely to come forward on sites which have lower existing use values i.e. a large majority of large retail units have historically been developed on former industrial sites and as a result a lower benchmark land value is achieved, which results in a higher surplus and consequently a potential for a higher CIL rate.' |

BNPPRE's experience the yields achieved on units occupied by the major occupiers (i.e. Tesco, Sainsbury's, Morrisons, Waitrose, ASDA) are 5.75% and keener in many instances (e.g. the Waitrose in New Malden is reported to have sold in April 2014 for £24.6 million reflecting a yield of 3.84%)}
and the Tesco Express on Hook Road in Surbiton sold in June 2013 for £1.175 million reflecting a yield of 5.45%, whilst yields achieved on units occupied by independent local tenants are in the region of 8%

Yield differentials have a significant bearing on the outcome of a development appraisal. At a yield of 8% a retail development regardless of its size is unlikely to generate surplus residual values above the value of current floorspace (see our appraisal of lower covenant strength occupiers in our May 2014 Viability Report) i.e. such development is considered to be unviable. As highlighted above, due to the covenant strength of the large national retailers, investment yields are lower, resulting in a higher capital value. Adopting a lower yield of 6%, our appraisals show that a maximum CIL of between £326 to £258 per square metre (based on CUV 3 of our appraisals) could be levied on such retail space, see Appendix 3 of our May 2014 Viability report for copies of our appraisals.

The Council has chosen to simplify the approach to setting CIL rates and in light of the evidence that the major occupiers tend to occupy units larger than the Sunday Trading Law Time threshold levels and local occupiers with lower covenant strength the units smaller than this threshold.

Yield differentials have a significant bearing on the outcome of a development appraisal. At a yield of 8% a retail development regardless of its size is unlikely to generate surplus residual values above the value of current floorspace (see our appraisal of lower covenant strength occupiers in our May 2014 Viability Report) i.e. such development is considered to be unviable. As highlighted above, due to the covenant strength of the large national retailers, investment yields are lower, resulting in a higher capital value. Adopting a lower yield of 6%, our appraisals show that a maximum CIL of between £326 to £258 per square metre (based on CUV 3 of our appraisals) could be levied on such retail space, see Appendix 3 of our May 2014 Viability report for copies of our appraisals.

The Council has chosen to simplify the approach to setting CIL rates and in light of the evidence that the major occupiers tend to occupy units larger than the Sunday Trading Law Time threshold levels and local occupiers with lower covenant strength the units smaller than this threshold.
1 Introduction

This response is on behalf of myself and Norbiton Village Residents Association. In general we support the methodology of the BNP Paribas study which underpins the proposed CIL Charging Schedule. Furthermore, we support the Council’s proposal to incorporate an initial 20% discount (buffer) in relation to the maximum proposed range of charge rates, provided that this is reviewed within 3 years.

We understand that since the report to the Place and Sustainability Committee on 28th November (“the Report”) additional evidence has been produced which confirms BNP’s assessment of the viability of a £220/m² charge for student housing. We would strongly support this charge level, given the demonstrated viability of student housing schemes at this charging level and the need to mitigate the adverse impacts of student housing and achieve an improvement in the local environment rather than a reduction.

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<tr>
<th>19</th>
<th>Norbiton Village Residents Association</th>
<th>Email (25/02/2014)</th>
<th><strong>1 Introduction</strong></th>
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<th>19</th>
<th>Norbiton Village Residents Association</th>
<th>Email (25/10/2014)</th>
<th><strong>2 The Policy Balance</strong></th>
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<td>Our response relates principally to two broad issues: first, the policy “balance” to be achieved when viability is demonstrated to be an issue and second, the purposes to which CIL receipts are to be put.</td>
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<td><strong>2 The Policy Balance</strong></td>
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<td>In paragraphs 17-19 of the Report there is a discussion around the policy balance to be struck around viability and the Council’s policy on affordable housing which is summarised at paragraph 18 in the following terms: The Council’s Affordable Housing Policy identifies that the Council seeks the maximum amount of affordable housing, subject to individual site viability over the plan period from</td>
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Comment noted.
Whilst recognising the importance of achieving more affordable housing in the Borough it needs to be recognised that there may be other valid policy requirements that also have an effect on project viability – for example Code for Sustainable Homes level 5 and the range of other Section 106 requirements set out at paragraph 43 of the Report. Clearly the scale of Section 106 contributions will be influenced by CIL charges and the extent of “buffer” being applied.

In our view it is difficult to see how an appropriate policy “balance” can be consistently achieved simply relying on judgement, particularly since local circumstances will vary across the Borough. Consequently, it might be helpful for simple guidelines to be prepared in order to inform development management decisions when there is evidence of viability constraints. These guidelines might reflect different local priorities in specific wards or neighbourhoods or the views of local residents expressed during pre-application or post-application consultations as to specific requirements for on-site facilities provision or local environmental mitigation.

19 Norbiton Village Residents Association C/o B Brisbane Email (25/10/2014)

3 The Draft Regulation

123 Infrastructure List and the Specific Needs of Norbiton

Annex 3 of the Report “sets out the infrastructure projects that Kingston Council may wholly or partly fund through CIL” under three headings.

Social Infrastructure

In broad terms we agree with the categories listed, although we suggest that it should be clarified that use of CIL for funding
14 new forms of entry should be used to supplement or make good funding provided by the Schools Funding Agency.

**Physical Infrastructure**

The list of projects being funded is naturally skewed towards Kingston Town Centre. To a lesser extent public realm improvements are also prioritised in the three District centres. Broadly we agree with the list proposed. However, we consider that there should be one additional item on the list to be titled “Key Neighbourhood Shopping Centre Public Realm Improvements”. This would assist the revitalisation of neighbourhood centre viability and vitality and help promote more sustainable walk-in local shopping trips and would complement Neighbourhood Policy KT1 (e) in the Core Strategy which identifies consideration of Coombe Road/Cobham Road for public realm improvements.

**Green Infrastructure**

Norbiton Ward is densely developed and is generally deficient in public open space. Table E.3 in The Atkins Study entitled Kingston Open Space Assessment (July 2006) which informed the Core Strategy notes the following:

- Both Norbiton and Canbury wards are below the quantitative standard of 1.11 of public parkland /1000 population.
- Areas in the north of Norbiton are deficient in terms of their access to children’s play facilities

In the light of Norbiton’s open space deficiency we now turn to relevant points in the Core Strategy. Paragraph 6.34 highlights the broad implications of the Atkins open space study in these terms – the Borough will need to retain and use all existing

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<td>The draft 123 list should not be viewed as the ultimate spending plan for CIL. No list of this type can be exhaustive. It will be subject to regular review, taking account of latest available evidence on costed infrastructure projects.</td>
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<th>Comment noted</th>
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<td>Provision of new public open space will mainly be sought through Section 106.</td>
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The Green Infrastructure projects on the draft 123 list are costed projects that are identified by the Council Green Space team and Neighbourhood Engineering
open space more effectively and create additional areas of open space by 2026.

Paragraph 6.35 is important when considering the role of CIL contributions:

A strategy document has also been published (RBK Green space Strategy 2008-2018) to help ensure the issues and opportunities identified in the Open space Assessment are addressed. One of the recommendations made was that new development should contribute to a net gain in the quantity and/or quality of green infrastructure assets to meet existing and future needs of a growing population.

Norbiton ward is within Kingston Town Neighbourhood. The local strategy for the neighbourhood is set out at Policy KT1. In relation to green infrastructure serving Norbiton the following elements of Policy KT1 are relevant

C Work with partners and landowners to protect and enhance the natural and green environment by: completing the Hogsmill walk ....as well as enhancing its environment and biodiversity and increase public access and enhancing the ecology and quality of open spaces in....Athelstan Recreation Ground.

E Maintain and improve the character, design, and heritage of the area by: improving attractiveness and safety of pedestrian links to the Hogsmill River ....enhancing links with Athelstan Recreation Ground.

In the context of the relative deficit of local open space provision in Norbiton, especially in the northern portion of the ward and the Core Strategy priorities set out in Neighbourhood Policy KT1 we consider that the following addition should be

(Transport ) team, that may need CIL funding.

The draft 123 list should not be viewed as the ultimate spending plan for CIL. It should be noted that when priorities change within the borough, the Council will be able to update the 123 list. Therefore the list will be subject to regular review, taking account of latest available evidence on costed and planned programmed infrastructure projects.
made to the list of Green Infrastructure to be funded by CIL:

After “improvement and extension of the Hogsmill Walk” add:

together with improved pedestrian linkages across the Cambridge Road to Norbiton Ward

And insert:

Small Scale Public Open Space and children’s play space in Norbiton Ward

Provision of greenways and pedestrian priority routes together with additional planting in Norbiton Ward.

| 20  | Piotr Behnke   | Email (26/02/2014) | Natural England has no specific comments to make on the draft CIL Charges, however would like to make the following general comments, which we hope are helpful.

Natural England is not a service provider, nor do we have detailed knowledge of infrastructure requirements of the area concerned. However, we note that the National Planning Policy Framework Para 114 states “Local planning authorities should set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure.” We view CIL as playing an important role in delivering such a strategic approach.

As such we advise that the council gives careful consideration to how it intends to meet this aspect of the NPPF, and the role of the CIL in this. In the absence of a CIL approach to enhancing the natural environment, we would be concerned that the only enhancements to the natural environment would be ad hoc, and not deliver a strategic approach, and that as | Comment noted |
such the local plan may not be consistent with the NPPF.

Potential infrastructure requirements may include:

- Access to natural green space.
- Allotment provision.
- Infrastructure identified in the local Rights of Way Improvement Plan.
- Infrastructure identified by any Local Nature Partnerships and or BAP projects.
- Infrastructure identified by any AONB management plans.
- Infrastructure identified by any Green infrastructure strategies.
- Other community aspirations or other green infrastructure projects (e.g. street tree planting).
- Infrastructure identified to deliver climate change mitigation and adaptation.
- Any infrastructure requirements needed to ensure that the Local Plan is Habitats Regulation Assessment compliant.

21 Mrs Mandeep Jutley  
Online  
28/02/14  
3.6 Paragraph: We believe that the Council ought to consider the way in which the CIL is applied where development is needed to facilitate the Council's own services. For example; where waste development is needed for a site to operate more efficiently to accept and process Council collected waste.

Comment noted. Essential water and wastewater infrastructure, such as pumping stations and treatment buildings are most likely to be excluded from CIL, in line with the CIL regulations.

21 Mrs Mandeep Jutley  
Online  
28/02/14  
4.3 Paragraph: Development to deal with the Council's waste ought to be included under footer (6)

Suggested footer not needed, see reason above.
| 22 | Councillor Trevor Heap | Online (05/03/14) | As a private individual I am greatly concerned that, for a university town, we have a serious under supply of student accommodation - in my view this shortage is far in excess of the level stated in the borough's plan. The supply of student accommodation on a controlled, concierge basis should be encouraged as the under supply causes major distortions in the level of private property rents. I struggle to see any justification for the punitive flat level of CIL proposed across all areas of the borough for student accommodation. Surely some attention should be paid to the construction costs of quality "cluster" style developments and the considerable costs of supplying the necessary technological access. It seems bizarre that RBK should consider a levy on student accommodation that is higher than the CIL on residential development in even the borough's top rated zone. Does the Council really mean to deter developers from bringing good student schemes to the table? Two markets for Student housing in the Borough have been identified. The first schemes let at reduced rent levels by universities, when developed these schemes are likely to be exempt from CIL given the universities' charitable status. The second market is those let at private sector rent levels which generate sufficient surplus residual values to absorb a maximum CIL of up to £844 per square metre. After allowing for affordable housing, Mayoral CIL and a buffer, which is suitable to deal with site specific issues, the Council considers that a rate of £220 per square metre to be acceptable. Therefore The CIL rates for student housing was not set at the limits of viability, a margin or contingency to allow for change and site specific viability issue was factored in. |
| 23 | E. D. Turner 72 Chiltern Drive | Letter (05/03/14) | **Draft CIL Charging Schedule:**  
- Strongly support principle of CIL.  
- Has the benefit of simplicity and avoids tax evasion by altering usage.  
- The charging will differ for each zone to accord with the requirements for transport, schooling, health, police, etc. | Support noted |
| 23 | E. D. Turner 72 Chiltern Drive | Letter (05/03/14) | **Draft Revised Planning Obligations SPD:**  
- Clearly sets out the objectives of CIL, but not clear on the continuation of Section 106.  
- Recommend that funding requirements of new growths’ demands on infrastructure include both revenue as well as | Comment noted |
capital. Following the Governments’ recent cutting of revenue expenditure on Dept of Environment (flooding) and Councils (buses), I believe that the future streams of revenue requirements of new developments should be capitalised.

- More buses are needed and they should be free for local residents. There should be annual charges on business’ off street parking spaces to help fund buses.

| 24 | Kingston University  
| C/o H Whitney (Nathaniel Lichfield & Partners) |
| Email (05/03/2014) & Letter (06/03/2014) |
| **Draft CIL Charging Schedule – Relief for charities:** |
| Support for amended text at paragraph 3.4, confirming 100% relief for charity landowners from their proportion of liability. |
| Comment noted |

| 24 | Kingston University  
| C/o H Whitney (Nathaniel Lichfield & Partners) |
| Email (05/03/2014) & Letter (06/03/2014) |
| **Draft CIL Charging Schedule – Student Housing:** |
| KU objects to the proposed CIL rate for student accommodation for the reasons given below: |
| - Given the substantial increase in the CIL rate for student housing, Kingston University (KU) is concerned about increasing rent levels and the impact it would have on affordability, regardless of who the provider is: KU or third party. |
| - The Viability Study assumes a minimum rent of £180 per week and acknowledges a split in the market between KU operated accommodation. KU is concerned about the increasing cost of private student accommodation and seeks to make it more affordable. The KU strongly objects to £180 being the minimum rent level, which does not accord with conversations we have had with potential development |
| BNP Paribas Real Estate’s research on student accommodation available in the borough has identified that the minimum private student accommodation schemes are achieving over £180 per week. |
| The Council is supportive of the provision of affordable student accommodation, however at there is no policy mechanism for securing lower rents on schemes into perpetuity so would be unable to set a differential rate for University led schemes offering affordable rents. It is also acknowledged that the University does offer some accommodation at rents at or above £180 per week rental levels. Such schemes are clearly demonstrated as being viable and thus able to contribute towards infrastructure to support growth in |
- KU is concerned that it would appear that the CIL calculations for student accommodation have been subject to very little analysis. Unlike retail and residential, no allowance is made for geographical location within the borough.
- The calculations assume that existing sites are only developed to 30% of their capacity relative to student residential use: Seems very low and will vary between sites.
- It is assumed that existing rent levels are low, which is not necessarily the case.
- Not always clear how final figures have been arrived at.
- No explanation as to how the proposed £220/m² has been arrived at.
- No analysis of supply and demand.
- In reaching the suggested CIL rate, would like to know whether RBK has considered the HMO licensing scheme costs which are liable on top of the base rental figure.
- KU is concerned that the high CIL rate will adversely affect the quality of developments, by encouraging cramped schemes with minimal facilities, which would adversely affect students.

We note that Nathaniel Lichfield and Partners and the University of Kingston have not provided any evidence to substantiate their concern in relation to the need for a geographical split. It is considered that student accommodation is likely to only be built in close proximity to the University or close to good public transport links to allow students to travel to other educational establishments, which is represented by the evidence of locations of existing student developments attached.

We also note that no evidence is provided to support the claim that the charge is ‘excessive’

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<th>Kingston University C/o H Whitney (Nathaniel Lichfield &amp; Partners) Email (05/03/2014) &amp; Letter</th>
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<tbody>
<tr>
<td>Draft CIL Charging Schedule – Sectors:</td>
<td>BNP Paribas Real Estate acknowledges that there are two separate sectors which provide student accommodation, however the difference in viability relates to the level of rent charged to students and to a lesser extent the length of leases offered. However it is</td>
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<td>The consultation response acknowledges previous request to identify two different student housing sectors. However, this has not been incorporated into the Draft Charging Schedule.</td>
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| Partners) | (06/03/2014) | KU request that the table at paragraph 4.3 of the DCS include a footnote to the proposed student accommodation rate stating that CIL specifically excludes new/extended student accommodation owned and/or operated by KU. | noted that the University does offer some accommodation at higher private market level rents, the iQ scheme being a good example of this. At this level of rents the scheme can clearly afford to contribute towards infrastructure costs through a CIL payment. The Council does not have a policy mechanism available to secure the lower/‘affordable student rents’ into perpetuity on schemes through their S106 agreements as they would with say Affordable Housing.

On this basis BNP Paribas Real Estate and the Council does not consider that separating university funded and market-led student housing would comply with the requirements for setting differential rates as stated in Regulation 13 of the CIL Regulations 2010 (as amended) as this would mean setting a zero rate for university developed student housing. |

| 24 | Kingston University  
C/o H Whitney  
(Nathaniel Lichfield & Partners) | Email  
(05/03/2014)  
&  
Letter  
(06/03/2014) | Draft CIL Charging Schedule – All Other Uses:  
KU supports amended text of footnote 6 (p6) which acknowledges that higher education facilities/universities qualify as an exception from the ‘All Other Uses’ CIL rate. | Support noted |

| 24 | Kingston University  
C/o H Whitney  
(Nathaniel Lichfield & Partners) | Email  
(05/03/2014)  
&  
Infrastructure Funding Gap Assessment and Regulation 123 List:  
KU support use of CIL monies for the following infrastructure | Support noted |
| Lichfield & Partners (06/03/2014) | projects:  
- Installation of District Heating Network in the Penrhyn Road area;  
- Improvement and extension of Hogsmill Walk; and,  
- Public Realm improvements to Lower Marsh Lane. |
|---------------------------------|--------------------------------------------------|
| Kingston University C/o H Whitney (Nathaniel Lichfield & Partners) Email (05/03/2014) & Letter (06/03/2014) | **Planning Obligations SPD – Affordable Housing:**  
KU requests that additional text be added to the Affordable Housing requirements if accommodation is secured by an agreement requiring all occupants to be enrolled at higher education institutions within the Borough stating:  
- “Any new/extended student accommodation owned and/or operated by KU is excluded from any requirement to provide Affordable Housing.” |
| Comment noted and amendments made in the Planning Obligations SPD |
| Kingston University C/o H Whitney (Nathaniel Lichfield & Partners) Email (05/03/2014) & Letter (06/03/2014) | **Planning Obligations SPD – Community Safety and Visitor Information:**  
The SPD should be amended to exclude KU from this obligation as it already invests a significant amount in community safety and visitor management measures. |
| Comment noted, paragraph 3.14 states that Community safety and visitor management mitigation measures may be sought ........, depending upon their nature, scale, location, existing provision and individual circumstances. Therefore KU existing provision (of significant investment in community safety and visitor management measure) would be taken into consideration. |
| Kingston University C/o H Whitney (Nathaniel Lichfield & Partners) Email (05/03/2014) & Letter | **Planning Obligations SPD – Employment Development, Training and Business Support:**  
Given the educational role of KU, the SPD should clarify that KU is exempt from this obligation. |
| Comment noted, this would be negotiated on a case by case basis. |
| Lichfield & Partners | (06/03/2014) | **Planning Obligations SPD – Site Specific Transport Requirements:**

The Planning Obligations SPD identifies that all development that reaches identified thresholds will be required to produce a Travel Plan and monitoring fee (paragraph 3.26). KU consider that the high monitoring fee (£3,500) for education uses is inappropriate, given that KU is publicly funded and given the lower fee for private residential accommodation.

The supporting text should acknowledge that if there is an existing active Travel Plan in place, a further plan will not be required and where proposals are small scale, and will not have an adverse impact on local infrastructure, a new or revised Travel Plan will not be required.

Comment noted. This will be negotiated on a case by case basis.

| 24 | Kingston University C/o H Whitney (Nathaniel Lichfield & Partners) | Email (05/03/2014) & Letter (06/03/2014) | **Planning Obligations SPD – Public Open Space, Play, Biodiversity and Public Realm:**

Para 3.30 identifies that residential schemes of 50 or more dwellings in areas of open space deficiency will be required to provide on-site open space. It should be recognised that student accommodation is a specific form of development (usually with a high management cost) and should not be grouped with residential schemes with regard to open space contributions.

The SPD should clearly identify that student accommodation is exempt from financial contributions towards open space and the public realm.

Comment noted, this would be negotiated on a case by case basis. |
**Planning Obligations SPD – Sustainable Construction/Climate Change:**

The SPD seeks a climate change mitigation contribution when required standards for both residential development and non-residential development are not met. The proposed contribution is calculated on the basis of floorspace and the actual standard achieved.

KU questions the validity of charging developers based on the prescriptive rates outlined in paragraph 3.43 given the changes that are likely to occur in national and London wide policies over the plan period (particularly in regards to zero-carbon and offsetting).

KU acknowledge that RBK has included a caveat at paragraph 3.44 which makes reference to the Council recognising the impact these contributions could have on viability. However, KU do not consider that this provides adequate flexibility. In some cases, due to the nature of the use of the University’s development projects, it will not be realistically feasible to achieve an Outstanding BREEAM rating. KU therefore consider that rather than a standard ‘fine’, the SPD should be amended so that any proposed contributions are assessed in the context of individual applications, on a case by case basis, particularly on major schemes, to ensure that a balance is struck at that particular time. Setting a standard fine is not considered to be appropriate, particularly given the changing nature of energy technologies and energy related policies.

Comment s notes, amendment has been made to the wording to state that ‘The preference is for developments to meet targets set out in the adopted Local Plan or London Plan on-site. Where required targets cannot be met, developers may be required to contribute to a CO2 offset fund which will go towards the funding of off-site CO2 reduction measures in the locality. In future this contribution will be used to fund “allowable solutions” which will allow developers to support off-site carbon dioxide reduction measures where it is technically not feasible or commercially not viable to abate all carbon dioxide emission reductions through on-site measures’.

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**S Murray**  
Mayor of London  
Email (06/03/2014)

We are pleased to note that the Mayor’s CIL has been taken fully into account in bringing forward your Borough’s proposals.

We are content that your CIL proposals will not put at risk the objectives and detailed policies in the London Plan (which, as
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| **26** | B Maskell  
303 Tudor Drive | Email (06/03/2014)  
There has been over-development in Kingston. Every small  
field or piece of land is built on.  
There is a shortage of school places. Any financial  
arangements the council has with developers would never  
compensate for the vast overcrowding of our roads, hospitals  
and schools.  
Kingston town is turning into a conglomeration of concrete  
skyscraper-like structures.  
All very to bring in more funding for development with the CIL,  
which may ensure financial provision for all local infrastructure,  
but this would only add to the overgrowth of development in an  
already massively overcrowded area. |
|   |   | Comment noted |
| **27** | C Muriithi  
Environment Agency | Email 1 of 2 (06/03/2014)  
**Community Infrastructure Levy: Draft Charging Schedule  
Consultation**  
Thank you for consulting the Environment Agency on the  
above which we received on 13 January 2014. We provided  
data and information to support the adopted Core Strategy  
including the Infrastructure Delivery Plan (IDP) where the need  
for environmental infrastructure is addressed. In our  
Community Infrastructure Levy - Preliminary Draft Charging  
Schedule representation, we emphasised the need to include  
flood risk management infrastructure on the Regulation 123 list  
of infrastructure schemes to be funded partly or wholly through  
the Community Infrastructure Levy (CIL). We would wish to |
The Environment Agency is concerned that the Royal Borough of Kingston upon Thames has given flood prevention just a token mention on the draft Regulation 123 list. There is need to identify and include more specific flood risk management infrastructure, for example the Lower Thames Flood Alleviation Scheme (formally called the Lower Thames Strategy) on the draft Regulation 123 list. This flood alleviation scheme aims to manage flood risk from Datchet to Teddington and would therefore benefit development within the River Thames floodplain. However due to public sector funding cuts, the Lower Thames FAS will only receive around half of the Grant in Aid funding from the Government required for the scheme. The Infrastructure Delivery Plan identifies flood alleviation as physical infrastructure to manage flood risk from the River Thames. The Lower Thames FAS will help reduce flood risk to development along the river and in Kingston town centre.

The Community Infrastructure Levy Funding Gap Assessment Report and Draft Regulation 123 List provides a list of indicative projects covering a variety of infrastructure types necessary to deliver the growth identified in the Council Core Strategy. Table 1 Infrastructure types include Flood Prevention under the physical infrastructure but this is not elaborated any further in the document. For example, on Table 8 Aggregate Funding Gap for Infrastructure Delivery – there is no mention of flood prevention measures. We can provide cost estimates of the project if required.

It is important to note that this list should not be viewed as an ultimate spending plan for CIL. No list of this type can be exhaustive. It will be subject to regular review, taking account of latest available evidence on costed infrastructure projects.

In relation to the improvement of flood defences, it is required as part of a planning permission that development adjacent to flood defences improve their standard of protection to the required level. This is also covered in the Draft Planning Obligations SPD. (See further details below)
larger communities in the South East at risk from flooding with over 2000 properties at significant risk, the opportunity to utilise CIL to reduce both the risk and likelihood of flooding should be a priority.

It is worth considering the wording that is used to list flood risk infrastructure on the Regulation 123 list, the Council may wish to consider using broad terminology such as ‘Strategic Flood Risk Infrastructure’. This way, CIL contributions could be given to any scheme (such as surface water or fluvial/river flood alleviation schemes) that may come forward within Kingston.

As a consequence the opportunity to link Policy DM4 with CIL to develop a more strategic approach to investment in flood risk management in the Borough should be considered. Some areas in the borough are bounded by a significant length of Thames tidal defence and as such any development should be mindful of flood risk management issues, including future flood defence raising requirements. These areas would flood if it were not for the River Thames Tidal Defences, including the Thames Barrier and the river walls. The CFMP for the River Thames catchment has highlighted four overarching key messages:

- Flood defences cannot be built to protect everything;
- Climate change will be the major cause of increased flood risk in the future;
- The floodplain is our biggest asset in managing flood risk
- The ongoing cycle of development and urban regeneration is a crucial opportunity to manage flood risk.

At present it is still possible and effective to maintain these evidence on costed projects and some flood risk mitigation measures would also be sought via Planning Obligation provided that they are not on the Regs 123 list and they meet the CIL Regs 122 test.
flood defences. Climate change will mean that these defences will become less effective in the future. We therefore need to make sure that:

• any redevelopment reduces the residual flood risk in the areas benefiting from these flood defences;

• the natural flood plain is used upstream and downstream of these areas to accommodate additional floodwater. There remains a residual risk of the river walls failing, breaching or being over topped in severe weather.

27 C Muriithi
Environment Agency

Email 1 of 2 (06/03/2014)

Strategic Flood Risk Assessment (SFRA)
The borough Strategic Flood Risk Assessment (SFRA) assesses flood risk in more detail. Community Infrastructure Levy would be used to mitigate the impacts of surface water runoff, maintenance of flood defences and other flood risk management infrastructure. The SFRA acknowledges that given the heavily urbanised character of much of the borough, it is inevitable that localised flooding problems arising from under capacity drainage and/or sewer systems will occur, particularly given the mounting pressure placed upon ageing systems as a result of climate change. Furthermore, sewer systems are generally designed (in accordance with current Government guidance) to cater for the 1 in 30 year storm, and highway soak-aways are generally designed for only 1 in 10 year storms. Storms over and above these design events will exceed the drainage system, resulting in overland flow, often in an uncontrolled manner, resulting in localised flooding. It would therefore be prudent to seek CIL funding to mitigate the impacts of surface water runoff.

27 C Muriithi

Email 1 of 2

Lead Local Flood Authority

It should be noted that when priorities change within the borough, the Council will be able to update the Regulation 123 List. The CIL 123 list will be subject to regular review, taking account of latest available evidence on costed infrastructure projects.
As a Lead Local Flood Authority the Royal Borough of Kingston upon Thames has been allocated funds by DEFRA to help prepare the borough against flooding from surface water runoff. The money will go towards understanding and preparing for surface water flooding, which occurs when heavy rainfall overwhelms the drainage capacity of the local area. CIL funding would supplement DEFRA funding and help in mitigating the impacts of surface water runoff at a bigger scale. The recent publication of surface water flooding on Environment Agency maps show which areas are more susceptible, and will allow both residents and authorities to prepare as best as possible. Although relatively few localised flooding incidents have been observed in recent years, any location within the borough may be susceptible to localised flooding, irrespective of whether or not they have flooded in the past. CIL could therefore be used to mitigate the impacts of surface water runoff. CIL could also deliver additional funding for the borough to carry out a wide range of infrastructure projects that support growth and benefit the local community. CIL could also be used to secure benefits for the wider water environment, avoid deterioration of water bodies, and provide greenspace and sustainable drainage. It would also be used to promote the use of Sustainable Drainage Systems (SuDS) and delivering forthcoming local authority SuDS Approval Body (SAB) roles.

Evidence on costed projects and flood risk mitigation measures would also be sought via Planning Obligation provided that they are not on the Regs 123 list and they meet the CIL Regs 122 test.

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<tr>
<th>Environment Agency</th>
<th>(06/03/2014)</th>
<th>Examination</th>
<th>Overall the Community Infrastructure Levy- Draft Charging Schedule appears to meet the statutory tests in accordance with sections 212(4) and 221 of the Planning Act 2008 as amended having complied with the requirements of the Act and the CIL regulations (as amended). It has had regard to the Community Infrastructure Levy Guidance April 2013, which sets out the main procedures local authorities need to follow</th>
<th>Comment noted. The Regs 123 list will be subject to regular review, taking account of latest available evidence on infrastructure needs.</th>
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<td>C Muriithi</td>
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when introducing and operating the community infrastructure levy.

However, we feel the information and evidence we provided should have been used as appropriate to inform its preparation. We do recognise as stated in the Infrastructure Levy Funding Gap Assessment Report and Draft Regulation 123 List paragraph 1.1 that ‘this is a living document some of the information may be subject to change in response to infrastructure requirements.’ We hope the document will recognise the need for Strategic Flood Risk Infrastructure.

| 28 | Neil Lees
Transport for London | Email (06/03/2014) | LB Kingston CIL – Draft Charging Schedule (DCS) |
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<td>Thank you for your invitation to comment on the borough’s CIL draft charging schedule. The comments provided here are based on the Draft Charging Schedule documents dated January 2014, and in particular the Infrastructure Funding Gap assessment and R123 List background paper.</td>
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<td>The Mayoral CIL will deliver £300m, and the Mayor is also committed to providing a further £300m to Crossrail to be raised from developer contributions through the use of planning obligations. This formed part of the funding settlement agreed with Government. In this context, we are pleased to note that in preparation of its DCS, the borough has taken both the Mayoral CIL and the Mayor’s supplementary planning guidance on ‘Use of Planning Obligations in the Funding of Crossrail’ fully into account.</td>
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<td>I note that the Council has published its Draft Regulation 123 list, indicating the infrastructure projects or types of infrastructure that the Council may wholly or partly fund through CIL. It is understood that the 123 list does not indicate any commitment by the Council, or any order of preference,</td>
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<td>The Council has carefully considered the transport infrastructure types and/or projects to be included within the Draft Regulation 123 List, this List of projects are derived from the Council LIP2 programme, to ensure that CIL revenue will enable and support development and growth in the borough.</td>
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<td>The Council Highways section have amended some of the wording to ensure that the Council will not restrict the securing of transports improvements from developers through section 106.</td>
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<td>The Council will continue to work closely with TfL in developing proposals to enhance transport infrastructure in the borough. The CIL 123 list will be subject to regular review, taking account of the latest available evidence on transport infrastructure projects agreed from partnership working with TfL.</td>
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and that the Council propose to review this list at least once a year. TfL welcomes the early development of this work in order that it can be properly considered by interested parties and at the Examination. I would make the following observations in respect of the draft list:

i) Whilst TfL is pleased to see the number and breadth of proposed transport infrastructure on which Kingston could potentially use CIL, as the Council will not be able to use s.106 agreements to secure those schemes identified on the Regulation 123 list, are you satisfied that you will not be unduly restricted in both securing a range of transport improvements from developers, and being able to deliver the projects identified. You rightly identify the need to carefully derive the R123 list in para 2.3 of the Infrastructure Funding Gap paper.

ii) Note the absence of any large-scale strategic transport projects.

iii) TfL has an important role in the delivery of several of the projects identified in the 123 list and we would want to work closely with Kingston in developing proposals to enhance transport infrastructure in the borough.

iv) Wishing to understand Kingston’s likely CIL generation of £22m over 15 years and prioritisation of Regulation 123 projects when considered against the identified funding gap of £55m, and in order that this can be aligned with TfL’s spending plans where necessary.

I am aware that the GLA will be responding to you separately on behalf of the Mayor of London following consideration of issues such as policy and CIL regulations compliance including viability analysis.
I would be grateful if you could note our 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. We would also request that we be heard at any public examination that is held into your revised draft schedule in accordance with regulation 21 of the Community Infrastructure Levy Regulations 2010.

If you would find it helpful, I would be pleased to meet with you to discuss these matters.

| 29 | McCarthy & Stone Retirements Lifestyles Ltd and Churchill Retirement Living Ltd C/o Z Thomas (The Planning Bureau) | Email (07/03/2014) | In response to our previous representation we note that the Council has provided separate CIL rates for both ‘care homes and retirement homes’ and ‘extra care accommodation’.

We commend the Council’s considered response to our original objection and the willingness to test and ensure that specialist accommodation for the elderly remains deliverable under the proposed CIL regime.

We note that the Viability Study does not appear to be publically available on the Council’s website.

We support the levy rates as proposed in the Draft Charging Schedule. |

Support noted

The viability report was publically available on our website and can be found via the following link [http://www.kingston.gov.uk/downloads/download/42/cil-preliminary_draft_charging_schedule_and_supporting_documents](http://www.kingston.gov.uk/downloads/download/42/cil-preliminary_draft_charging_schedule_and_supporting_documents)
1) **The proposed CIL Charges and the Core Strategy**

RBKT will be aware that Regulation 14(1) of the CIL Regulations (As Amended) sets out the key test against which the Charging Schedule is measured, which states:

“In setting rates (including differential rates) in a charging schedule, a charging authority must strike an appropriate balance between –

a) the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and

b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.”

Essentially CIL must not threaten the delivery of the development plan. The National Planning Policy Framework (NPPF) notes that for local plans to be found ‘sound’ the plan should be deliverable over the plan period. The rate of CIL is therefore a significant consideration and should be set to facilitate development.

The CLG CIL Guidance (Feb 2014) is statutory guidance to which the Council must have regard. This sets out more detail as to how this test should be interpreted:

“This balance is at the centre of the charge-setting process. In meeting the regulatory requirements (see Regulation 14(1)), charging authorities should be able to show and explain how their proposed levy rate (or rates) will contribute towards the implementation of their relevant plan and support development across their area.”

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<td>Crest Nicholson</td>
<td>C/o L Cullum (Savills)</td>
<td>(07/03/2014)</td>
<td>noted</td>
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As set out in the National Planning Policy Framework in England (paragraphs 173-177), the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To provide further context, the NPPF outlines the importance of plan delivery, and delivery of housing. Paragraph 47 of the NPPF outlines the requirement for local authorities to maintain a rolling five year housing land supply.

The NPPF, taken as a whole, requires a deliverable five year housing land supply. This places emphasis on the need for a reasonable and robustly tested CIL rate. In Savills opinion, an additional cushion should therefore be applied in setting the CIL rate against the theoretically viable level of CIL as provided by the Viability Study.

If you are referring to the buffer, although BNPRE updated viability assessment recommends a minimum buffer of 30%, the Regulations are not prescriptive on buffer rates and rates used by councils range from 20% to 50%. RBK is an attractive location for developers and has upward movement in land values compared with many other areas and in our judgement this borough is therefore likely to be able to withstand market volatility and support a buffer at the lower end of the range.

2) The CIL Rates & Viability Study

Section 211 (7a) of the Planning Act 2008 (As Amended) which established CIL, requires RBKT to use “appropriate available evidence” to inform the Charging Schedule, which in the case of the DCS is a Viability Study produced by BNP Paribas RE (December 2013).

The fundamental premise is that to enable delivery, sites must achieve a credible land value and developers the required return on investment, otherwise development will be stifled. This is recognised by the NPPF and is certainly 'in-built' within the CIL Regulations (As Amended). It is also the basis of the definition of viability with the Local Housing Delivery Group report, Viability Testing of Local Plans.

The CIL Rates & Viability Study

It should be noted that basing the assessment on current use value is an approach that both the RICS guidance note recognises as legitimate (“For a development to be financially viable, any uplift from current use value to residual land value that arises when planning permission is granted should be able to meet the cost of planning obligations while ensuring an appropriate Site Value for the landowner and a market risk adjusted return to the developer in delivering that project (the NPPF refers to this as ‘competitive returns’ respectively). The return to the landowner will be in the...
Owing to the key test of Regulation 14(1) it is important that the viability appraisals prepared are fit for purpose. It is clear that at Examination the Charging Schedule will need to be supported by "relevant evidence". Within the CIL Regulations (As Amended), LPAs must strike an appropriate balance and to justify that balance with evidence at the examination, showing and explaining how the rates will contribute towards the implementation of their relevant Plan.

At this stage no alternative viability evidence has been prepared by Savills or our clients, although we may do so at the Examination stage if it is felt this is required. We offer below some initial thoughts on the assumptions that ought to be made in this regard and outline our concern about the interpretation of the viability evidence when setting the proposed CIL rates.

**Benchmark Land Values (BLVs)**

The approach taken by BNP Paribas RE in assessing the BLVs is complex and does not appear to be directly linked back to the five year land supply. The four BLVs quoted do not appear to be supported by market evidence and there is no explanation of how these BLVs apply to each of the identified market areas.

We would therefore ask that BNP Paribas RE provide further market evidence and commentary to explain, in relation to each market area, which BLV is most appropriate and how this relates back to the land supply coming forward in these areas (i.e. which BLV is most appropriate in each market area). This will ensure that the analysis of the viability appraisals in each area is appropriate given the nature of the sites coming forward for development. Policy Compliant Testing form of a land value in excess of current use value...) as well as the Harman Group guidance; the latter being directly relevant to planning policy testing.

**Benchmark Land Values (BLVs)**

BNP Paribas Real Estate have adopted four Benchmark Land values based on four current use values derived from market assumptions of rents and yields as well as taking into consideration an appropriate allowance for refurbishments costs to ensure the second hand premises are in a suitable state for occupation. We have then allowed for a premium of 20% over and above the CUVs to allow for a ‘competitive return’ to developers/landowners. Details of BNP Paribas Real Estate’s assumptions are set out at paras 4.45-4.48 of our Viability Report. These are considered to represent an appropriate range to assess the viability of residential development in the borough as they present the most likely uses that residential development will come forward on. When considering the maximum CIL rates appropriate to each area of the borough, BNP Paribas Real Estate have had regard to the benchmark form which the majority of residential development in that area is likely to come forward from.

We note that Savills and Crest Nicholson have not provided any evidence to substantiate their concerns relating to the appropriateness of the benchmarks...
The NPPF notes that local planning authorities should assess the likely “cumulative impacts” of all the existing and proposed local and national standards, meeting these standards should not put implementation at risk (paragraph 174).

**Affordable Housing**

The Council’s policy position is set out in the Core Strategy (April 2012). Policy DM 15 seeks provision of 50% affordable housing on sites of 10 net dwellings or more. The Viability Assessment prepared by BNP Paribas RE appears to have taken into account the implications of this policy; however, different levels of affordable housing provision have also been modelled.

BNP Paribas RE highlight in their report that a number of sites will be rendered unviable with or without CIL. At paragraph 7.3, they comment that ‘the Council could in principle set higher rates for residential schemes as the level of affordable housing could be adjusted in the case of marginally viable schemes.’. This is particularly important given that Code for Sustainable Homes Level 5 is not factored in to the viability appraisals and will have a further negative impact on the viability of larger schemes.

Given these conclusions it is likely in some locations that the proposed CIL rate combined with current policies would render some schemes unviable, and as CIL is non-negotiable, the delivery of affordable housing is likely to suffer. The Council may say that in those cases a viability case may be made at the Development Control stage, however this does not lead to a proficient planning system, leading to developer (and investor) uncertainty, nor would it assist with the delivery of affordable housing.

BNP Paribas Real Estate has adopted four benchmark land values in relation to our residential assessments and the Council and BNP Paribas Real Estate have taken the cumulative impact of policies into consideration by allowing for policies that will add to the costs of a scheme such as affordable housing, sustainability and S106.

**Affordable Housing**

It is noted that not all sites are capable of delivering 50% Affordable Housing and this is the Councils’ experience on the ground. In this regard sensitivity testing has been undertaken to understand the impact of lower levels of affordable housing on viability. Even if no CIL were to be charged on some sites it would not ensure the delivery of 50% affordable housing as CIL has only a marginal effect on the viability of a scheme and the level of affordable housing that is secured.

It is noted that the Newham CIL Examiner identified at para that 16 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.’

It is noted that the Council has allowed for a buffer from the maximum rate identified to ensure that the
Code for Sustainable Homes

Policy DM 1 in the Core Strategy outlines that the Council will require ‘all new residential developments to achieve successively higher levels of the Code for Sustainable Homes Level category....Major development should meet Code Level 5 from 2013.’

Looking at the residential assumptions it is apparent that an additional allowance of 6% is included across all tenures for CSH Level 4, but not for CSH Level 5. At paragraph 1.5 BNP Paribas comment that ‘Whilst the Council’s Policy sets out its aspiration to achieve CSH level 5 on major schemes, it is currently difficult to accurately price schemes delivering this level of sustainability with any accuracy.’ However, we note that the source of the 6% allowance is taken from the CLG guidance note – Cost of building to the Code for Sustainable Homes.

Whilst the future application of Code for Sustainable Homes Level 6 is in some doubt, it is in our view reasonable to assume that Code Level 6 will be required by 2016 in accordance with the current government timetable. This requirement will take effect within two years of the anticipated date for the implementation of the CIL Charging Schedule. It is a known and quantifiable cost and, given the period of time in which it will be required in relation to the adoption of the CIL Charging Schedule; its impact should be considered.

Looking at the report prepared by CLG (October 2011), the average uplift in build costs in reaching Code Level 5 on Urban Infill sites is estimated at 21% higher than reaching Code Level 4. This is a material factor that should be taken into account when assessing the risks to delivery and the size of the viability buffer that should be applied. We would therefore ask that a CIL charges are not set at the margins of viability as required by the CIL Regulations and Guidance. Further, BNP Paribas Real Estate would highlight that the CIL rates amount to between 0.54% and 3.24% i.e. no more than 5% of scheme value. In this regard it is considered that CIL will not be the determining factor in scheme viability. It is also worth noting that CIL is not a wholly new charge; it will replace the majority of S106 contributions previously required and as such it would be unreasonable to expect developments not to contribute towards the delivery of necessary infrastructure.

Code for Sustainable Homes

In the Council’s view a reasonable balance has to be struck, the Council cannot prioritise Affordable Housing and Sustainable Homes Level 5 to the exclusion of providing essential community infrastructure to accommodate development growth.

BNP Paribas Real Estate notes that the costs of developing to CSH levels 5 and 6 have been seen to reduce over the last 4-5 years as identified in the research undertaken on behalf of the CLG. This is due to new technologies being developed to more efficiently achieve these levels of sustainability. It is also acknowledges that there are much fewer sites where CSH level 5 and 6 have been achieved which can be relied upon for evidence as to the likely levels of
higher allowance is made in the appraisals for achieving CSH Level 5. As while the Council has advised ‘in instances where developers cannot meet the requirement, they will be asked to demonstrate this through their viability assessment. Where CSH level 5 is proven to be unviable, the Council would seek CSH level 4’ (Para. 4.22). This does not lead to a proficient planning system and will increase developer (and investor) uncertainty. This in turn will impact on housing delivery, which considering RBKT’s historic under-delivery is a concern to CN.

Demolition & Abnormals

Considering the nature of the land supply in Kingston upon Thames being primarily brownfield, we would expect an allowance for demolition and abnormal costs (including remediation) to be included in the appraisals. Having reviewed BNP Paribas RE’s viability study no allowance has been made for demolition or abnormal costs such as site remediation, decontamination or mitigation of flood risk.

These costs can be substantial, on brownfield sites in particular, and we would therefore ask that BNP Paribas RE confirm whether any allowance has been made, and if not, that appropriate allowances are incorporated in to the viability appraisals.

Professional Fees

CN is concerned that the level of professional fees adopted is too low (10% across all typologies). In our experience, the level of professional fees do not vary across location or market areas but depend on the size and complexity of the site in question. We would therefore argue that brownfield sites are likely to attract higher professional fees on account of these costs. We would highlight that CIL is set at a level which is no higher than 5% of development costs and our testing has indicated this to be between 0.54% and 3.24%. We would also reiterate that CIL is not a wholly new charge and it replaces the majority of existing S106 contributions. Set at these levels it is considered that the proposed CIL rates are reasonable and will have less of an impact on scheme viability than achieving higher levels of CSH i.e. 21% on top of CHS level 4. is proposed by Savills and Crest Nicholson for achieving CSH level 5.

The Charging Authority has to take a balanced approach to their policies. They require infrastructure to support the growth envisaged by their plan and as such they require development to contribute towards funding this infrastructure through CIL. This in turn ensures that development and growth in the borough is sustainable.

Demolition & Abnormals

It is not possible to incorporate abnormal costs a cost for remediation of brownfield sites within an area wide viability study. These costs are site specific and as such will vary across all sites. The main reason for allowing a buffer from the maximum CIL charge is to account for differences between sites. The Bristol CIL examiner identified this at Para 26 of his report dated July 2012, stating that, ‘By definition, the CIL cannot make allowance for abnormal, site specific, costs. The rates have to be based on a generic analysis of a variety of
additional abnormal costs (i.e. remediation, demolition).

We would therefore request that a minimum allowance of 12% for professional fees be adopted across all typologies to reflect the nature of the five year land supply coming forward.

Cashflow & Distribution of Costs

We understand that BNP Paribas RE adopt a bespoke spreadsheet model to undertake the appraisals for each of the typologies. Within the Viability Study, the appraisal summary sheet detailing the inputs for each typology has been attached as an appendix to the report. There is little explanation in the viability assessment on the distribution of the costs throughout the development period. CN would welcome further disclosure of the cashflow assumptions used during the appraisals. In particular, to understand how the Mayoral CIL has been included in the cashflows, as this is a known cost (£35 per sq m) and should subsequently be included in each appraisal.

Instalments Policy

Methodology

CN welcome that RBKT is proposing to introduce an Instalments Policy and has sought input on the proposed instalments policy as part of the DCS consultation. However, we would comment that a maximum deferment of 240 days is insufficient on larger sites with CIL liabilities in excess of £500,000.

On large sites, the need for significant upfront costs would suggest that both timescale and occupation triggers should be considered. We would therefore recommend that the initial contribution (%) payable at the commencement of size and type of schemes across the area, taking into account average local build costs, not the individual circumstances of particular sites. The fact that a few specific schemes that are already marginal may become unviable in certain locations should not have a significant impact on the delivery of new housing across the city to meet the requirements of the adopted CS.’ In addition it is considered that the costs associated with the remediation of such sites would be taken into consideration in the land value.

Professional Fees

IN BNP Paribas Real Estate’s experience professional fees range between 8% and 12%, depending on the nature of the site. We have allowed for 12% professional fees which we consider to be a reasonable assumption for an area wide viability assessment, which has been accepted at numerous Examinations. The 5% contingency allowance has also been made on the professional fees. We note that no evidence has been submitted by Savills or Crest Nicholson to substantiate that their assertion that a 10% allowance is too low.

Cashflow & Distribution of Costs

CIL is modelled as a cost to the development and is apportioned as set out in table 4.50.1 of BNP Paribas Real Estate’s Viability Report.
development should vary depending on the scale of the total CIL payment due, with the remaining payments linked to occupations. This will have a positive impact on the cashflow of the development and ensure that sites continue to come forward.

We would also recommend that there is an overriding mechanism which allows CIL instalment payments to be negotiated on a one-to-one basis in the event that CIL payments threaten the viability, and thus the deliverability, of the scheme proposed.

Testing

We note that the current BNP Paribas RE appraisals do not mirror the draft instalments policy. The BNP Paribas RE appraisals assume that on all typologies payments are split into three phases, with a maximum deferment of 18 months (typologies 6 – 8). In contrast, RBKT’s draft policy has a maximum deferment of 240 days (c. 8 months).

We would therefore ask that BNP Paribas RE re-run their appraisals to mirror the draft instalments policy to ensure that the proposed CIL rates are still viable.

Viability Cushion

The CIL Guidance highlights the importance of a charging authority recognising the need for an appropriate balance when determining CIL rates:

“The authority will need to be able to show why they consider that the proposed levy rate or rates set an appropriate balance...between the need to fund infrastructure and the potential implication for the economic viability of development.

Instalments Policy

BNP Paribas Real Estate would highlight that large sites are likely to come forward as phased development. The recent changes to the CIL Regulations now allows all planning applications to come forward in phases and for CIL purposes each phase would be treated as a separate chargeable development. Thus instalments would also be split within phases.

We would highlight that the Regulations do not explicitly allow for CIL instalments to be negotiated on a ‘one-to-one’ basis’ however, as identified above, the changes to the Regulations will allow each development to structure its CIL payments in relation to the agreed phasing of the development with the Charging Authority. BNP Paribas Real Estate would highlight that the instalments policy is not an element that the Examiner is required to consider. Further, a charging authority can choose to change their instalments policy at any point in time. We reiterate however that the CIL charges proposed amount to such a small portion of development costs that any amendments to the instalments will have make a nominal difference to the viable maximum rates identified.

However please note that the instalment policy has been amended to extend the payment period for CIL Amounts equal to or more than £500,000 to £250,000 payable within 60 days of commencement of
It is therefore important that when setting rates that the Council applies an appropriate viability ‘cushion’ to avoid setting a CIL rate that threatens the economic viability of development across their area. CN are pleased to note that BNP Paribas RE has highlighted the importance of a viability cushion ‘the Council should not set their rates of CIL at the limits of viability. They should leave a margin or contingency to allow for change and site specific viability issues’. At paragraph 7.4, BNP Paribas RE goes on to comment that they ‘would recommend a buffer of circa 30% for Kingston upon Thames’.

We have compared the CIL rates suggested by BNP Paribas RE against those in the DCS in the table below:

<table>
<thead>
<tr>
<th>Area</th>
<th>Max. CIL</th>
<th>Less Mayorality</th>
<th>30% cushion (Suggested rate)</th>
<th>20% cushion</th>
<th>RBKT DCS Rate</th>
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<tbody>
<tr>
<td>Market Area 1</td>
<td>£300</td>
<td>£295</td>
<td>£198</td>
<td>£212</td>
<td>£210</td>
</tr>
<tr>
<td>Market Area 2</td>
<td>£200</td>
<td>£195</td>
<td>£116</td>
<td>£132</td>
<td>£130</td>
</tr>
<tr>
<td>Market Area 3</td>
<td>£140</td>
<td>£106</td>
<td>£74</td>
<td>£85</td>
<td>£85</td>
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<tr>
<td>Market Area 4</td>
<td>£100</td>
<td>£95</td>
<td>£46</td>
<td>£52</td>
<td>£50</td>
</tr>
<tr>
<td>Market Area 5</td>
<td>£90</td>
<td>£25</td>
<td>£18</td>
<td>£20</td>
<td>£20</td>
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NB: Please note that due to rounding BNP Paribas RE and Savills figures may differ.

In our experience, a minimum viability cushion of 30% should be adopted to minimise risk to the housing supply, particularly when RBKT has a history of under-supply. We would therefore ask that the CIL charges are reviewed to include an additional buffer of 10% to ensure the delivery of all the borough’s housing. As previously identified CIL is a nominal charge to a development and even the application of a nil CIL would not ensure the delivery of development, Balance payable in a further three instalments of equal amount within 120, 180 and 360 days of commencement of development.

**Viability Cushion**

There is no prescribed level of buffer that a charging authority is required to adopt. Other charging authorities have adopted buffers of between 20% - 50%. The CIL Regulations and Guidance require that rates are not set at the margins of viability, which the Council has not done as they have allowed for a buffer/cushion from the maximum rate.

It is the charging authority’s prerogative to establish the appropriate balance between raising money from CIL to deliver much needed infrastructure to support development in their area and not putting development across their at risk. In this regard it is noted that the CIL Guidance identifies that ‘there is no requirement for a proposed rate to exactly mirror the evidence... There is room for some pragmatism.’

It is noted that Savills and Crest Nicholson have not provided any evidence to demonstrate that a buffer/cushion of 30% (i.e. 10% higher than currently proposed in the DCS) would ensure the delivery of all of the borough’s housing.
appropriate viability cushion once the above recommendations are taken in to account.

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<tr>
<th>30</th>
<th>Crest Nicholson C/o L Cullum (Savills)</th>
<th>Email (07/03/2014)</th>
<th>3) Emerging Regulation 123 List / Infrastructure &amp; Section 106/278</th>
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<td></td>
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<td>The CLG CIL Guidance places a strong emphasis on the need for local authorities to demonstrate, when setting their charging schedule, that they have been realistic when testing viability what residual Section 106 and 278 requirements will remain. They should provide confidence in these assessments through a draft list of relevant infrastructure (so called ‘Regulation 123 list’) and revised policy on planning obligations that demonstrate how obligations will (or will not) be scaled back. It is now widely accepted that Regulation 123 permits the differentiation of infrastructure (as defined by the 2008 Act) by ‘type’ or ‘project’. This permits RBKT a large degree of flexibility to outline what is and is not to be infrastructure delivered by CIL, notably for larger scale sites. The CIL Guidance states that “When a charging authority introduces the levy, section 106 requirements should be scaled back to those matters that are directly related to a specific site… For transparency, charging authorities should have set out at examination how their section 106 policies will be varied, and the extent to which they have met their section 106 targets”. The new Community Infrastructure Levy (Amendment) Regulations 2014 requires the Regulation 123 List to form part of the evidence base (Regulation 14 (5)). RBKT do include a 123 List as part of the consultation, however, it notes that site specific infrastructure will still be funded through Section 106</td>
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<td>Contributions.</td>
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|30| **Section 106 Assumptions**

In terms of Section 106 contributions, the assumption within the Viability Study includes a figure of £1,000 per dwelling. This figure does not appear to be based upon any historic evidence and we would therefore ask that historic information on Section 106 costs in RBKT is made available. This will ensure that the combined total of Section 106 and CIL is not in excess of historically delivered Section 106 costs and will not adversely impact the deliverability of any sites coming forward.

BNPPRE has incorporated an allowance of £1,000 per unit within their assessment which is considered to be a reasonable proxy for such costs. It is noted that residual S106 costs by their very nature are site specific and as such will vary from site to site. We would highlight that as they are S106 costs, these remain negotiable. It is worth noting that paragraph 13 of the Examiner’s report relating to Merton Council’s CIL Charging Schedule states:

‘There is inevitably a high degree of uncertainty about S106 costs in residential schemes once the CIL is in place. The assumption of £1,000 per unit is a reasonable approach. I recognise that particular developers and particular sites may have development costs greater than assumed in the VS. But this type of general study cannot reflect all possible circumstances.’

The Examiner further identifies in his report at para 18 that the level of the S106 incorporated within the assessment:

‘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 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’

Crest Nicholson
C/o L Cullum (Savills)
Email (07/03/2014)

Payments In Kind
The Community Infrastructure Levy (Amendment) Regulations 2014 recently came into force and has made changes to the operation of Payments in Kind. Intended as a remedy for site specific development/ infrastructure costs, the revised ‘Payments in Kind’ mechanism enables developers to provide on-site infrastructure that is included on the Regulation 123 List, in lieu of a levy payment provided that the said infrastructure is not required to mitigate the impact of the development (i.e. secured by a planning condition or section 106 provision).

It is Savills opinion that this will significantly reduce the application of this mechanism and it is therefore essential that the CIL rate is set correctly, as the application of Payment in Kind will be limited.

RBKT should also consider providing details of how, in practice, the operation of Payments in Kind may work, notably for infrastructure provision. This might be a useful mechanism to avoid the risk of ‘double counting’ Section 106/ infrastructure provision, with CIL.

BNP Paribas comment – this is the Councils’ prerogative how they wish infrastructure to be delivered i.e. whether they incorporate certain items on the Reg 123 list or not or alternatively whether there is flexibility in the Reg 123 list that would allow the Council to make allowed for certain elements to be delivered as in-kind payments. Or you may wish to secure both S106 and CIL.

Crest Nicholson
C/o L Cullum (Savills)
Email (07/03/2014)

Conclusions
Three of the key tests of the examination of a Charging

BNP Paribas Real Estate and the Council consider that Savills and Crest Nicholson have not provided any
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<th>Schedule are that:</th>
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<td>1) “the charging authority’s charging schedule is supported by background documents containing appropriate evidence”;</td>
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<td>2) “the proposed rate or rates are informed by and consistent with, the evidence on economic viability across the charging authority’s areas” and</td>
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<td>3) “Evidence has been provided that shows the proposed rate would not put at serious risk overall development of the area”.</td>
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The assessment of planned development and its viability is therefore an inherent test of the Examination. The following points are therefore significant:

- It is the case that RBKT has historically struggled to maintain a five year supply of housing. In order to maintain a healthy land supply it is important that development is actively facilitated, and encouraged and certainly not put at risk. This is the clear steer of the NPPF, and indicates the need for a cautious approach with the application of CIL.
- The numerical inputs of the Viability Study are generally considered to be reasonable however there are some background assumptions that need to be re-tested. CN would like to see allowances for demolition and abnormal costs in addition to appropriate affordable housing incorporated in to the appraisals. Savills place emphasis on these two factors in particular. We do not also understand the logic in sensitivity testing a reduced amount of affordable housing when the emerging policy is set at 50%.
- Requirement of RBKT for CSH Level 5/6

The objectives of CIL are fundamentally to assist with the evidence to demonstrate that, “shows the proposed rate would not put at serious risk overall development of the area”.

BNP Paribas Real Estate reiterate that CIL is not a wholly new charge and it replaces the majority of existing S106 and S278 contributions.

The Council does not currently achieve 50% affordable housing on all sites and as such sensitivity testing is important to understand viability at levels of affordable housing that are being achieved in the current market.
delivery of developments as CIL receipts are used toward the funding of new major infrastructure (as per Regulation 59(1)). The CIL Charging Schedule and supporting documentation must therefore outline the positive actions proposed from the Council to enable the actual delivery of major infrastructure, which may require additional ‘top up’ funding, or the Council using its powers under the Local Government Acts (2000 and 2003) and CIL Regulations (2014) to borrow money to ‘forward fund’ infrastructure delivery (see CIL Guidance section 2:2:2:1). CN would be supportive of the necessary investment to ‘unlock’ and assist with development delivery.

Moving forward we welcome the opportunity to liaise and open dialogue in respect of the key inputs to the Viability Study, a meeting to discuss would be worthwhile, focused on:

- Levels of Section 106 compared to historic levels
- Confirmation of allowances for demolition and abnormals on all typologies
- Clarification over the BLVs and premium over EUV
- Operation of the Payment in Kind for Infrastructure (in practice)
- Operation of the Instalments Policy
- Inclusion of a minimum 30% viability buffer to the proposed CIL rates
- CSH Level 5/6
- Amendments to the Viability Study

| 31 | London Fire & Emergency Planning Authority (LEEPA) | Email (07/03/2014) & Letter (10/03/2014) | We note that there is a nil levy proposed for Public Services and Community Facilities, which includes development by the emergency services for operational purposes, under which category new fighting facilities will fall. My client supports this proposal, due to the fact that stations are community safety facilities, which are included within the wider definition of ‘infrastructure’ under the Planning Act 2008. Therefore, any new development including the provision of a new fire station, Support noted, The CIL 123 list should not be viewed as the ultimate spending plan for CIL. No list of this type can be exhaustive. It will be subject to regular review, taking account of latest available evidence on costed infrastructure projects needed to accommodate growth as well as anticipated and secured funding of these projects to derive at a funding gap for CIL receipts. |
will already be making a substantial contribution to the infrastructure which CIL is designed to fund. Furthermore, CIL payments will effectively result in double counting, impacting on the viability of a scheme which involves a new fire station within a development.

We also note, however, that funding for fire services is not included within the Draft CIL Regulation 123 List. We therefore provide you with the relevant figures in relation to funding requirements in the borough, in order that it can be added. LEEPA estimate that funding of approximately £1,846,000 will be required for replacement, upgrade, and maintenance works to stations within the borough in the 2015-2020 time period.

| 32  | Mike Johnson  
Transport for London | Email (07/03/2014) | Revised Planning Obligations SPD:  
Paragraph 1.13 refers to pre application advice with the borough. To assist the users of the document it would be helpful if reference is made to the Greater London Authority (GLA) and Transport for London (TfL) pre-application advice service for applications that are referred to the Mayor, particularly as paragraph 2.10 does mention applications referred to the Mayor under the Mayor for London Act 2008; although I believe this should be the Mayor of London Order 2008  
Further information on the GLA and TfL pre application advice can be found  
http://www.london.gov.uk/priorities/planning/strategic-planning-applications/preplanning-application-meeting-service  
Paragraph 3.23 refers to s.278 agreements and these will be | Comment noted and the necessary changes have been made. |
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| 33 | Piotr Behnke  
Natural England  
Email (07/03/2014) | Draft Revised Planning Obligations SPD:  
Broadly Natural England wouldn’t have any comments to make in relation to the choices made for where to spend the Section 106 Planning Obligations contributions, however it is good to see that there are sections covering for instance Public Open Space, Play, Biodiversity and Public Realm. This is the kind of area that we would welcome funds being used to make improvements and make provision for new open space within new developments. As shown in section 3.31 in the SPD document there are a good range of areas where the council would seek to ensure planning obligations were arranged. |
|   |   | Support noted |
| 34 | Enstar Capital  
C/o N Rowley  
(Savills)  
Email 1 of 2  
(07/03/2014) | Draft CIL Charging Schedule:  
Enstar Capital owns land at 45-51 High Street Kingston. As is well known to the Council, we are currently seeking planning permission for a student accommodation scheme in this location.  
The proposed charge for student accommodation is £220 per sq m.  
This is a significant increase from the £50 per sq m rate originally proposed in the Council’s preliminary charging schedule.  
In the PDCS the Council consulted on a rate of £50 per square metre, however since the PDCS consultation, new evidence of higher rent levels has become available. New appraisals have been prepared assuming the higher rental values resulting in a proposed change in the CIL rate. More details can be found under ID no. 24 |
| 34 | Enstar Capital  
C/o N Rowley  
Email 1 of 2  
(07/03/2014) | Need for Student Accommodation in Kingston:  
Paragraph 3.52 of the London Plan (2011) recognises the need for more student accommodation in Kingston. We have seen a marked increase in the number of students in Kingston, resulting in a significant housing shortage in this area.  
It should be noted that CIL rates are required to be set in accordance with Regulation 14, i.e. the balance between viability and the need for infrastructure and not in |
significant contribution that London’s universities make to the Capital’s economy and labour market. It notes that London’s attractiveness and potential growth of the economy are compromised by inadequate provision for new student accommodation. It predicts that between 18,000 and 27,000 new student accommodation units are required over the next ten years.

Furthermore, it is explained that the provision of new student accommodation may reduce pressure on other elements of the housing stock currently occupied by students, especially in the private rented sector.

The provision of student accommodation is consistent with the Council’s land use objectives. Policy K7 of the Kingston Town Centre AAP requires a range of housing including 500 bedspaces of student accommodation between 2006 and 2020. The sub-text explains that the University has a shortfall of managed student accommodation, which has implications for the local housing market, as increasing numbers of houses and flats, within and around the town centre are rented out to students, reducing the supply of locally available family housing.

Core Strategy Policy CS15 states that “the Council recognises the shortfall of managed student accommodation for Kingston University and the impact that this has on the local housing market. The Council will continue to work with the university to help deliver suitable managed student accommodation in accordance with the Core Strategy Housing and Transport Policies and Kingston Town Centre Area Action Plan (K+20) Policy K7 (2008).”

Paragraph 6.164 of the Core Strategy states that “the Council and university have identified a need for an additional 2,500 relation to delivery of policy objectives as this could be construed as state aid.
managed student bed spaces. Provision has been made for around 500 bed spaces within Kingston Town Centre and for 300 bed spaces within the Hogsmill Valley adjoining the existing Clayhill Campus. There is remaining need for 1700 bedspaces. Whilst the university's preference is for the future provision of sites with at least 200 bed spaces, smaller sites have a role to play and the potential to contribute towards meeting the needs for managed student accommodation."

On 28 June 2012 the University published an Information Notice for Student Accommodation Provision. It confirms that the University Accommodation Strategy 2011-2014 is seeking an additional 2,500 units through direct provision and through agreement with private developers.

Kingston University remains near the bottom of the rankings tables in terms of the number of bed spaces/students it offers compared to other universities in the London area.

The University clearly has a need for additional student accommodation. To provide such accommodation will help to meet the identified need for managed student accommodation within the Borough in accordance with the London Plan, Core Strategy Policy CS 15 and Policy K7 of the Kingston Town Centre AAP.

Paragraph 17 of the NPPF outlines 12 principles for both plan making and decision taking, notably that planning should “proactively drive and support sustainable economic growth”. and that plan making should “take account of market signals such as land prices and housing affordability”. Paragraph 19 states that “the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth".
The NPPF refers to the “cumulative impacts” of standards and policies relating to the economic impact of these policies (such as affordable housing) and that these should not put the implementation of the plan at serious risk. Existing policy requirements should therefore be considered when assessing the impact of CIL on development viability.

Paragraph 173 of the NPPF states that pursuing sustainable development requires “careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.”

Accordingly, the provision of student housing is an important policy objective of both the London Plan and the Kingston Core Strategy. It is therefore of great importance that the CIL rate is not set at a level that stymies development (see NPPF paragraph below).

| 34 | Enstar Capital C/o N Rowley (Savills) | Email 1 of 2 (07/03/2014) | **CIL Regulations and Guidance:**

Section 2.2 of the 2014 Community Infrastructure Levy Guidance (February 2014) states that:

“Charging authorities should set a rate which does not threaten the ability to develop viably the sites and scale of development identified in the relevant Plan (the Local Plan in England, Local Development Plan in Whales, and the London Plan in London). They will need to draw on the infrastructure planning evidence that underpins the development strategy for their area. Charging authorities should use that evidence to strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential impact upon the

Comment noted
economic viability of development across their area.”

The guidance goes on to explain what it means by ‘an appropriate balance’: “The levy is expected to have a positive economic effect on development across a local plan area. When deciding the levy rates, an appropriate balance must be struck between additional investment to support development and the potential effect on the viability of developments.

This balance is at the centre of the charge-setting process. In meeting the regulatory requirements (see Regulation 14(1)), charging authorities should be able to show and explain how their proposed levy rate (or rates) will contribute towards the implementation of their relevant plan and support development across their area.”

It is therefore imperative that the evidence supporting CIL:

· clearly outlines, and be based on an up to date list of, the key infrastructure projects required to support development (this being the key test of the Regulations);

· Outlines an up to date, consistent and well informed evidence base of economic viability in order to test various scenarios against CIL rates.

With regard to the preparation of Charging Schedules and supporting documentation it is important to have due regard to the available Government guidance, notably, the CLG Community Infrastructure Levy – an Overview (May 2011), CLG Community Infrastructure Levy Guidance (February 2014), CLG Community Infrastructure Levy Relief (May 2011), the Planning Act 2008 and the CIL Regulations 2010 (as
amended). It is also important that the preparation of CIL is in line with the National Planning Policy Framework (NPPF), notably that it is delivery focused and ‘positively prepared’. Our comments are based on these publications and the Regulations.

| 34 | Enstar Capital C/o N Rowley (Savills) | Email 1 of 2 (07/03/2014) | **Infrastructure Schedule**  
The Infrastructure Delivery Plan, January 2011, lists the infrastructure that the Council considers is required to support development during the period of the Core Strategy. The IDP is also now more than 3 years old and therefore its accuracy and relevance is questioned;  
Further clarification should be provided regarding the evidence which has been prepared in order to inform the estimated costs of infrastructure listed in the IDP. Greater clarity and transparency is needed in regard to how the list of infrastructure has been arrived at, how the costs have been calculated and the potential sources of funding.  
It is unclear whether all of the infrastructure listed in the IDP will need to be funded by CIL. There is concern that elements of the IDP list are site-specific projects that would be more appropriately funded via S.106 developer contributions. | The Council has produced a document titled CIL Infrastructure Funding Gap Assessment and draft 123 list, this was consulted upon alongside the DCS. This document reviewed the extent of the infrastructure funding gap based on an up to date assessment of the Borough infrastructure needs. The IDP formed the starting point for identifying infrastructure requirements and since then the Council has worked with Service and Infrastructure providers to update the infrastructure information, including addition of new projects, deletion of completed projects, updates and refreshed information on costs and funding sources. The Council has carefully considered the infrastructure types and /or projects to be included within the Infrastructure Funding Gap Assessment and draft 123 list. |

| 34 | Enstar Capital C/o N Rowley (Savills) | Email 1 of 2 (07/03/2014) | **Viability Buffer**  
Paragraph 30 of the 2012 CIL Guidance outlines that “charging authorities should avoid setting a charge right up to the margin of economic viability across the vast majority of sites in their area.” Paragraph 25 of Community Infrastructure Levy – an Overview (May 2011) states that “Charging authorities should prepare evidence about the effect of the levy on economic viability in their area to demonstrate to an independent | There is no prescribed level of buffer that has to be adopted and other charging authorities have adopted rates of between 20% - 50% . Considering that the rents adopted in the viability assessment are considered to be conservative we consider the 20% buffer (equating to £58 per square metre) from the maximum rate of £278 per square metre to be reasonable. |
examiner that their proposed rates, for the levy, strike an appropriate balance”.

The fundamental premise is that to enable delivery, sites must achieve a credible land value and developers the required return on investment, otherwise development will be stifled. This is recognised by the NPPF and is certainly ‘in-built’ within the CIL Regulations. There is no explanation within the Viability Study as to why the viability buffer of £58 per square metre on student housing might be considered sufficient. The assessment simply justifies the proposed buffer by stating ‘in our experience’. This is not considered to be a sufficient justification for setting the appropriate level of the buffer.

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<td>34</td>
<td>Enstar Capital C/o N Rowley (Savills)</td>
<td>Email 1 of 2 (07/03/2014)</td>
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<td></td>
<td>Student Accommodation Development Appraisals</td>
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<td>We are concerned that the evidence to support the student accommodation appraisals is based on a lack of evidence. There is no suggestion that student accommodation developers or agents have been contacted to discuss the approach. There is no comparable market evidence, other than a very simplistic approach taken to rental levels. Student accommodation is a very specific form of development with particular revenues and costs.</td>
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<td>BNP Paribas Real Estate notes that no evidence or information on inputs and approach has been forthcoming from student accommodation developers or agents through the formal consultation process in which the Council has and continues to take into account evidence and information as to the appropriate inputs and approaches to appraisals.</td>
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<td>34</td>
<td>Enstar Capital C/o N Rowley (Savills)</td>
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<tr>
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<td>Rental Income</td>
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<td>The anticipated rental income for a student scheme is considered to be too simplistic. The overall approach of a rent of £180 per week over simplifies the market. The IQ Wave scheme, which is the only student scheme that is referred to as comparable evidence, contains a variety of student units (ranging from cluster flats to large studios). It is rented through Kingston University.</td>
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<td>BNP Paribas Real Estate acknowledges that there is a wide range of assumptions that can be made, however we have based our appraisals on appropriate available information collected on student schemes in order to establish the viability of such schemes by undertaking an appropriate level of testing for an area wide viability assessment. We would also highlight that many of our assumptions are reasonable and in some instances conservative, for example a void of 98% is allowed for</td>
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Different units can be offered on different terms. Some are offered by the University, others are offered as direct lets via private operators. Some are offered with all facilities included and others are not. Some can be rented out without restriction but others are restricted to students at local universities only. and rents at £180 per week are at the lower end charged on private let schemes in the borough, as well as the iQ scheme, which is let by the Kingston University.

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<th>Enstar Capital C/o N Rowley (Savills)</th>
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<th>Build Costs</th>
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<td></td>
<td>Enstar Capital C/o N Rowley (Savills)</td>
<td>Email 1 of 2 (07/03/2014)</td>
<td>Operating Costs</td>
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<td></td>
<td>Build costs have been sourced from BCIS. We note that no evidence has been submitted by Savills or Enstar that these rates are inappropriate.</td>
<td>34</td>
<td>Email 1 of 2 (07/03/2014)</td>
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Build costs have been sourced from BCIS. We note that no evidence has been submitted by Savills or Enstar that these rates are inappropriate.

Build costs have been sourced from BCIS. We note that no evidence has been submitted by Savills or Enstar that these rates are inappropriate.

Following our research BNP Paribas Real Estate has allowed for an average room size of 26.5 square metres per room, which considering rooms sizes range in size down to 16.8 square metres is considered to be a reasonable assumption to allow for communal areas.
| (Savills) | Student schemes are typically expensive to operate, particularly for private operators making direct lets. They often require 24 hour security/reception. Most student schemes are priced to include furniture, cleaning, services and IT facilities such as wi-fi. There are also communal areas that need to be cleaned and managed. The letting process also needs to be managed with most units requiring re-letting on an annual basis. Accordingly, we consider the proposed operating costs to be low and, again, not based on clear evidence. | inappropriate. |

| 34 Enstar Capital C/o N Rowley (Savills) | **Professional fees** An overall level of 10% is considered to be very low for a large scale scheme (200 units). | In BNP Paribas Real Estate’s experience professional fees range between 8% and 12%, depending on the nature of the site. We have allowed for 12% professional fees which we consider to be a reasonable assumption for an area wide viability assessment, which has been accepted at numerous Examinations. The 5% contingency allowance has also been made on the professional fees. We note that no evidence has been submitted by Savills or Enstar Capital to substantiate that their assertion that a 10% allowance is too low. |

| 34 Enstar Capital C/o N Rowley (Savills) | **Other Planning Requirements** It is noted that the Development Appraisal for the ‘Unite’ student housing scheme is discounted to refer to the affordable housing policy. This policy is only applicable if the student accommodation is not ‘reserved’ for local students. | Not having to provide affordable housing would make such schemes more viable as they would still be able to charge the higher levels of rent. |
In practice, student accommodation providers (for that is their core area) are likely to prefer to accept the restriction of the accommodation to local students. They have no interest or expertise in providing affordable housing.

However, in accordance with the Affordable Housing SPD, this is likely to result in an onerous Section 106 agreement limiting the potential let-ability for the student units. This will affect the viability of the units – the fact that the units cannot be let to non-Kingston students clearly limits their let-ability and the risk profile of the overall development proposition. There is clearly a higher chance of rental voids if the potential tenant group is so limited.

Such restrictions also affect the fundability of the development overall. If the development is so restricted it will be classed as higher risk by potential funders. They have to factor in the performance and longevity of the local further education establishments and this introduces a significant and uncontrollable risk. This will result in the proposal becoming more difficult to fund, or subject to more onerous funding restrictions (e.g. fees or higher rates). This will have an effect on the overall development cost, which is not included within the Viability Study.

It is noted that certain existing student accommodation in Kingston, particularly accommodation that attracts higher rents, can be rented to (and is marketed to) non-Kingston students.

It is considered that this would have less of an impact on scheme viability than providing 50% of the floorspace as affordable housing.

| 34 | Enstar Capital C/o N Rowley (Savills) | Email 1 of 2 (07/03/2014) | **Table 4.52.1: Commercial appraisal assumptions for each use**

This table, in so far as it relates to student accommodation, is overly simplistic and does not include any reference to supporting evidence (particularly comparable evidence). We

BNPPRE have undertaken research in relation to student accommodation provided in the borough (see attached) which clearly identifies room sizes to be within a range however these are as small as 16.8 sq m and in this regard we consider our assumption of average room
would ask for such evidence to be provided on each of the rows in the table. The justification provided seems to be limited to no more than a paragraph in each case.

In particular (and where not discussed in the ‘Development Appraisal’ section above:

- 57,000 sq ft is considered very small for a 200 unit student scheme. The proposed Enstar student scheme is of a similar size but accommodates only 140 units. Accordingly, it is likely that throughout the appraisal build costs are significantly underestimated.

- The absence of a rent free/void period assumes that the entire scheme is completed and available to let on the ‘first day of term.’ This is highly unlikely and a significant oversimplification.

- Demolition costs are overly simplistic and lack evidence/justification

- Professional fees are very low at 10%

- The proposed yield is oversimplistic. The yield will change depending on the mechanism for delivery of the scheme (whether it is leased to Kingston University or managed on a ‘direct-let’ basis. This will again affect the costs.

size incorporating communal areas of 26.5 sq m to be a reasonable assumption.

BNPPRE have incorporated build costs based on information from BCIS at the time of undertaking the assessment.

We would highlight that our assessment take into consideration a 98% occupancy rate.

We have incorporated a reasonable allowance for demolition costs, however note that these along with other abnormal costs are site specific and as such are difficult to assess as part of an area wide viability assessment.

In BNPPRE’s experience professional fees range between 8%-12% and relate to the nature of the site in question, as such the assumption of 10% is considered to be a reasonable for an area wide viability assessment, which has been accepted an numerous other CIL Examinations.

We note that Savills and Enstar have not provided any evidence to substantiate their assertions as to their concerns relating to the inputs. We would also highlight that they have not mentioned the fact that rents for private schemes (including those leased by Kingston University could be much higher – up to £266. Taking the iQ scheme as an example, units with rents of over £200 per week account for more than 50% of the accommodation in the scheme. Taking this assumption into consideration his would significantly increase the revenue generated by student accommodation
schemes.

Table 4.52.2: Commercial appraisal assumptions for each use – current user benchmarks

The ‘existing floorspace’ is considered to be very low. Given building height restrictions in Kingston (particularly in the town centre, much of which is a conservation area) it is difficult to conceive buildings being constructed that are over three times bigger than the existing.

Accordingly, the Viability Study underestimates the value of the existing building on the site, which would raise the viability benchmark (making the proposed building of less additional value).

BNPPRE’s benchmark land values are based on rents and yields likely to be achieved on a range of existing uses in the borough and also allows for a premium over and above the existing use value of between 15%-20%. We note that Savills have not provided any evidence to substantiate their assertion.
| Email 1 of 2  | Summary                                                                 | We highlight that a charge of £220 per square metre amounts to no more than 5% of development costs (assuming no discount to chargeable floorspace for existing floorspace i.e. worst case scenario). In this regard it is considered that CIL will not be a determining factor in a scheme’s viability. The reason for the increase in the proposed charge form the PDCS to the DCS, as identified by the Viability Assessment, is as a result of new evidence becoming available on higher rents achieved. As identified above and evidenced, the rents adopted in the study are considered to be modest and as such the charge at £220 per square metre is set at a conservative level. Taking this into consideration along with the fact that a buffer of circa 20% from the maximum rate has been allowed and that the rate is based on an allowance of 50% affordable housing which is negotiable should viability be an issue we consider the rate as proposed to be set at a rate that will not threaten the deliverability of such development. |
| C/o N Rowley (Savills) | For the reasons set out above, we believe that the justification for the proposed charge of £220/sq m is not based on robust evidence. It is a significant charge – the highest proposed charge in the Borough – and more than four times the charge proposed in the preliminary draft schedule. There is therefore a significant risk that the proposed charge will render some or all student housing schemes in the Borough unviable. Therefore, imposing the proposed CIL charge on student accommodation makes it less likely that the Council will be able to meet its Core Strategy objectives going forward. This would be contrary to the guidance set out in the NPPF and the CIL guidance note. Enstar Capital requests to be heard by the CIL examiner in respect of their representations (if and when the CIL draft charging schedule is submitted by the Council for examination). Please ensure we are kept updated on CIL developments and in the meantime do not hesitate to contact me should you have any queries. | |
| Email 2 of 2  | On behalf of Enstar Capital we have reviewed the Royal Borough of Kingston-upon-Thames Draft Planning Obligations SPD. Paragraph 173 of the NPPF states that pursuing sustainable development requires “careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened.” | Amendments have been made to the Sustainable Construction/Climate Change and Flood Risk section of the Planning Obligations SPD : “The preference is for developments to meet targets set out in the adopted Local Plan or London Plan on site. Where required targets cannot be met, developers may be required to contributed to a CO2 offset fund which will go towards the funding of off-site CO2 reduction measures in the locality. In future this contribution will be used to fund “allowable solutions” which will allow developers to support off site carbon dioxide reduction measure where |
| C/o N Rowley (Savills) | | |
The NPPF also states (paragraph 203) that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Paragraph 204 states that planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The SPD sets out that the Council requires new development to meet BREEAM Outstanding from 2013. Whilst the desire to develop highly sustainable buildings is entirely understood, BREEAM Outstanding is already a very difficult and costly standard to reach. It is likely that, particularly in the short term, many development proposals will not viably be able to reach this standard. There is no viability assessment to accompany the SPD to demonstrate that the proposed tariff is viable.

The SPD then sets out a £/sq m. tariff for a payment in lieu of this standard being met. The proposed payment levels are significant and will multiply up to considerable sums in the case of many forms of development. These contributions could well threaten the viability of development proposals (including those consistent with Kingston planning objectives) which would be contrary to the requirements of the NPPF.

it is technically not feasible or commercially not viable to abate all carbon dioxide emission reductions through on-site measures“.
It is not clear how the proposed tariff would accord with the tests set out in paragraph 204 of the NPPF. Whilst reaching a high standard of sustainable construction is of course desirable, if the energy policy standard cannot be met, this will need to be justified in viability and feasibility terms. In those circumstances, it is not understood why an additional financial payment will be necessary to make the development acceptable in planning terms.

For these reasons we object to the proposed financial contributions in the Sustainable Construction/Climate Change Section of the SPD. We request that this section be deleted from the final document.

35 E McCarron Environment Agency

Email 2 of 2 (07/03/2014)

**Draft Planning Obligations Supplementary Planning Document:**

1. Environmental evidence and state of the environment report for Kingston

As you are aware all planning documents and decisions should be informed by the latest environmental evidence. We produce an annual State of the Environment report for London which is a joint document with Natural England, Forestry Commission and the GLA.


As part of this we also produce London Borough fact sheets with key environmental evidence for each local authority. Click below to view the factsheet for Kingston


Comment noted and some of the evidence documents recommended will be included in the SPD
Some key headlines for Kingston are:

- Around 33% of the 7,300 properties in areas at risk of flooding in Kingston are in areas where the likelihood of flooding is significant.
- The Water Framework Directive classifies the rivers in Kingston upon Thames as having moderate or poor ecological status/potential. The main contributors are high levels of phosphate and poor fish habitat.
- Kingston upon Thames ranks 4th in London for household recycling and composting, with a rate of 47%. This is split into 30% dry recycling and 17% composting (Defra, 2012).
- Himalayan Balsam and Japanese Knotweed are prolific in the London Borough of Kingston upon Thames, particularly along the Bonesgate Stream, Surbiton Stream and the Hogsmill River. Parrot’s Feather, Australian Swamp Stonecrop, Water Fern and Giant Hogweed have been identified at a few sites and there were even a couple of sightings of American mink.
- We are continuing to look at opportunities to improve fish passage for all fish species, but with a particular emphasis on allowing juvenile eels to access the upper reaches of the river.

We recommend including the Kingston environmental factsheet as part of the evidence base table for the Planning Obligations SPD e.g. for Public Open Space, Play, Biodiversity and Public Realm (page 17) and Sustainable construction and climate change (page 22).

We also recommend including the following evidence base documents on page 17:

- The London Rivers Action plan.
Building a better environment – information to help you make the most of new development for people and the environment


and the following documents in the evidence base section on page 22

- Thames Catchment Flood Management Plan

- The River Thames Scheme (Datchet to Teddington)

- Thames River basin management plan
  http://www.environment-agency.gov.uk/research/planning/125035.aspx

- Hogsmill Water Framework Directive Information Pack:

For the most up to date and accurate environmental evidence we also recommend using our Data Share service where you can access our environmental datasets and also datasets from Natural England, Forestry Commission and English Heritage.

http://www.geostore.com/environment-agency/

Following the recent winter flooding we are keen to ensure data and information from these events are used to inform
funding requirements for future flood defence and climate change projects. We will be working closely with local authorities affected by the recent floods over a range of aspects including any required updates to the Strategic Flood Risk Assessment and the development of the Flood Risk Strategy.

| 35 | E McCarron  
Environment Agency | Email 2 of 2  
(07/03/2014) | 2. **Sustainable construction and climate change**  
We support paragraph 3.45 which indicates that planning obligations will be sought for blue green infrastructure, flood attenuation measures (e.g.: utilisation of Sustainable drainage systems), flood resilience and resistance measures to protect residential, commercial and community properties at risk of flooding now or in the future.  
The Infrastructure Delivery Plan identifies that river and surface water flooding needs to be considered as physical infrastructure to manage flood risk from the River and surface water flooding.  
Future development should be carefully located and designed to minimise the risk of flooding posed to residents within neighbouring areas. Therefore it is very important to consider flood mitigation and environmental infrastructure through planning obligations for future developments.  
We are disappointed that “Flood defences” are not included in the 123 regulation list. Over 2000 properties within the borough are at significant risk of flooding and therefore the funding of flood defence infrastructure through your charging scheme is of vital importance. The River Thames Scheme (Datchet to Teddington) (formally called the Lower Thames Strategy) will include the Royal Borough of Kingston upon Thames. For | Support noted | The 123 list should not be viewed as the ultimate spending plan for CIL. No list of this type can be exhaustive. It will be subject to regular review, taking account of latest available evidence on costed projects. |
more information on this important scheme please click below:


Evidence from the Kingston state of the environment report supports the inclusion of flood risk management within the charging schedule

- Around 33% of the 7,300 properties in areas at risk of flooding in the borough are in areas where the likelihood of flooding is significant.

- The area of land within flood zones 2 and 3 covers a large area in Kingston, around the River Thames. Other areas include the land around the Beverley Brook in the north east of the borough, and the land along the Hogsmill River.

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<th>E McCarron Environment Agency</th>
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<th>3. Public open space, play, biodiversity and public realm</th>
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<td>We support paragraph 3.31 that states the council will seek the following planning obligations with respect to biodiversity enhancements, improvement of the quality and quantity of open spaces and improvement to the Thames riverside, Hogsmill and its tributaries in accordance with the aims set out in the Blue Ribbon Policy and the Thames Landscape Strategy (TLS). TLS aims to adapt to climate change, locally finding solutions to manage the increasing risk of flooding through the Restoration of the Lost Floodplain projects, and this is something we fully support. Evidence from the Kingston state of the environment report shows:</td>
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<td>- Himalayan Balsam and Japanese Knotweed are prolific in the London Borough of Kingston upon</td>
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Thames, particularly along the Bonesgate Stream, Surbiton Stream and the Hogsmill River. Parrot's Feather, Australian Swamp Stonecrop, Water Fern and Giant Hogweed have been identified at a few sites and there were even a couple of sightings of American mink.

- We are continuing to look at opportunities to improve fish passage for all fish species, but with a particular emphasis on allowing juvenile eels to access the upper reaches of the river.

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4. CIL Draft Charging Schedule

We have also commented on the Royal Borough of Kingston upon Thames CIL Draft Charging Schedule to support the provision of infrastructure projects necessary to deliver the Core Strategy, highlighting that more funding for flood risk infrastructure will be expected to be provided locally as the traditional form of Grant in Aid is being reduced.

Instead of meeting the full costs of just a limited number of projects, the new approach could make Government money available towards any worthwhile scheme over time.

A broad definition of infrastructure, for the purposes of CIL funding is set out in the Planning Act 2008 (section 216(2)) and includes flood defences. The Environment Agency is therefore disappointed that the Royal Borough of Kingston upon Thames has not identified any flood risk management activities within its Regulation 123 list of infrastructure to be funded partly or wholly from CIL. We would recommend that Kingston revise their Regulation 123 list to include strategic flood risk infrastructure.

Funding levels for each scheme will relate directly to the number of households protected, the damages being prevented, plus the other benefits a scheme would deliver. For Comment noted. The CIL 123 list will be subject to regular review, taking account of latest available evidence on costed projects. Flood risk mitigation measures would also be sought via Planning Obligation provided that they are not on the Regs 123 list and they meet the CIL Regs 122 test.
the first time, grants for surface water management and property-level protection will be available alongside funding for other risks and approaches. For more information on partnership for flood defence click below

http://www.environment-agency.gov.uk/research/planning/134732.aspx

The CIL 123 list should not be viewed as the ultimate spending plan for CIL. No list of this type can be exhaustive. It will be subject to regular review, taking account of latest available evidence on estimated cost of projects, anticipated and secured funding and funding gap.

| 35 | E McCarron Environment Agency | Email 2 of 2 (07/03/2014) | 5. Environmental Infrastructure

Once the Royal Borough of Kingston upon Thames has a charging schedule in place the default position is that all chargeable developments will pay CIL. Ensuring that the CIL and planning obligations are used to complement one another as methods of securing infrastructure and community benefits will be the key to smooth operation.

To avoid any double charging to developers, the council cannot seek the provision of or contributions towards those items included in their Charging Schedule (R123 of the CIL Regs) through planning obligations, even where they could be justified as site-specific remediation. However there may be certain sites where the on-site requirement for the provision of environmental infrastructure will require use of planning obligations, which for major sites could include flood prevention works.

We consider that where new site specific developments place extra pressure on capacity of strategic environmental infrastructure for the wider area, then a contribution would be appropriate. The scope of environmental infrastructure may include surface water management / drainage and flood risk management. Funds could be targeted towards improving capacity of existing infrastructure, new infrastructure, or other

Agreed that these contribution could be sought provided they meet the Regulation 122 test. Regs 122 of the CIL regulations confirms that planning obligations may only be used if they are:

- necessary to make the development acceptable in planning terms,
- directly related to the development, and
- fairly and reasonably related in scale and kind to the development.
mitigation measures.

Examples of mitigation measures could include river restoration to manage local flooding. Rivers form an important wildlife corridor, linking features in urban areas. Where a river has been culverted and engineered, opportunity should be taken to reverse this state, turning it into a valuable amenity, heritage and wildlife asset. The Infrastructure Delivery Plan highlights the potential to improve the Hogsmill river valley, many sections of this river have been culverted and this could be an opportunity for naturalisation of the river bank.

36 Eden Walk GP Ltd C/o L Howard (Deloitte Real Estate) Email (07/03/2014) CIL Draft Charging Schedule:
Continued objection to retail, all other retail (A1-A5) and residential (Zone 2) proposed CIL rates.

36 Eden Walk GP Ltd C/o L Howard (Deloitte Real Estate) Email (07/03/2014) Level of Affordable Housing:
We had previously queried the level of affordable housing assumed in test the level of CIL. We are disappointed to note that the Council has still not disclosed the level of affordable housing tested in support of the proposed residential CIL rates.

As acknowledged in paragraph 4.5 of the DCS Viability Study, the Council’s policy seeks 50% affordable housing. We have had sight of the residential appraisal ‘Site Type 5, Residential Zone 2’ which adopts only 30% affordable housing. The reason for this departure from policy is unclear.

The CIL examinations for Mid Devon Council and London Borough of Sutton both confirm that CIL ought to be tested based on policy-compliant levels of affordable housing. At LB

The viability assessment has tested 50%, 40%, 30%, 20% and 10% affordable housing. The Council does not currently achieve 50% affordable housing on all sites and as such sensitivity testing is important to understand viability at levels of affordable housing that are being achieved in the current market. As in the current policy position, where the market improves and on sites which are more viable higher levels of affordable housing will be secured, however on the majority of sites where viability is challenging at 50% affordable housing the level actually provided is negotiated at lower levels to ensure the delivery of new homes. Even at nil CIL rate would not ensure that 50% affordable housing could be delivered on all sites. We would highlight the comments made by the Examiner in his report on the LB Newham’s
Sutton the Examiner did not accept testing CIL at lower levels that the Council’s policy of 40%, and stated: “the reason why 20% affordable housing is tested is not clear.”

Draft Charging Schedule at paragraphs 15 and 16 which are as follows:

‘15. The Core Strategy was adopted in January 2012. Policy H2 was supported by an Affordable Housing Economic Viability Study and seeks the provision of 35 to 50% affordable housing on sites with a capacity of 10 units or more. However, the Council concede that, at present, the majority of new schemes are unable to deliver affordable housing at the level required by Policy H2. According to the Viability Study, at 35% affordable housing, most sites are not viable regardless of CIL.

16. As stated in the Viability Study, 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. The Viability Study is based on 35% provision of affordable housing (for schemes of 10 or more units).'

The Viability does not depart from Policy, we would highlight that Policy DM15 (Affordable Housing) requires ‘development to provide the maximum reasonable amount of affordable housing, subject to viability considerations’.

With respect to residential appraisal provided to Deliottes on their request to see a copy of the actual appraisal, this was a version of the appraisal run at 30%.
Residential BLVs – We provide evidence in our supplementary representations that the residential Benchmark Values (BLVs) adopted were not appropriate for the borough. BLVs are intended to reflect the minimum price a landowner will sell their land for. We note that BNPP had made the assumption that all residential development would come forward on land which had been previously used for offices, industrial or community uses. The BLVs adopted range from £2.1 million - £8.6 million per hectare.

We provided evidence of residential land transacting in Kingston at between £11.6 million - £56 million per hectare. The adopted BLVs therefore clearly underestimated, and take no account of development coming forward on existing retail or residential land.

With regard to the benchmark land values this is based on a market approach i.e. the values are arrived at through undertaking research on comparable evidence in the Borough of such uses and allowing for appropriate rents and a yields based on this research and over and above this we have allowed for a premium of 20% to account for the competitive return to the landowner. This approach is in line with the Harmen Group Guidance and has been through examination on various occasions and found to be appropriate by Examiners.

It is considered that actual land transactions are fundamentally misleading as a means of assessing viability of a planning policy. Market transactions will always (or should be) based on current planning policy requirements; they are of no assistance to a Planning Authority in determining what planning requirements could be sought in the future. Furthermore, market transactions often fail to take full account of planning policy requirements (developers have a tendency to ‘take a view’ on being able to squeeze the affordable housing or S106, thus compensating for overpayment for land). They frequently include expectations of increasing sales values, so they do not reflect the current market. Basing the assessment on current use value is an approach that both the RICS guidance note recognises as legitimate (“For a development to be financially viable, any uplift from current use value to residual land value that arises when planning permission is granted should be able to meet the cost of planning obligations while ensuring an appropriate Site Value for the landowner and a market risk adjusted return to the developer in delivering that project (the NPPF refers to this as ‘competitive returns’ respectively). The return to
the landowner will be in the form of a land value in excess of current use value…") as well as the Harman Group guidance; the latter being directly relevant to planning policy testing.

At the Mayoral CIL examination the merits of both the Market Value and Existing Use Value plus a premium approach were considered in detail by the Examiner. It was accepted that market transactions are of limited relevance to testing a new planning requirement, as they are historic and relate to prevailing planning policies at the time. As such, the RICS approach was found to be an unsound basis for testing the viability of CIL. It should also be noted that this approach has been accepted in numerous other CIL Examinations both inside and out of London including Croydon, Redbridge, Bristol, Poole, Havant, Harrow, Brent, Waveney.

BNP Paribas Real Estate and the Council’s view is that the historic transaction evidence provided by Deloittes on behalf of Eden Walk GP Ltd only serves to demonstrate that these schemes did not achieve the 50% Affordable housing target.

- The 12 Skerne Road site transaction is now over seven years old and only provides 37% affordable housing (as reported on the Molior website from which Deloitte obtained their information).
- The Turks boatyard site only provided 16% affordable housing.
- The 100 Maple Road site provided no on-site affordable housing as the case was accepted that no AH was justified to allow for the refurbishment of the Grade 1 listed Church. The scheme was subsequently revised with some
enlargement of some units, but no overall increase in the number of units, and the developer offered a commuted sum (£221,000) to avoid on-site AH provision given the uplift in value from the larger units. Thus, no onsite provision within the 21 flats provided, and £221,000 equates to less than one AH unit.

- The former Kingston Power Station site only provides 20% affordable housing.
- The 15-19 Langley Road site only provides 24% affordable housing.

The BLVs adopted reflect current value not minimum price. These are derived from rents and yields of existing space, that is likely to come forward for such redevelopment.

| 36 | Eden Walk GP Ltd  
C/o L Howard  
(Deloitte Real Estate) | Email  
(07/03/2014) | Inconsistent evidence – We note that page 51 of the DCS Viability Study recommends residential CIL rates which are lower than those proposed in the DCS. The Council’s proposed charges (e.g. £130 psm, Zone 2) are therefore inconsistent with its own evidential retail or residential land. |

| 36 | Eden Walk GP Ltd  
C/o L Howard  
(Deloitte Real Estate) | Email  
(07/03/2014) | Viability Evidence – PDCS to DCS:  
We have serious concerns and reservations about the work that has been undertaken by the Council from PDCS stage to DCS stage. Changes have been made to the underlying appraisals which have not been justified or evidenced. Examples of these changes have been set out below: |

| 36 | Eden Walk GP Ltd  
C/o L Howard  
(Deloitte Real Estate) | Email  
(07/03/2014) | Retail CIL Rates:  
Profit on Cost (PDCS) – The retail appraisal within the PDCS |

Amendments have been made to the appraisals following earlier comments by Deloittes.
Viability Study contained a fundamental flaw in respect of the application of developer’s ‘profit on cost’. The profit ought to have been applied to all development costs, including the cost of land. However, the relevant appraisal within the PDCS Viability Study did not.

Based on the original appraisal, the correction of this error had the effect of depleting the CIL surplus for “All other retail (A1-A5)” to a nil CIL rate.

We note that the application of ‘profit on cost’ has been correctly applied within the DCS Viability Study. However, this should therefore demonstrate a nil retail rate in the town centre, yet the DCS continues to suggest a retail rate is supported in the town centre, by unjustly revising a number of other assumptions. We have set out below our concerns in respect of the Council’s assumptions.

We note that the appraisal intended to reflect a typical town centre retail scheme is shown in the DCS Viability Study.

We note that the same scheme is assumed to be the redevelopment of a 1,500 sq.ft unit into a 3,000 sq.ft scheme. We wish to highlight that 3,000 sq.ft is smaller than most shops, and is clearly inappropriate to reflect a town centre retail scheme.

We have set out below the scale of such a development as compared to the size of the town centre. It is clearly inappropriate to base the viability if retail development in the town centre as a whole, on a scheme of such miniscule size.

Notwithstanding the inappropriateness of scheme tested, we

The size of the unit is irrelevant in terms of viability testing as this is simply a scaling issue and would reflect the same viability as the level of costs and revenue would be proportionate. BNP Paribas Real Estate would also highlight that not all development in the town centre will be large scale development.
note the following changes have been made to the appraisals from PDCS to DCS. Taking into account the fundamental profit on cost error identified above, it is only from relying on a number of further, unjustified, changes to the appraisal, that a CIL rate continues to be supported in the town centre.

36 Eden Walk GP Ltd  
C/o L Howard (Deloitte Real Estate)  
Email (07/03/2014)

**Current use value**

The Current Use Value (CUV) is the value that a landowner is assumed to receive for their site. The NPPF paragraph 173 acknowledges that both the landowner and developer must receive ‘competitive returns’ in order for development to be deliverable.

The CUV has reduced by almost 60% from the 9 month period from publication of the PDCS to the DCS Viability Study, thereby assuming that landowners will, for no justified reason, suddenly accept significantly lower values in order to release their sites.

This reduction in CUV is wholly inconsistent with IPD data which reports growth in Capital Values from December 2012 to December 2013.

It is only by relying on this reduction in CUV that the Council is able to continue to support a retail CIL rate in the town centre.

BNP Paribas Real Estate have taken into consideration that not all sites will include development on them – such as Eden Walk’s scheme which is on an existing car park site. In this regard BNP Paribas Real Estate and the Council considered it to be reasonable to assume that the existing level of floorspace on a site in the town centre being replaced was 50% as opposed to 75%. We would highlight however that no allowance had been made for discounting existing floorspace from calculating the maximum viable CIL levels, which would serve to increase the maximum level that could be levied, particularly in the town centre where the majority of sites are likely to accommodate existing floorspace, and taking into consideration the extension to the vacancy test brought in by the February 2014 Regulations.

36 Eden Walk GP Ltd  
C/o L Howard (Deloitte Real Estate)  
Email (07/03/2014)

We note that the assessment of CUV is based on an investment valuation (rent x area x yield). We have identified a number of alterations which have been made to the CUV, which have not been justified, or appropriately evidenced:

- The asset has reduced in size from the PDCS Viability Study to the DCS Viability Study, from 2,250 sq.ft to 1,500 sq.ft. Because the CUV is based on an investment valuation, clearly

As per our comment above, this is as a result of an amendment to the assumption of the existing level of floorspace on a site in the town centre being replaced is likely to be 50% as opposed to 75%.

The reasoning for this is due to the level of rents being reduced for existing uses, which directly correlates with the reduction in the likely rents of new floorspace to
A smaller building will be of lesser value, all other factors remaining equal. There is no justification for this change.

- By the same token, refurbishment costs have reduced in line with the size of unit being valued from £112,500 to £75,000. There is no justification or evidence for this change.

- The yield adopted in valuing the existing asset has ‘softened’ from 5% to 6%, thereby compounding the effect of the above changes and reducing the value further. There is no justification or evidence for this change.

accommodate A3 uses in line with discussions with Deloittes. A3 uses are seen to achieve lower rents in the town centre, and given an all in rate for retail it was considered reasonable to reduce the rental level from the higher A1 level to a blended rate taking into consideration A1 and A3 rents, but also the fact that A3 units by virtue of permitted development rights can change to A1 uses without requiring planning permission from the Council.

Given the lower level of rents the yields that would be attributed to the existing floorspace would also increase. We note that no evidence has been provided by Deloittes to confirm that the rents and yields adopted for existing floorspace would be inappropriate. It is reasonable to assume that sites will only come forward for development where the proposed development would achieve suitably higher values than the existing use.

36 Eden Walk GP Ltd
C/o L Howard (Deloitte Real Estate)

Email (07/03/2014)

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<tr>
<th>Retail CIL Rates – Other Key Issues:</th>
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<td>- Finance – The finance costs over an 18 month build period are underestimate. We note they do not appear to be applied to the cost on construction, and only the cost of land. In the BNPP Retail Appraisal, we note that there is a surplus of only £29,475. However, once the finance error is corrected, the maximum surplus for CIL is reduced to nil. We have demonstrated the impact of this error at Appendix 1.</td>
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36 Eden Walk GP Ltd
C/o L Howard (Deloitte Real Estate)

Email (07/03/2014)

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<th>Retail CIL Rates – Other Key Issues:</th>
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<td>- CIL as a Development Cost – The cost of CIL has not been inputted as a development cost into the appraisals. We disagree with this approach. CIL is a known development cost</td>
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BNP Paribas Real Estate considers 18 months to be a reasonable assumption. Further the appraisal takes full and appropriate consideration of finance costs on the cost of construction.

All our appraisals have always included CIL as a cost to the development thereby taking full account of finance and other charges.
| Eden Walk Shopping Centre – Strategic Site:  
To demonstrate viability challenges face and the importance of adopting an appropriate CUV, we have produced a hypothetical appraisal of the Eden Walk Shopping Centre. This is an indicative appraisal using general areas that are appropriate in the absence of a final scheme. We have included the Investment Value of Book Value of the shopping centre, which effectively constitutes the CUV. As widely reported, British Land purchased a 50% stake in the shopping centre at £41.5 million in June 2012. The total value of c. £83 million is therefore reflective of a true CUV, already inclusive of any landowner premium or ‘hope value’ of achieving planning permission.

As per the DCS Viability Study, all other assumptions adopted are reflective of BNPP’s assumptions and inputs.

The hypothetical scheme is a mixed use development which consists of both retail and other commercial uses (260,000 sq.ft NIA) and residential development (326 units). We have included an appraisal of this scheme at Appendix 2.

In order to determine the effect on viability of a number of uses, we firstly undertook an appraisal, looking to solely redevelop the retail space for new, better configured retail units. This does not generate a sufficient profit, over and above the existing asset value, in order to justify redevelopment.

We then included residential development above the retail

| BNP Paribas Real Estate and the Council note that the appraisal submitted by Deloittes and Eden Walk GP Ltd is a ‘hypothetical development’ of their site i.e. it is not the actual development they are proposing.

We further note that the applicant's submitted appraisal does not provide evidence to demonstrate that the proposed CIL rate will render the proposed redevelopment and refurbishment in the Eden Quarter, including the Eden Shopping centre development unviable. This appraisal does not include CIL and as such identifies that it is not CIL that would make this scheme unviable. The hypothetical scheme provided is highly unlikely to be delivered as it is unviable over the life of the first charging schedule. Further, we understand from Deloittes’ and Eden Walk GP Ltd ‘previous representations and discussions that they consider the costs associated with their site to be higher than those adopted by BNP Paribas Real Estate in our appraisals, which they have adopted in their current submitted appraisal. This would only serve to make their development more unviable.

We would highlight that the ‘Investment Book Value’ of the of the shopping centre is an inappropriate basis for testing viability.

In light of the information submitted by Deloittes BNP Paribas Real Estate and the Council considers that it does not signify what level of CIL is set for their site if
units, noting that there is a requirement for provision of 50% affordable housing, as per the local plan policy. Again, based on current market conditions, there is no surplus generated for CIL.

By combining both uses together into a single scheme appraisal, it is apparent that although the residential development assist in cross-funding the redevelopment of the shopping centre, there is insufficient surplus value to support additional CIL costs.

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**Concluding remarks:**

Eden Walk GP Ltd notes that the Council has stated within its representations that it does not seek to elect discretionary relief for exceptional circumstances within its Borough. Even if it was to do so, the relief is by definition, discretionary, and therefore can only be implemented if the Council made a statement on its website that exceptional relief is available. The relief may also then be switched on or off at the Council’s discretion.

The latest CIL Statutory Guidance, dated February 2014, states under 2:2:2:6:-

*If the evidence shows that the area includes a zone, which could be a strategic site, which has low, very low or zero viability, the charging authority should consider setting a low or zero levy rate in that area. The same principle should apply where the evidence shows similarly low viability for particular type and/or scales of development.*

Relief may be switched on or off at the Council’s discretion and this does not provide any safeguard to developers in the

It is in the Council’s power to consider whether the use of discretionary relief would be appropriate within the borough and that the Council has the ability to turn on and off discretionary relief.

It has been highlighted to Eden walk that the Council is willing to have an open dialogue with them to review the viability of their actual scheme coming forward so that the growth envisaged in the borough can come forward.

However at present the Council and BNP Paribas Real Estate consider that the evidence that they have provided would suggest that their hypothetical scheme is not deliverable over the life of the charging schedule and that it is not CIL that is making the development unviable.
It is imperative that a Revised Draft Charging Schedule creates an accurate reflection of viability in the Borough, and seeks to ensure that development is not rendered unviable within the regeneration priority areas such as Kingston Town Centre as a result of CIL.

On the basis of the evidence presented, it is considered that a nil rate for all uses should be adopted in respect of the Eden Walk Shopping Centre site, and a nil rate for all retail development in the town centre.

**Draft Planning Obligations SPD**

Section 2:6:2:2 of the Department for Communities and Local Government (DCLG) Community Infrastructure Levy Guidance February 2014 states that *"when a section 106 requirement should be scaled back to those matters that are directly related to a specific site, and are not set out in a regulation 123 list;... Where the regulation 123 list includes a generic item (such as education or transport), section 106 contributions should not normally be sought on any specific projects in that category."*

In this regard, it is recognised that generic items such as education and health / social obligations have been recovered from the SPD. It is also noted that there has been a reduction in the number of planning obligations that are to be calculated via a set formula and will instead be agreed via negotiation.

It is noted, however, that the formula remains in place for Sustainable Construction / Climate Change contributions for Code for Sustainable Homes and BREEAM, as set out on page 23 of the SPD. It is considered that the need for a formula in regard to the Code for Sustainable Homes (CSH) is

| 36 | Eden Walk GP Ltd C/o J Adams (Deloitte Real Estate) | Email 2 of 2 (07/03/2014) | Amendments have been made to the Sustainable Construction/Climate Change and Flood Risk section of the Planning Obligations SPD: “The preference is for developments to meet targets set out in the adopted Local Plan or London Plan on site. Where required targets cannot be met, developers may be required to contribute to a CO2 offset fund which will go towards the funding of off-site CO2 reduction measures in the locality. In future this contribution will be used to fund “allowable solutions” which will allow developers to support off site carbon dioxide reduction measures where it is technically not feasible or commercially not viable to abate all carbon dioxide emission reductions through on-site measures.” |
unnecessary and should be removed given the anticipated changes to planning policy. In light of the Housing Standards Review, published by the DCLG in August 2013, it is anticipated that “the government proposed to wind down the role of the Code” (paragraph 40 pg. 14). In this regard, the formula for the Code should be removed. Contributions should be negotiated having regard to both the viability of the scheme and future policy direction. As emphasised within the Review “the higher levels of the Code may be applied inappropriately without considerations of viability.... the impact can be to make development unviable”. As such, a blanket approach to CHS does not take into account viability considerations to the extent that is required. While it is stated within the SPD the Council recognises the need for developments to remain viable, a formulaic approach contradicts this statement.

In regard to the planning contributions sought for BREEAM, it is considered that the set formula (page 24 of the SPD) is onerous. The requirement for BREEAM ‘Outstanding’ is strongly disproportionate and will be technically unfeasible in some circumstances. There are no examples of any BREEAM ‘Outstanding’ retail centres and only 1 that is achieving Excellent under the 2011 scheme (although this is for an interim assessment and has not been fully certified yet as yet). This is only achieving a 70.21% score, which is 0.21% above the minimum to achieve BREEAM Excellent. The only retail buildings to have achieved Outstanding are single buildings and use the older and less demanding 2008 methodology.

We are not aware of any policy or industry best practice which seeks a blanket requirement for Outstanding or indeed a contribution for not achieving it. This requirement, and the set formula for planning obligations, is seen to negatively impact upon viability. The formula should be removed and obligations
sought on a site specific basis that reflects the Council’s requirements for specific areas taking into account viability. It should also acknowledge the wider range of sustainability initiatives that will be achieved that will not be recorded using BREEAM.

Seeking to meet this obligation will impose green lease requirements on the incoming tenants, restrict the retail risk offer through a reduction of the amount of shop frontage, glazing display lighting and therefore diminish the retail experience that is being sought.

Overall, the importance of viability is not emphasised across the SPD. While it is recognised for all planning obligation categories within the SPD, bar those that have formulas, that negotiations will take place on a site by site basis there is no direct reference to taking into account the viability, in particular paragraph 21. Although this may be implied, it should be state that viability will be taken into consideration.

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<th>No</th>
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| 36 | Eden Walk GP Ltd C/o J Adams (Deloitte Real Estate) Email 2 of 2 (07/03/2014)         | Draft CIL Regulation 123 List
Deloitte note that the draft CIL Regulation 123 List “the List”, as set out within the Infrastructure Funding Gap Assessment and R123 List Background Paper, will be subject to revision (in line with Section 2:2:6:3 of the DCLG Community Infrastructure Levy Guidance February 2014). Nonetheless, it is evident that the current List does not align with RBK’s full aspirations for the future of Kingston Town Centre that have been outlined to date within adopted planning policy in the form of the Royal Borough of Kingston Core Strategy and Kingston Town Centre Area Action Plan (K+20). The need to revitalise Kingston Town Centre is also reflected within the Royal Borough of Kingston – Kingston Futures

It is important to note that this list should not be viewed as an ultimate spending plan for CIL. No list of this type can be exhaustive. It will be subject to regular review, taking account of latest available evidence on costed projects.

Please also note that the some infrastructure projects would be sought via Planning Obligation provided they meet the CIL Regs 122 test and the requirement for up to 5 pooled planning obligations.
Cabinet Report ("the Report" dated 9 July 2013) which sets out a number of Kingston Futures projects to transform the borough for the better. A number of these projects included within this Report are not, however, provided on the Physical Infrastructure List.

In particular this relates to the Eden Quarter Area, which includes Eden Walk, Eden Street and sites to the East, an area in which the Council seeks to unlock development as set out within the Report. At present, the List does not provide for the physical infrastructure required to meet these aspirations.

The list should include the following:

1. Extending the proposed area for the installation of a District Heating Network to include the entire Eden Quarter, which currently only covers the “Penrhyn Road area connecting (principally) Kingston University, Surrey County Council, Kingston College and the Guildhall Complex.”
2. Kingston Futures Eden Walk Shopping Centre – Public Realm improvements;
3. Improvements to transport networks and infrastructure within Kingston Town Centre. This could include improved bus infrastructure, enhancements of the highway network and enhance Variable Message Signing to improve utilisation of care parks and to more effectively manage traffic on the network, as well as improved pedestrian and cycle linkages; and
4. Public realm improvements to the Town Centre, including a programme of wayfinding (Paragraph 18 of the Report).

The level of detail within the 123 List should also be increased to provide a description of each component. For example public realm improvements should include elements such as...
decluttering, repaving, improved pedestrian crossing, boundary treatments etc.

37
Chessington World of Adventures Resort
C/o H Whitney (Nathaniel Lichfield & Partners)

Email (10/03/2014)

**Draft Charging Schedule**

All Other Uses:

The Draft Charging Schedule incorporates a CIL rate of £20 for “all other uses” including industrial warehousing (B2 and B8), offices (B1), Hotel and D1 and D2 uses. Our previous representations (dated 14 May 2013), which objected to this proposed rate, have not been taken into consideration within the revised Charging Schedule, which remains as previously stated for this category of development. Therefore, we seek to reiterate our concerns about the proposed £20 rate against the NPPF’s soundness requirements.

The Council’s evidence base supporting the Charging Schedule, prepared by BNP Paribas, recommended a nil or nominal rate for all other uses, of not more than £20 per square metre. It is considered that the nil option should be the Council’s preferred route given that individual viability testing for the range of possible uses covered by the above category has not been undertaken and that the evidence presented fails to demonstrate that the higher rate option will not place a significant burden on developers.

The Council’s Place and Sustainability Committee Report, dated 28 November 2013, included the unjustified assumption that “a local CIL rate at just £20 per sqm is a tiny percentage of overall cost, and significantly lower than the flat rate of MCIL £35 charge”, and furthermore, that this amount could be absorbed by development “without having significant impact on viability”. However, it is considered that £20 per sqm cannot be viewed as an insignificant to ‘tiny’ cost, especially in the

The Mayoral CIL is already built into the appraisal model and therefore the outputs reflect this charge.

The Council consider that a CIL charge of £20 m2 is a nominal rate and is unlikely to have significant impact on viability across the borough, as it is will be a small percentage of development costs. (the nominal rate is also supported by the appraisals prepared by BNP PRE.

It is considered that in setting a nominal rate for all other uses, the Council has struck an appropriate balance between:

a. The desirability to fund infrastructure required to support the development of its area, and
b. the potential effects, taken as a whole, of the imposition of CIL on the economic viability of development across its area.
context of the Mayoral CIL levy of £35 per sqm (giving a total charge of £55 per sqm for developers to absorb). Where large areas of new floorspace are proposed, as is typically the case for many of the uses covered by this category, it is likely to impose a significant burden on schemes and impact their viability. Whilst it is accepted that there is significant diversity issues within the group, this does not justify setting any amount of levy, as the sustainability of such a figure is totally unknown. Instead a precautionary approach should be taken and the levy set at nil.

In relation to viability and deliverability, the National Planning Policy Framework (NPPF) is clear that the sites and scale of development identified in the plan should not be subjected to such a scale of obligations and policy burdens that their ability to develop viably is threatened (paragraph 173). Furthermore, as currently drafted, the Draft Charging Schedule has not been positively prepared, and is not supported by satisfactory, proportional evidence to justify the proposed charges, in line with the soundness requirements of the NPPF (paragraph 182).

Chessington World of Adventures Resort
C/o H Whitney (Nathaniel Lichfield & Partners)

Email (10/03/2014)

Planning Obligations SPD
Community Safety and Visitor Management

The Planning Obligations SPD states that a contribution towards Community Safety and Visitor Management may be required from all types of major development depending on their nature, scale, location, existing provision and individual circumstances. The flexible approach suggested, whereby contributions are negotiated on a case basis is welcomed. However, additional text should be added to ensure flexibility where existing businesses already have in place established

Comment noted, The Council considers that the wording in the draft SPD “Community safety and visitor management measures may be sought from the types of development set out below, depending upon their nature, scale, location, existing provision and individual circumstances” is sufficient to justify a flexible approach.
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<td>37</td>
<td>Chessington World of Adventures Resort</td>
<td>Email (10/03/2014)</td>
<td>Planning Obligations SPD</td>
<td>Comment noted. The Council considers that the wording in the draft SPD “Contributions will be negotiated on a case by case basis” is sufficient to justify a flexible approach</td>
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<td>Site Specific Transport Requirements</td>
<td>Where a site has an active existing travel plan, the Council will take it into consideration. The thresholds for Travel Plan and Monitoring Fee are set out in the Council’s Sustainable Transport SPD.</td>
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Paragraph 3.21 highlights that the Council will seek to promote local business development and maximise training and employment opportunities in conjunction with new development, and may seek planning obligations and contributions from ‘significant major developments’ on a case by case basis. Clarification should also be provided to identify what constitutes ‘significant major development’ so developers can clearly understand in which circumstances these obligations will be sought.

In general, the case by case approach for planning obligations for major development schemes is welcomed. However, where existing businesses have training and apprenticeship schemes already in place which are operating successfully, this should be taken into consideration in the negotiation process. We suggest the supporting text is amended to reflect these circumstances.

Where a site has an active existing travel plan, the Council will take it into consideration. The thresholds for Travel Plan and Monitoring Fee are set out in the Council’s Sustainable Transport SPD.
instead state that if there is an existing active Travel Plan in place, a further plan will not be required and where proposals are small scale and will not have an adverse impact on local infrastructure, a new or revised Travel Plan will not be required. Further to this, we consider that the high monitoring fee (£3,500) for non-residential uses (creating greater than 50 staff/visitors) is inappropriate and should be reduced.

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|    | The SPD seeks a climate change mitigation contribution when required standards for both residential development and non-residential development are not met. The proposed contribution is calculated on the basis of floorspace and the actual standard achieved. Our client strongly objects to the prescriptive rates outlined in paragraph 3.43, given the changes that are likely to occur in national and London wide policies over the plan period (particularly in regards to zero-carbon and offsetting).

We acknowledge that RBK has included a caveat at paragraph 3.44 which makes reference to the Council recognising the impact these contributions could have on viability. However, in some cases, it is not always as feasible to achieve an Outstanding BREEAM rating, for a range of site specific circumstances. Under the proposed SPD approach this would result in a large financial contribution/a ‘fine’ where a good standard of sustainability may already be achieved.

The proposed charges for not meeting the relevant standards are calculated per sq m. We consider that sustainability is not purely a result of floorspace and therefore penalising larger buildings is not appropriate. Rather than a standard ‘fine’, the Amendments have been made to the Sustainable Construction/Climate Change and Flood Risk section of the Planning Obligations SPD, which states "The preference is for developments to meet targets set out in the adopted Local Plan or London Plan on site. Where required targets cannot be met, developers may be required to contributed to a CO2 offset fund which will go towards the funding of off-site CO2 reduction measures in the locality. In future this contribution will be used to fund “allowable solutions” which will allow developers to support off site carbon dioxide reduction measure where it is technically not feasible or commercially not viable to abate all carbon dioxide emission reductions through on-site measures". |
SPD should be amended so that any proposed contributions are assessed in the context of individual applications, on a case by case basis, particularly on major schemes, to ensure that a balance is struck at that particular time. Setting a standard fine is not considered to be appropriate, particularly given the changing nature of energy technologies and energy related policies.