

## Consultation Report

Appendix F for the Cabinet Report:  
Draft Community Infrastructure Levy  
Charging Schedule

February 2013

No.	Title
Appendix A	Community infrastructure levy (CIL) draft charging schedule (available with the report)
Appendix B	Draft Regulation 123 list (available with the report)
Appendix C	Infrastructure Plan (available on the website)
Appendix D	Equalities Analysis (available on the website)
Appendix E	Consultation Plan (available on the website)
Appendix F	Consultation Report (available on the website)

**Preliminary Draft Community Infrastructure Levy Charging Schedule Representations and Officer Responses**

Representation Ref	Objector Ref	Agent Ref	Objection/Support	Consultation Stage	Document	Details of Representation	Officer Response to Representation
1	643		Support	Preliminary draft CIL charging schedule	General Comments	<p>Thank you for consulting the Environment Agency on the above. We are pleased of our previous involvement in the production of the Delivery and Implementation Plan (DIP) to support the implementation of the Core Strategy policies. This information has also been used to inform the emerging Draft Community Infrastructure Levy- Charging Schedule.</p> <p>We have also worked closely with London Borough of Southwark in identifying infrastructure projects contained within Area Action Plans, supplementary planning documents and other strategies e.g. Aylesbury Area Action Plan, Canada Water Area Action Plan, draft Peckham and Nunhead Area Action Plan, Elephant and Castle Supplementary Planning Document; draft Open Spaces Strategy; Biodiversity Action Plan and Surface Water Management. We would wish to comment on the following:</p> <ul style="list-style-type: none"> <li>• Flood Risk • Potential for Flood Storage Opportunities</li> <li>• CIL and Water Framework Directive (WFD) objectives</li> <li>• A better environment and healthier fisheries in Southwark</li> <li>• Changes to Flood Infrastructure Funding</li> <li>• Additional sources of income</li> </ul>	Support noted.
2	643		Support	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>Flood Risk 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. Catchment Flood Management Plans (CFMPs) for the River Thames catchment as highlighted four overarching key messages:</p> <ul style="list-style-type: none"> <li>• Flood defences cannot be built to protect everything;</li> <li>• Climate change will be the major cause of increased flood risk in the future;</li> <li>• The floodplain is our biggest asset in managing flood risk</li> <li>• The ongoing cycle of development and urban regeneration is a crucial opportunity to manage flood risk.</li> </ul> <p>At present it is still possible and effective to maintain these flood defences. Climate change will mean that these defences will become less effective in the future. We therefore need to make sure that:</p> <ul style="list-style-type: none"> <li>• any redevelopment reduces the residual flood risk in the areas benefiting from these flood defences;</li> <li>• 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.</li> </ul> <p>The borough Strategic Flood Risk Assessment (SFRA) assesses this 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</p>	Noted.
3	643		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>Core Strategy policy 13 - High environmental standards sets out that new development will only be allowed in the Thames flood zone where it is designed to be safe, resilient and meets the Exceptions Test. Similarly, all new development will be required to reduce water run-off rates. Storm water storage is included as an item of secondary infrastructure in our infrastructure plan. This would entail investment in open spaces to increase their capacity to store water and slow surface runoff. Further projects relating to flooding infrastructure could be added to our Infrastructure Plan if they are identified in the future. Primarily, CIL will be used to fund infrastructure that is required to support growth rather than to support the maintenance of existing infrastructure.</p>	Noted. Core Strategy policy 13 - High environmental standards sets out that new development will only be allowed in the Thames flood zone where it is designed to be safe, resilient and meets the Exceptions Test. Similarly, all new development will be required to reduce water run-off rates. Storm water storage is included as an item of secondary infrastructure in our infrastructure plan. This would entail investment in open spaces to increase their capacity to store water and slow surface runoff. Further projects relating to flooding infrastructure could be added to our Infrastructure Plan if they are identified in the future. Primarily, CIL will be used to fund infrastructure that is required to support growth rather than to support the maintenance of existing infrastructure.
4	643		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>Surface Water Flooding 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. As a Lead Local Flood Authority Southwark Council has been allocated</p>	Noted. Core strategy policy 13 - High environmental standards requires all new development to reduce rates water run-off, with all major development required to reduce run-off by 50%. Interventions will therefore often be dealt with on-site as part of the design process. Storm water storage is included as an item of secondary infrastructure in our infrastructure plan. This would entail investment in open spaces to increase their capacity to store water and slow surface runoff. Where specific infrastructure projects are identified that will help to mitigate against surface water flooding, they could be added to future versions of the Infrastructure Plan. If this infrastructure is specifically required to support growth in the borough, then CIL could potentially be used as a funding mechanism. We have included the storm water storage projects on our Regulation 123 List.

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5	643		Support	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>nearly £1.5m by DEFRA to help prepare the borough against flooding from surface water run off. 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 publication of Environment Agency maps, that show which areas are more susceptible, 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. For example on 27 April 2004, severe rainfall in the south of the borough caused extensive surface water flooding which inflicted considerable damage on residents and their homes, public services and private businesses in the Dulwich area. CIL would be used to mitigate the impacts of surface water runoff.</p> <p>Potential for Flood Storage Opportunities We support the inclusion of Storm Water Storage in the Infrastructure Plan. It is possible that long term planned growth in the regeneration areas might affect the occurrence and significance of flooding. Surface water flood risk mitigation measures will be required. We support the council identification of specific flood storage areas planned in open public spaces in the Dulwich, Peckham Rye, Camberwell and North Peckham. CIL would deliver additional funding for the borough to carry out a wide range of infrastructure projects that support growth and benefit the local community. We are ready to assist the borough in completing a Surface Water Management Plan to identify the neighbourhoods and individual planning units that are at risk of flooding CIL and Water Framework Directive (WFD) objectives. The Environment Agency has published River Basin Management Plans that identify measures that will achieve WFD requirements for all water bodies in England and Wales. Regulation 17 of the Water Environment (WFD)(E&amp;W) Regulations 2003 places a duty on each public body including local planning authorities to 'have regard to' river basin management plans. Our approach will be to work in partnership with the London Borough of Southwark to: • identify when there might be impacts on water bodies; • seek options that reduce impacts on water bodies; • assess the risk of deterioration or failing to improve water bodies; • require all practicable mitigation. There is need to incorporate WFD priorities into the Infrastructure Plan and the borough engagement in the preparation of River Basin Management Plan. CIL would be used to secure benefits for the 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. It would also be used to promote environmental health and pollution control functions, such as engaging with businesses to avoid water pollution, stimulating behaviour change to reduce risks of pollution, raising public awareness of drainage misconceptions and involvement in actions to avoid illegal fly tipping and littering of watercourses. CIL would also be sought and used in managing the borough's own buildings and assets, and greenspace functions including council owned housing, industrial estates, green space, in developing and managing green infrastructure for water environment benefits. CIL would assist the council highways functions – highways design, use of SuDS, highways maintenance and street cleansing to manage flood risk and levels of pollution in highways runoff.</p>	<p>Support noted. Specific interventions to address the objectives of the Water Framework Directive will be determined, in conjunction with the Environment Agency, as part of the preparation of the local flood risk management strategy. CIL will be primarily used to support growth in the borough in the period up to 2026, as set out in our Core Strategy, rather than to maintain existing infrastructure. These issues were considered as part of the sustainability appraisal that accompanied the Core Strategy. Investment in green infrastructure is covered in the open space, public realm and biodiversity section of the infrastructure plan. Specific projects will be identified over the lifetime of the plan.</p>
6	643		Objection	Preliminary draft CIL charging	Infrastructure Plan	<p>A better environment and healthier fisheries in Southwark Southwark is adjacent to the River Thames which supports freshwater, estuarine and marine species of fish including dace, roach, bream, bass, smelt, flounder and eels. Eel populations in</p>	<p>Noted. Primarily, CIL will be used to fund infrastructure that is required to support growth rather than to support the maintenance of existing infrastructure.</p>

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7	643			schedule	Infrastructure Plan	<p>the tidal Thames are currently considered sustainable, although throughout Europe, eel populations are in decline. The Environment Agency carefully monitors and controls commercial eel catches and a great deal of work is being done to try and improve stocks. The Environment Agency has recently supported a project to create a large area of reed beds within Canada Water, funded by London Borough of Southwark's 'Cleaner, Greener, Safer' funding. This should provide new habitat for fish and other wildlife. The Environment Agency has also worked in partnership with the London Borough of Southwark and Burgess Park Anglers as part of a £6million project to improve Burgess Park and Lake. The lake is a busy carp fishery which suffers from chronic water quality problems, falling water levels and a lack of aquatic habitat. We have assisted in the establishment of a new angling club and have now begun to improve the lake and the surrounding park. It is hoped that the Burgess Park Revitalisation Project will help to restore the lake to secure its long term future as an important resource for the community. The Infrastructure Plan lists Burgess Park Improvements Phase 2-4. We hope CIL will be used for future maintenance of the park and promote healthier fisheries. See the link below "Fishing for the future 2015" for more detail:<a href="http://www.environment-agency.gov.uk/research/library/publications/38067.aspx">http://www.environment-agency.gov.uk/research/library/publications/38067.aspx</a></p> <p>Changes to Flood Infrastructure Funding There have been changes to the funding mechanism for flood and coastal defence projects. On 23 May 2011 Defra announced changes to the way funding will be allocated to flood and coastal defence projects. See the link below for more details: <a href="http://www.defra.gov.uk/environment/flooding/funding-outcomes-insurance/">http://www.defra.gov.uk/environment/flooding/funding-outcomes-insurance/</a>. The implication is 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, for example, the borough Infrastructure Plan indicates that the Environment Agency – Flood Defence Grant in Aid for London Borough of Southwark will be unfunded by £12.7m and the council will seek CIL funds to cover the deficit. 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. 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 the first time, grants for surface water management and property-level protection will be available alongside funding for other risks and approaches. Government funds have also been allocated to local authorities to help carry out their new responsibilities as Lead Local Flood Authorities under the Flood and Water Management Act 2010. Please see attached document and link below. <a href="http://www.defra.gov.uk/news/2010/12/23/flood-funding/">http://www.defra.gov.uk/news/2010/12/23/flood-funding/</a> Local authorities can apply for grant for capital investment from the Environment Agency to create new or improved flood risk and coastal erosion management infrastructure and tackle groundwater and surface water issues. Revenue and non-grant eligible expenditure by local authorities is supported by formula grant from the Dept for Communities and Local Government (DCLG), but it is not ring fenced for flood and coastal risk management. In the future, local authority flood and coastal risk management activity will be funded through the business rates retention system. Business rates retention system – on the DCLG website.</p>	Noted.
8	643		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>Additional sources of income In April 2012, the Environment Agency published guidance, case studies and other resources for those wishing to build successful funding partnerships for flood and coastal defence schemes. Guidance, case studies and other resources – on the Environment Agency website We have also published an external contributions policy setting out the circumstances under which we will routinely seek contributions from those who benefit the most from our</p>	Noted.

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9	643		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>flood and coastal erosion management projects, such as businesses and local communities. The principles set out in this policy are equally applicable to other operating authorities. The policy also describes what influence these contributions could have on the scope and timing of the works to be completed. The LGA has published guidance on additional sources of funding for flood and coastal defence projects, including lists of case studies. In April 2012, Defra published additional guidance on how alternative sources of funding can be sought. Long-term investment requirements The Environment Agency has published a long-term investment strategy which presents an assessment of funding requirements for flood and coastal erosion risk management over the next 25 years (2010 to 2035) in the context of climate change assumptions. Flood and coastal risk management in England – long-term investment strategy – (PDF, 24 pages, 277KB) Defra has commissioned work to help a sample of lead local flood authorities prepare strategic investment plans for their areas for all sources of flood risk. The results are due to be published by the end 2012 Other funding Surface water and groundwater flooding – on the Defra website Improving surface water drainage – on the Defra website Flood and Coastal Resilience Partner funding – and introductory guide (PDF, 7 pages, 428KB) – on the Defra website</p>	<p>The council has worked with a wide range of stakeholders to identify infrastructure requirements that will support growth over the period up to 2026. The infrastructure plan will be a 'living document' and will be updated periodically as new projects are identified.</p>
10	889		Objection	Preliminary draft CIL charging schedule	General Comments	<p>We hope the Council will work with infrastructure providers and stakeholders to identify requirements for infrastructure provision and services for new development and will seek to co-ordinate infrastructure delivery, whilst protecting local amenities and environmental quality.</p>	<p>The benefits of CIL are increased certainty for the funding and delivery of infrastructure, increased certainty for developers and increased transparency for local people. CIL is included as a cost to the developer when undertaking a financial viability assessment for a development scheme, and does not create financial distortion.</p>
11	889		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>The exemptions imply a value judgement on the part of the Council that certain activities are implicitly more beneficial than other organisations or activities, and should in the judgement of the Council, be supported by other taxpayers</p>	<p>The CIL Regulations require CIL to be exempted for affordable housing and developments by charities of buildings used for charitable purposes. The nil charge for public libraries, health and education is justified on the basis that these types of development cannot usually generate enough income to cover their costs, require some form of public subsidy to operate, and are unlikely to be built by a private developer. Many of these uses will be infrastructure themselves which CIL will help to provide. There is also a legal obligation to provide health and education facilities in response to population change.</p>
12	889		Objection	Preliminary draft CIL charging schedule	General Comments	<p>Your documents explicitly state the advantages of exemption are that, where CIL to be applied, it would prevent or discourage these developments. It is obvious to state that where your exemptions do not apply it will discourage or distort development due to the imposition of this new tax.</p>	<p>CIL Regulation 14 states that in setting rates (including differential rates) in a charging schedule, a charging authority must aim to strike what appears to the charging authority to be 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.                      We have not proposed CIL rates which are at the limits of viability and we have left a margin from the maximum CIL rate which developments could absorb, to allow for change and site specific viability issues to be accommodated.</p>
13	889		Objection	Preliminary draft CIL charging schedule	General Comments	<p>The increased taxation revenue being used by the Council to make developments implies that more Council spending is better than other spending. History demonstrates that Council development spending is frequently seen subsequently to have been damaging and contrary to the will of the people. More Government</p>	<p>The purpose of CIL is to support growth rather than mitigate impacts of specific developments, therefore it can be used more strategically than s106 contributions. A protocol for governing expenditure will be prepared in due course. In addition, under the Localism Act, the council must identify a 'meaningful proportion' of</p>

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14	889		Objection	Preliminary draft CIL charging schedule	General Comments	<p>does not mean better Government.</p> <p>To apply taxation on certain types of development, which transfers funds from the individual to a Council, gives the Council greater power and influence over development decisions. This is contrary to the stated policies of Central Government.</p>	<p>Southwark CIL that will be spent in the local area to ensure that those people affected by development see some of the benefit. This allocation would be made using the community infrastructure project list (CIPL) which will be based on a revised project bank list. This would be updated every year with consultation with the community councils and planning committee to ensure it reflects local needs. DCLG have announced that local areas without a neighbourhood plan but where the CIL is still charged will receive a 15 per cent share of the revenue from development in their area, but this will be capped at £100 per council tax dwelling. Areas with adopted neighbourhood plans would not be subject to a cap on the potential value of a 25 per cent CIL share they would receive.</p> <p>In proposing a CIL Charging Schedule we have followed the requirements set out in the CIL Regulations and the Government's statutory CIL guidance.</p>
15	889		Objection	Preliminary draft CIL charging schedule	General Comments	<p>This tax will have a negative effect on the improvement and increase in capacity of the building stock in the area, and encourage development to take place elsewhere. The continual development and improvement of the building stock is good for the local economy, so the levy is contrary to local sustainability policies.</p>	<p>The proposed CIL rates have been set at levels which take account of viability in the lowest value areas of the borough. The viability evidence sets out the maximum level of CIL that a range of different development site schemes located throughout the borough should be able to absorb. We have not proposed charges which are right up to the margin of economic viability for the range of sites which have been tested. The buffer will help to mitigate a number of risk factors (primarily the potentially adverse impact on land supply of setting the rates at a high level and 'shocking' the market) and it takes into account that economic circumstances and land values could change during the lifetime of the charging schedule</p>
16	635	44	Objection	Preliminary draft CIL charging schedule	General Comments	<p>We would like to thank you for the invitation to the preliminary draft community infrastructure levy (CIL) charging schedule consultation workshop this week. Both we and our client found the session extremely useful in gaining further insight into the proposals and process for the implementation of CIL for London Borough of Southwark (LBS). We have undertaken a review of the consultation documents in some detail and write with a formal representation on behalf of London South Bank University (LSBU) to the first round of consultation. The University has developed a clear vision for the future growth and improvement of the Southwark campus and as a major land owner, employer and stakeholder, LSBU has an important role to play in the Borough and the University is committed to working in partnership with LBS. The University's vision seeks to provide an enhanced central campus focusing on the existing area of university accommodation and providing a high quality environment with a diverse mixture of uses. This vision will contribute substantially to the regeneration of the area, with spin off benefits by way of educational attainment, employment, vibrancy and physical environment improvements. As part of the vision for a more compact campus, and to enable more efficient use of the existing university accommodation, the campus is likely to be redeveloped in the future and CIL will likely have important ramifications for the University's estate strategy going forward. It is within this context that this representation is put forward by LSBU; in consideration of the potential impact of LBS CIL for the future ability of the University to provide an attractive and enjoyable place to learn, live and work for its students, staff and visitors across its estate. This necessarily includes consideration of the potential impact of CIL across the wider borough. The preliminary draft CIL charging schedule and supporting reports are comprehensive and developing into a good quality suite of documents. We would however like to request a few points of clarification and suggest a change to the proposed CIL rates particularly in relation to the Student Accommodation rate to</p>	<p>Comments noted</p>

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17	635	44	Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>reflect the University's vision. To that end we hereby submit the following queries, comments and suggested amendments to the preliminary draft CIL schedule. For clarity the comments are provided in a schedule with responses provided against each of the documents considered.</p> <p>The University is generally supportive of the LBS Infrastructure Plan in its current form. This has been Sections 1- prepared with due regard to existing plans and initiatives forming a comprehensive compendium of projects for 3 ell expenditure. Projects list Given the important role the University and its partners have in supporting growth in the Borough, the expectation is that CIL receipts will be used to help support the infrastructure needed to enable the University to grow and flourish. This is anticipated not only in relation to the strategic Gil allocations but also in relation to the localised projects identified through the CILPI (Community Infrastructure Projects List) or 'project bank list'. 2. Transport P10 The University particularly supports CIL spending on enhancing the road network at the Elephant and Castle Northern Roundabout to provide an improved environment for pedestrians and cyclists. The Technopark site bounded by London Road, Ontario Street and Keyworth Street is a future development site that is crucial to delivering the university's campus vision. This is a key gateway to the University campus and ISBU's aspiration is that future improvements to the surrounding public realm will assist in marking the arrival into the Enterprise Quarter and providing pedestrian friendly connections and routes. 3. Open Space P13 The University welcome the direction of Gil funding towards delivery of Open Spaces Strategy/All london Green Grid projects particularly for new and improved green links throughout the Borough, including those identified along Borough Road and london Road. The Cil allowance refers to 64 sites and £12.8m funding (Open Space Strategy) and 35 sites and £5.85m (AIGG). Clarification is requested regarding which projects this refers to and whether this includes funding for improvements to 'green links'. General It is appreciated that the costs and figures contained within the IP are estimates and based on knowledge available to the Council at the time of production. However, it is noted there are a number of discrepancies in the indicative figures provided in terms of monies received and existing shortfall. There is also an incomplete sentence: "Storage areas are planned in open public spaces in the Dulwich, P27 Peckham Rye, Camberwell and North Peckham areas to mitigate risk in these areas where."</p>	<p>We have amended the Infrastructure Plan to address any discrepancies. Southwark contains two Green Grid character areas: GGA6 South East London Green Chain Plus, and GGA12 Central London and a number of projects have been identified for funding. These are listed in the Mayor's All London Green Grid Area Frameworks. <a href="http://www.london.gov.uk/priorities/environment/greening-london/parks-green-spaces/green-grid/area-frameworks">http://www.london.gov.uk/priorities/environment/greening-london/parks-green-spaces/green-grid/area-frameworks</a></p>
18	635	44	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>The study states that some residential schemes would be unviable even if a zero Cil were adopted and that the Council should pay limited regard to these sites. (para.1.8 P7) Further clarification is requested whether other types of scheme/mix of uses have been modelled for these sites to robustly assess viability. Presumably IBS' 35% affordable housing policy provision is a key consideration in assessing viability however there is limited detail regarding this statement. 2. The University supports the marginal approach to rates, setting Cil rates at the lower level of the scale to provide a buffer for site specific variations. ( P8 Para. 2.2) 3. The study recommends that the Council considers the potential phasing of Cil payments. It is understood that IBS have taken on board this advice and are looking at adopting an instalment policy which will allow for phased payments of CIL. The University support the adoption of a phased payment approach which is flexible and acknowledges variations in the densities of development. This will assist in improving the viability and deliverability of development across the Borough. (P9 Para. 2.7)</p>	<p>The CIL Viability study incorporated sensitivity analyses assuming growth in sales values between 10% and 20%, accompanied by cost inflation of between 5% as well as a fall of 10%, to provide us with an indication of the impact of changes in values and costs on viability. The addition of CIL which is a modest proportion of development costs would not stop these particular schemes coming forward. Movements in sales values and build costs are the key factors; CIL is a marginal factor. The site viability appraisals included a 35% affordable housing policy requirement and this is set out in 'Local policy context' section of the viability study. An instalments policy will be proposed and consulted upon in 2013. Representations and consideration of the affect of any Instalments Policy can be considered then. It should be noted that the Mayor of London will be consulting upon their Instalments Policy, which will be the default for Southwark until such a point Southwark brings forward it's own.</p>
19	635	44	Objection	Preliminary draft CIL	CIL Viability Study	<p>Methodology and Appraisal inputs The general methodology appears sound. It is however unclear within the wording of the report how the 41 sample sites have</p>	<p>We have appraised 52 development sites and one scenario scheme, reflecting both the range of sales values/capital values and also a range of sizes/types of</p>

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20	635	44	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>been modelled. There is little explanation regarding whether the schemes are 'real' scenarios of schemes coming forward to LBS or whether there is any consideration to hypothetical scenarios or any variations to density/mix etc. Further detail would assist readers in understanding the appraisal process.</p> <p>1. The University welcomes the recognition of exemptions for charities - as a 'charitable institute' we understand that LSBU is exempt from payment of CIL on any development constructed wholly or mainly for 'charitable purposes' both within and outside of the LSBU Campus. 2. The University supports the general approach towards differential rates set by zones across the Borough rather than a single flat CIL rate. 3. The University also support the nil rate charge for development constructed for wholly or mainly Educational use. The University is actively working in partnership with a wide range of organisations to engage effectively with local communities through the Community Engagement Project and a number of LSBU facilities are open access to community/public use. It is understood from the CIL schedule that any University facilities which are accessible to the public/communities use will be exempt from CIL</p>	development and densities of development across the borough to ensure we have obtained a representative sample.
21	635	44	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>5. The University supports the nil CIL rate on publically accessible facilities including libraries, sports and leisure centres however, the approach is somewhat complex when the schedule deals with categorising 01/02 type uses. Community use development, such as community centres or youth facilities, which are often publically funded infrastructure would appear to fall under 'all other uses' and be required to pay CIL at £50/m<sup>2</sup>. Further clarity is requested regarding the CIL process for these types of community developments. 6. Emergency services infrastructure (e.g. fire stations, police facilities) is essential publicly funded infrastructure. Under the proposed Charging Schedule it falls under 'all other uses' and would be required to pay CIL at £50/m<sup>2</sup>. The University supports the continued provision of high quality emergency services across the Borough and in particular for the wellbeing of its students and staff. As such it is considered that development by essential emergency service providers should be exempt from CIL.</p>	<p>The preliminary draft schedule sought to make a zero charge for health and education floorspace which is predominantly publically funded. The CIL Regulations do not allow charging authorities to vary levies on the basis of a funding mechanism. We have removed this description from the draft charging schedule however will continue to propose a nil charge to all education and health floorspace. Applying a modest CIL to other development, including those which fall typically within the use classes of D1 and D2 is considered to be unlikely to adversely affect the viability of such developments. Where a scheme is unviable the imposition of CIL at a zero level will not make the scheme viable. Other factors (i.e. sales values, build costs or benchmark land values) would need to change to make the scheme viable. We have proposed to amend the preliminary draft CIL schedule rate of £50 to £30 for 'All other uses',</p>
22	635	44	Objection	Preliminary draft CIL charging schedule	EqIA	<p>The CIL Charging Schedule Equalities Analysis and Consultation Plan documents have also been reviewed. The University has no comments in relation to these documents.</p>	Comments noted
23	130	9	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>On behalf of our client, Wm Morrison Supermarkets Plc, we strongly object to the following proposed Community Infrastructure Levy rates for medium and large-scale retail development in the borough (all zones) set out in the Preliminary Draft Charging Schedule (July 2012): 280 sq m - 2,499 sq m: £125/sq m &gt;2,500 sq m: £250/sq m</p>	Noted. See our response to representation nos. 24-27.
24	130	9	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Whilst we acknowledge that the Preliminary Draft Charging Schedule has been informed by a viability assessment prepared by BNP Paribas, our client is gravely concerned that the suggested charge will have a significant adverse impact on the overall viability of future retail development in the borough. A balance has not been found between infrastructure funding requirements and viability. Effectively, new medium and large-scale retail development, such as supermarkets, is being used as a 'scapegoat'. The draft charge will put undue additional risk on the delivery of any such proposals and will be an 'unrealistic' financial burden. This, in turn, poses a significant threat to potential new investment and job creation in the local area at a time of economic recession and low levels of development activity.</p>	The council's evidence shows that the majority of development will not be put at risk by the proposed charges.
25	130	9	Objection	Preliminary	Preliminary	<p>Whilst the CIL regulations allow charging authorities to set differential rates for</p>	The council is proposing to rationalise the retail charges to base them on distinct



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26	130	9	Objection	Preliminary draft CIL charging schedule	General Comments	At Examination, Sainsbury's objected to Borough of Poole's proposal to charge differential rates within the same intended use of development, which included £200/sq m for superstores. This prompted the Inspector to adjourn the Hearing to allow the Council to review its approach in relation to separate rates for different sub-categories for Class A1 development. Subsequently, Borough of Poole, Mid Devon District Council and Elmbridge Borough Council have all dropped their plans to charge differential rates for retail development, because the same CIL rate should apply across all retail development	The council is proposing to rationalise the retail charges to base them on distinct types of development. The charges are justified by fine grained viability evidence. The Poole inspector concluded that "There is nothing in the CIL regulations to prevent differential rates for retail development of different scales. However paragraph 25 of the CLG guidance (CIL Guidance: Charge setting and charging schedule procedures) states that where a charging authority is proposing to set differential rates, it may want to undertake more fine-grained sampling to identify a few data points in estimating the zonal boundaries or "different categories of intended use" (para 24)
27	130	9	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	It should also be noted that the proposed charges for medium and large-scale retail and/or supermarket development are significantly higher than those being proposed or adopted by other local authorities in London, e.g. £30/sq m in LB Newham; £70/sq m in LB Redbridge; £80/sq m in LB Lewisham and LB Brent; £100/sq m in LB Merton and LB Wandsworth; £120/sq m in LB Croydon and LB Sutton; £135/sq m in LB Barnet; £200/sq m in LB Islington; and £215/sq m in LB Hillingdon.	Noted. However, in the council's view the proposed charges for retail space are informed by available evidence.
28	891		Unclear	Preliminary draft CIL charging schedule	General Comments	Having read the charging schedule and accompanying documents, we have no comments to add.	Noted.
29	890		Unclear	Preliminary draft CIL charging schedule	General Comments	Thank you for your letter dated 2 August 2012 inviting the Highways Agency (HA) to comment on the Consultation on the Preliminary Draft Community Infrastructure Levy (CIL). The HA is an executive agency of the Department for Transport (DfT). We are responsible for operating, maintaining and improving England's strategic road network (SRN) on behalf of the Secretary of State for Transport. The HA will be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN. We have reviewed the consultations and do not have any comment at this time.	Noted.
30	892		Objection	Preliminary draft CIL charging schedule	General Comments	Summary: Based upon the information we have, it is our opinion that there is a real possibility that Southwark council and the community that it serves will be financially worse off with this scheme with the bulk of revenue financing the Mayor for London projects and leaving the council with an administration fee that will barely cover the cost of employees tasked with coping with all the hassle.	After April 2014, the council will be unable to pool financial contributions secured under section 106 of the Town and Country Planning Act 1990 to fund new and improved infrastructure, as is currently the case via our s106 supplementary planning document. The CIL is the only alternative that will provide a mechanism to pool financial contributions to fund new and improved infrastructure as new planning permissions are granted. Our infrastructure plan sets out the range of infrastructure that has been identified as required to support growth over the lifetime of our Core Strategy. This infrastructure will be delivered via CIL and a range of other funding sources. A 'meaningful proportion' (defined as 15% or 25% where a neighbourhood plan is in place) of all CIL payments will be made available to the local community in order to fund new and improved local infrastructure.
31	892		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	1. As with all local authority documents of this nature, the draft seems to be over complex and could be whittled down to at least half the size and incorporate relevant sections only of the documents referred to rather than the reader having to access a small library of associated documents. Whilst no doubt easier for the author this way, it is after all, intended to be read by anyone as part of the council transparency policy.	The charging schedule is a technical document and its content determined by Regulations. As we prepare the draft charging schedule and the updated infrastructure plan, we will try to strike a balance between including relevant sections from associated documents and keeping the schedules as brief as possible.

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32	892		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	2. There is no comparison given between 106 fees and the new CIL for the same building. Perhaps a virtual building could be created to demonstrate the benefits of CIL over 106 systems. It may also be an advantage for both applicant and administrator to devise a ready reckoner type book where one could run a finger down a column to instantly work out fees.	The CIL Regulations provide the formula for calculating CIL. Consideration for a virtual example to be included in the background evidence paper will be given.
33	892		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	3. To add to the complexity, it seems to be suggested that the CIL will be 'phased in' which may leave the council open to costly appeals. It may be prudent to issue a cut off date instead, as phasing in the new scheme has the potential to cause confusion; delay or stampered with developers trying to get their project through on whichever is the cheapest tariff.	There is no proposal to phase in CIL.
34	892		Objection	Preliminary draft CIL charging schedule	General Comments	4. What is the position in regard of retrospective planning permission? I.e. constructed before the end of 106 but applied for planning permission after CIL is in force.	Policies and Regulation at the time of determination will apply to planning permissions.
35	892		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	5. It is unclear if the term 'New build' also includes conversion of existing warehouses in to luxury apartments and offices. I.e. as an example, under CIL would 160 Tooley Street have incurred £100 per sq m rate or been exempt?	The CIL Regulations define 'new build' and the exemptions from CIL.
36	892		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	6. What is in place to prevent previously exempt buildings changing use, in effect altering their status from zero rating to perhaps £100 per sq.m?	If that requires planning permission it will be considered at that point.
37	892		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	7. The low rating for student accommodation in zone 4 will encourage more student accommodation to be built in lieu of affordable housing because of market forces.	Affordable housing dwellings can apply for relief from CIL.
38	892		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	8. There appears to be no zone boundaries set by road name or ward. Without defining where a zone begins and ends has the potential to generate costly disputes between applicant and council.	It is defined on the map. With no proposed boundaries through buildings.
39	892		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	9. What is the definition of the term 'affordable'? Does this not fluctuate with tax credits etc and the average Southwark wage?	Affordable retail is defined in our development plan documents where relevant. The Elephant and Castle SPD defines affordable retail units as being let at levels at least 40% below market rate, averaged over a 5 year period. We have removed reference to affordable retail space in the draft CIL Charging Schedule, as the council accepts that the CIL Regulations do not allow us to distinguish between retail and affordable retail when setting our CIL charges.
40	892			Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	10. Privately owned leisure centres may open to the public at equivalent rates, but not necessarily at peak times. Should they be rated the same? Many municipal baths now incorporate a Gym. It could be argued that privately owned Gym's should also be zero rated.	The Council has reviewed this and is proposing a clear rate for all Leisure.
41	892		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	11. The revenue generated by C.I.L. will be used to fund traffic calming measures and the Elephant & Castle road schemes, thus reducing the spend of both TfL and local council whilst ignoring the real issue of pollution and disruption created by the construction of new developments. The 106 agreements were to compensate local people for this, unlike C.I.L.	S106 is not for compensation but for mitigation. The infrastructure list identifies potential items for CIL, at this stage there is no committee for CIL to those projects.
42	892		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	12. The broad term 'infrastructure' needs to be defined as to what it will and will not fund. The majority of local residents would rather see truly affordable housing that they could actually afford, good academic schools and safe environment issues being funded – not a third airport.	CIL must be spent on infrastructure that is required to support growth. CIL receipts will be used to fund the types of infrastructure that are set out in our infrastructure plan. This includes investment in open space, public realm and schools, but not a third airport. CIL Regulation 123 requires local authorities to set out a list of projects or types of infrastructure that it intends to fund through CIL, and therefore

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43	892		Objection	Preliminary draft CIL charging schedule	General Comments	<p>13. At the moment, planning permission is granted with the proviso that, in most cases, the project takes place within five years. What provision has been made to avoid a developer sitting on the property for four years eleven months, waiting for the land value to increase but benefiting from C.I.L. rating which was granted five years previously and will almost certainly be cheaper than the current rate?</p> <p>On behalf of our client, Pocket, please find enclosed a detailed representation to your recent consultation on the Preliminary draft Charging Schedule, for consideration. Pocket is a private sector developer and provides intermediate housing for sale to singles and couples who earn too much to qualify for social housing, but not enough to buy on the open market. They have delivered over 140 intermediate units across London in the past four years. Based on the current CIL Regulations it is considered that Pocket's innovative approach to the provision of intermediate affordable housing does not fall within the exemptions highlighted in the CIL Regulations 2010. The CIL Regulations allow boroughs (and the Mayor of London) to set differential tariffs for different intended uses and for different zones. The CIL Guidance on Charging Schedules clearly states that the defining criteria for determination of differential rates is viability. Subject to consideration of viability evidence Charging Authorities can set different rates based on categories of development. This is not necessarily linked to a use class. The guidance from the Planning Advisory Service supports this premise. Intermediate affordable housing schemes should be considered at a differential rate to private residential development. If Pocket (and other private sector intermediate housing providers) are not given a differential rate the ramifications of this will mean that schemes across London Boroughs will become uncompetitive against private developers or against Registered Providers (who are exempt from CIL). Pocket is unable to raise its sales values and does not benefit from grant funding and would therefore be squeezed from both sides. This would mean that the delivery of intermediate housing across the borough would be impacted. We trust that this evidence will be used by yourselves in the preparation of your Draft Charging schedules and that a differential rate of £O/sqm will be set for innovative forms of affordable housing which meet the NPPF definition.</p>	<p>many of the costs for which cover had been sought through S106 contributions will be paid through CIL. S106 requirements will be scaled back to those matters directly related to a specific site, and are not set out in the Regulation 123 list. The CIL Regulations do not permit CIL receipts to be invested in affordable housing.</p> <p>Planning permissions are usually for 3 years and the CIL is calculated once any pre-commencement conditions are discharged.</p>
44	893	7	Objection	Preliminary draft CIL charging schedule	General Comments	<p>The Core Strategy (2011) sets out definitions of the types of affordable housing in Southwark: 1. Social rented housing is housing that is available to rent either from the Council, a registered provider or other affordable housing provider. Access to social rented housing is based on need. 2. Intermediate affordable housing is housing at prices and rents above those of social rented but below private housing prices or rents. It can include part shared ownership (NewBuild Homebuy), Rent-to-Homebuy and intermediate rent housing. For Pocket housing to be exempt from CIL, it would need to demonstrate that it can meet Southwark's affordability thresholds to qualify as 'intermediate affordable housing' which is set out in the Affordable Housing SPD. "CIL Guidance: Charge setting and charging schedule procedures" states "Regulation 13 also allows charging authorities to articulate differential rates by reference to different intended uses of development (for example residential and commercial)". The preliminary draft charging schedule has been amended to include a description of the type of development as opposed to use classes. Affordable housing does not constitute a use in planning terms, but instead forms part of C3 use (dwelling houses) which is included within the Residential category of the Council's Draft Charging Schedule. We are not proposing to include Intermediate Affordable housing in the charging schedule. All affordable housing which meets the CIL regulations is exempt from the CIL charge.</p>	<p>The Core Strategy (2011) sets out definitions of the types of affordable housing in Southwark: 1. Social rented housing is housing that is available to rent either from the Council, a registered provider or other affordable housing provider. Access to social rented housing is based on need. 2. Intermediate affordable housing is housing at prices and rents above those of social rented but below private housing prices or rents. It can include part shared ownership (NewBuild Homebuy), Rent-to-Homebuy and intermediate rent housing. For Pocket housing to be exempt from CIL, it would need to demonstrate that it can meet Southwark's affordability thresholds to qualify as 'intermediate affordable housing' which is set out in the Affordable Housing SPD. "CIL Guidance: Charge setting and charging schedule procedures" states "Regulation 13 also allows charging authorities to articulate differential rates by reference to different intended uses of development (for example residential and commercial)". The preliminary draft charging schedule has been amended to include a description of the type of development as opposed to use classes. Affordable housing does not constitute a use in planning terms, but instead forms part of C3 use (dwelling houses) which is included within the Residential category of the Council's Draft Charging Schedule. We are not proposing to include Intermediate Affordable housing in the charging schedule. All affordable housing which meets the CIL regulations is exempt from the CIL charge.</p>
45	893	7	Objection	Preliminary draft CIL charging schedule	General Comments	<p>1.0 Introduction 1.1 This representation has been prepared to inform LPA's throughout London currently undertaking the preparation of their CIL Charging Schedules to illustrate the potential concerns relating to the imposition of the Community Infrastructure Levy (CIL) and the ramifications upon the delivery of intermediate housing. The representation seeks to ensure that the CIL Charging Schedules take into account the impact on the delivery of forms of intermediate housing which do not fall within the narrow definition of the Housing and Regeneration Act 2008. 1.2 This representation has been prepared on behalf of Pocket, one of the capital's most innovative providers of intermediate housing. Pocket is concerned that the current wording of the CIL Regulations unfairly harms intermediate housing providers who are not providing shared ownership housing. 1.3 We have demonstrated in this representation that the type of intermediate Housing delivered by Pocket will be significantly harmed by the imposition of CIL. In order to demonstrate this impact we have highlighted a current scheme within a central London borough demonstrating the effect of Mayoral and local CIL on the ability for Pocket to deliver affordable housing on this site. 1.4 We conclude by</p>	<p>Comments noted</p>

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46	893	7	Objection	Preliminary draft CIL charging schedule	General Comments	<p>demonstrating how LPA's can ensure that innovative forms of affordable housing are not impacted by the imposition of CIL</p> <p>Who is Pocket? 2.1 Pocket is a private sector developer and provides intermediate housing for sale to singles and couples who earn too much to qualify for social housing, but not enough to buy on the open market. 2.2 Pocket's model is a unique and innovative solution which provides affordable housing grant free and delivers thoughtfully designed homes in areas with above average transport and retail facilities. It is different to traditional forms of intermediate housing such as Shared Ownership in that the occupier owns 100% of their home from day one, no grant funding is required and 'stair-casing' does not occur as homes normally remain affordable in perpetuity. Pocket builds small developments based on efficiently designed one-bed homes with additional public storage and communal space in the form of courtyards and roof gardens. The typical Pocket site is a small infill or brownfield regeneration site in an accessible area; developing these types of sites reduces pressure on more sensitive areas elsewhere. Pocket's first scheme in Camden, which comprises 22 homes, was nominated for and won many of the country's top housing design awards. Pocket has completed five schemes and three more will shortly be under construction or going through the planning process. 2.3 Pocket's most recent scheme at Fermoyle Road (Westminster) has just been completed and was the winner of Best First-Time Buy and The Best Development in the Affordable Homes Sector at the Evening Standard Housing Awards. 2.4 The GLA has confirmed that Pocket is affordable housing and we append a letter from Andrew Barry Pursell which confirm this (Appendix 1</p>	<p>The GLA letter notes that the NPPF criteria for affordability need to be met for Pocket housing to be eligible for consideration for affordable housing CIL relief. The NPPF states that eligibility is determined with regard to local incomes and local house prices. Homes that do not meet the definition of affordable housing, such as "low cost market" housing, may not be considered as affordable housing for planning purposes. Pocket would therefore need to confirm that the eligibility thresholds for intermediate housing in Southwark are met. In Southwark's case, we have adapted the London Plan income limits to create our own local affordability criteria for intermediate housing specific to our average household incomes. Our figures are within the wider intermediate housing income limits set by the GLA. They represent the mid point between the household income below which households could qualify for social rented housing (£18,100) and the household income required to qualify for a mortgage to purchase housing in the least expensive areas of our borough.</p>
47	893	7	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Why Intermediate Housing Matters</p> <p>3.1 There is a very significant crisis in London's housing market which relates to those people who are unable to afford to buy residential property on the open market but who are not eligible for social housing. 3.2 Pocket's homes are sold at an initial discount to the local market of at least 20% and their future affordability is governed through S106 and a lease which stipulates that the homes can only be on-sold to people on a household income of less than £60,000 p.a. - or whatever the affordability threshold as identified locally at the time of sale. Therefore Pocket homes make a real addition to affordable housing stock; housing that remains affordable through an innovative legal agreement that has been tested with London Councils and assessed as 'fit for purpose' by a leading ac. 3.3 Please find appended a Fact Sheet on the Pocket Approach to the provision of Intermediate Housing (Appendix 2). This highlights the key issues facing London which are: • Between 2006 and 2031 household growth is projected to increase from 21.5m to 27.8m of which 65% (i.e. 4.1m) is one-person household growth (source: ONS) • The average first time buyer price of a home in London in October '09 was approximately £248,000 and in the UK £155,000 (source: Findaproerty.com) • The average earnings needed to support a mortgage in London is over £56,000 (source: CBRE) 35% of working London households aged 20-39 can neither afford to buy in their area, nor are they eligible for housing benefit; in zones 1-3 this figure rises above 40% (source: Joseph Rowntree Foundation) • The majority of state school teachers in London leave their jobs for housing related reasons (source: LSE) • Between '08 - '09 London saw 19,530 housing completions against a target of 33,400 (source: CLG and London Plan) • 6,500 p.a. intermediate homes are required to meet projected demand in London (source: Shelter); based on current housing start projections the Mayor is unlikely to get half that number in the coming years • CLG has set a target of building 240,000 homes per year by 2016; between '08-'09 actual housing starts were 90,320 - a post-war low (source: CLG) • 3 million people aged between 20-34 live with their parents and a further 2 million people</p>	<p>Comments noted</p>

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48	893	7	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>over the age of 18 live rent-free with families and friends - this is 4x higher than ten years ago (source: ONS) • The typical age of those buying without financial help from family or friends has risen to 36 (source: CML) • In 2009, recession led over 900,000 homes to fall into negative equity (source: CML) • 46,000 homes were repossessed in 2009, the highest number since 1995 (source: CML). The situation is becoming critical and in June 2012 the Joseph Rowntree Foundation published 'Housing Options and Solutions for Young People in 2020' which identified that for large sections of young people home ownership in the coming years will be just a dream. 3.5 The report by JRF identifies key facts about the position of young people in the 2020 housing market in the UK: • It is anticipated that the total number of young people owning their own properties in 2020 will decrease by approximately 1.1 million to 1.3 million in 2020. • The number of young people living with parents in owner-occupied accommodation will increase by approximately 550,000 to 3.7 million in 2020. • The total number of young people living in their own Private Rented Sector (PRS) tenancies in 2020 is predicted to increase by approximately 1.3 million to 3.7 million. • It is likely that a three-tier model of demand will emerge based upon the median incomes of the young households. • The number of young people living with parents in private rented accommodation will increase by approximately 170,000 to 400,000 in 2020. Given these facts it is important that all forms of affordable housing are maximised to assist those in need of both rented accommodation and home ownership are catered for.</p> <p>Social Housing Relief from CIL 4.1 The Gil Regulations 2010 state two types of development are eligible for relief from liability for CIL: development by charitable institutions or where development is for 'social housing'. In respect of the latter Section 49 of the regulations identify qualifying dwellings as being either: (3) Condition 1 is that the dwelling is let by a private registered provider 01 social housing, a registered social landlord (within the meaning 01 Part 1 of the Housing Act 1996(a)) or a local housing authority on one of the following- (a) an assured tenancy (excluding an assured short hold tenancy); (b) an assured agricultural occupancy; (c) an arrangement that would be an assured tenancy or an assured agricultural occupancy but for paragraph 12(l)(h) or 12ZA of Schedule 1 to the Housing Act 1988(b); (d) a demoted tenancy; (e) an introductory tenancy; (f) a secure tenancy; (g) an arrangement that would be a secure tenancy but for paragraph 4ZA(c) or 12 of Schedule 1 to the Housing Act 1985; (h) an intermediate rent basis Condition 2 is that all of the following conditions are met- (a) the dwelling is occupied in accordance with shared ownership arrangements within the meaning of section 70(4) of the Housing and Regeneration Act 2008(d); (b) the percentage of the value of the dwelling paid as a premium on the day on which a lease is granted under the shared ownership arrangement does not exceed 75 per cent of the market value (where the market value at any time is the price which the dwelling might reasonably be expected to fetch if sold at that time on the open market); (c) on the day on which a lease is granted under the shared ownership arrangement, the annual rent payable is not more than three per cent of the value of the unsold interest; (d) in any given year the annual rent payable does not increase by more than the percentage increase in the retail prices index for the year to September immediately preceding the anniversary of the day on which the lease was granted plus 0.5 per cent. From the regulations it is clear that social housing (and affordable rented housing) is eligible for relief as are intermediate rented units as are shared ownership units. In regard to the latter, Section 70 of the Housing and Regeneration Act 2008 identifies the following as being low cost home ownership: (a) shared ownership arrangements, (b) equity percentage</p>	<p>Comments noted. The Council is not currently having difficulty in delivering new small affordable housing units to meet the Core Strategy targets. Pocket housing could add to the overall provision of homes which are affordable to people on a household income of less than £60,000 per annum, however it is difficult to see how Pocket's housing model can meet Southwark's affordability thresholds to qualify as 'intermediate affordable housing' which is set out in the Affordable Housing SPD (updated in the draft Affordable Housing SPD). The product is also provided at 100% home ownership, and does not meet the council's intermediate housing definition. Therefore it is treated as private sector general needs housing.</p>

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49	893	7	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>arrangements, or (c) shared ownership trusts. 4.3 However the CIL Regulations note that only Section 70(4) of the Housing and Regeneration Act 2008 applies. This relates to shared ownership units and states that: (4) "Shared ownership arrangements" means arrangements under a lease which- . (a) is granted on payment of a premium calculated by reference to a percentage of either the value of the accommodation or the cost of providing it, and . (b) provides that the tenant (or the tenant's personal representatives) will or may be entitled to a sum calculated by reference to the value of the accommodation. 4.4 On this basis we consider that a number of intermediate housing sources including Pocket's innovative approach of low cost home ownership do not fit within the definition of Section 70(4) and as such would appear to be excluded from the national eligibility for relief from liability. As noted above this will, in our opinion, have a significant effect upon the delivery of intermediate housing in London Boroughs. Given importance of this use in the delivery of affordable housing this will have a significant impact on borough's ability to provide affordable housing or to meet the targets for borough set out in the London Plan. 4.5 We have demonstrated below the impact upon an affordable scheme which has to meet the Council's median CIL Rate of £250/sqm. 4.6 It should be recognized that Pocket meets the National Planning Policy Framework definition of affordable housing which is: "Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for affordable housing provision"</p> <p>Exceptional Circumstances Relief Whilst the CIL Regulations allow for relief under exceptional circumstances it is considered that wholly or principally affordable developments such as those built by Pocket provide significant benefits to the local community but are often marginal in viability. Reliance on an exceptional circumstances case being successful is not possible for Pocket and would be an unacceptable risk. Furthermore a number of authorities (including the GIA) have not allowed for Exception Circumstances Relief.</p>	Comments noted
50	893	7	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>The Impact of the CIL Charging Schedule upon Pocket's developments 6.1 Pocket is currently considering a scheme within an inner London borough. The scheme which is at pre-application stage involves the redevelopment of a site to provide 32 intermediate units. The I PA has progressed its Draft Charging Schedule. 6.2 The development of this site demonstrates the very significant impact of Mayoral and local CIL on the delivery of intermediate housing if it is not subject to a differential rate of £0 per square metre. 6.3 The scheme is for 32 units with ground level commercial of 310sqm. Based on Mayoral Cil of £35/sqm and the boroughs CIL of £250/sqm the following payments would be made.. Mayoral CIL calculation Existing floorspace: 415m2 Proposed Floorspace for New Scheme: 1,765m2 Net additional floorspace: 1,350m2 (includes 310sqm of Commercial) Mayoral Cil Charge: £35/sqm Estimated Mayoral Cil owed: £47,250 Borough Cil - Pocket Scheme Existing Floorspace: 415m2 Residential GIA: 1,455m2 Net additional floorspace: 1,040m2 (excludes 310sqm of Commercial) Borough Cil Charge: £250/sqm Estimated Borough CIL, Payment: £260,000 Total CIL - £307,250 This equates to nearly £10,000 per unit and represents an unacceptable burden on Pocket particularly as its unit price is restricted to make units affordable. Pocket's units cannot be sold for more than a maximum of £225,000 (i.e. 3.5 times London Plan threshold of £64,300) or 80% against the local market, whichever is the lower. At the example site local comparatives suggest that a Pocket unit should be sold for £210,000. To add another £10,000 as a result of Gil would reduce the Pocket</p>	<p>The introduction of CIL will not necessarily lead to a significant increase in costs. It is estimated that CIL will be less than 5% of development costs. In terms of land valuation, CIL will be increasingly included as cost factor in early financial planning and be reflected in the land value accordingly. This will impact on all developers equally. The specific business models of particular companies are not directly relevant to an overall assessment across the borough of the economic viability of new housing to accommodate CIL. Any differential (or nil) rate for such schemes as Pocket's would not only be complex to administer but could only be justified on viability grounds alone and potentially, given that it would apply to a very limited number of developers, risk amounting to "State Aid" in conflict with EU legislation accordingly. In proposing to set differential CIL rates by type of development, we have been mindful of government guidance on the difficulties of complex patterns of differential CIL rates, and ensuring that the rates are State aid compliant. In accordance with the guidance charging authorities need to be consistent in the way that appropriate available evidence on economic viability informs the treatment of a category of development in different zones.</p>

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51	893	7	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>discount to market below 20%; it would also mean that Pocket would have to sell at the very top end of the London Plan threshold limit, it would put even further pressure on the deposit requirements of Pocket buyers who represent the squeezed middle and it would make it even harder for Pocket to meet boroughs income targets for intermediate housing. 6.5 For Pocket's units to remain affordable they must be sold at no more than 80% of market value or 3.5 times London Plan income threshold of £64,300 max. Other developers do not have this restriction and thus can increase sales values to assist viability. Registered Providers are exempt and thus can also compete. The CIL contribution noted above will therefore mean Pocket is unable to compete with other (non affordable developers) or Registered Providers. 6.6 If Pocket was competing on a level playing field it could remain competitive as land price may reduce to take account of Gil , however given the demand created by other developers land values are unlikely to fall and Pocket's margins will become unviable. If the Gil Rate is applied for all schemes not subject to social housing relief, it will mean that Pocket cannot develop within its key boroughs.</p> <p>Can Registered Providers (RP) meet the shortfall ? 7.1 Whilst RPs are eligible for social housing relief, many if not most remain dependant on housing grant in order to deliver principally affordable housing schemes. Given the impact on public spending because of the recent global financial crisis and the consequent lack of grant funding available there has been a strong downturn in the number of social housing schemes coming forward. 7.2 Whilst RPs could bring forward shared ownership schemes without grant this tenure has a potential issue which could impact significantly on the number of people who take occupation. Shared Ownership units are eligible for 'stair casing' which is where the owner pays a greater share of the property until they own the property outright. If the ownership goes beyond 80% these units would not meet the definition of 'shared ownership housing' in the Housing and Regeneration Act and Gil Regulations and thus could be liable for retrospective Gil payments if this change occurs within seven years of the permission. 7.3 This restriction will be noted by purchaser's solicitors and may be an obstacle to home ownership from mortgage companies as it limits their ability to recoup value should problems with the owner occur</p>	Homes which meet our affordability criteria can qualify for social housing relief from CIL.
52	893	7	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>What is the solution? 8.1 The CIL Regulations allow boroughs (and the Mayor of London) to set differential tariffs for different intended uses and for different zones. We wish to make the case within our representation for intermediate housing which falls outside of the restrictive definition within the Gil Regulations to be given a differential tariff of £0 which would equate to Social Housing Relief. 8.2 The Regulations are very clear that differing rates for development can be set. As noted in Regulation 13 of the Gil Regulations, a charging authority may set differential rates: • For different zones in which the development would be situated • By reference to different intended uses of development 8.3 In regard to Regulation 13 the word "use" is not intended to refer across to Use Class (as in the Use Classes Order) but to the "everyday" (or OED) meaning i.e. "a purpose for or way in which something can be used". Setting differential rates of CIL 8.4 Paragraph 34 of the guidance states that: There is no requirement on charging authorities to set differential rates and some charging authorities may prefer to set uniform rates, because they are simpler. However, charging authorities may want to consider setting differential rates as a way of dealing with different levels of economic viability within the same charging area (see regulation 13), for example a charging authority containing a Growth Area and several regeneration zones, or charging authorities with a mixture of urban and rural land. This is a powerful facility that makes CIL more flexible to local conditions. Differences in rates need to be</p>	<p>We have taken account of the government's statutory guidance in proposing the differential CIL rates for development, based upon evidence of the different levels of economic viability in the borough. We note that paragraph 40 of the guidance makes reference to ensuring that differential rates for types of development should be set "in such a way so as not to give rise to notifiable state aid – one element of which is selective advantage". Given that the vast majority of current affordable housing development is expected to meet the requirements of CIL social housing relief, setting a separate charge which would only be relevant to Pocket low cost housing developments would not be in accordance with the requirements of the statutory guidance. The specific business models of particular companies are not directly relevant to an overall assessment across the borough of the economic viability of new housing to accommodate CIL. Any differential (or nil) rate for such schemes as Pocket's would not only be complex to administer but could only be justified on viability grounds alone and potentially, given that it would apply to a very limited number of developers, risk amounting to "State Aid" in conflict with EU legislation accordingly.</p>

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						<p>justified by reference to the economic viability of development. Charging authorities should not set differential rates by reference to the costs of infrastructure, either in different zones or for different classes of development. 8.5 Paragraph 36 of the Guidance states that: Regulation 13 also allows charging authorities to articulate differential rates by reference to different intended uses of development (for example residential and commercial development) across their charging area provided that the different rates can be justified by a comparative assessment of the economic viability of those categories of development. Where an authority has applied differential rates in this way, the charging schedule should reflect those rates by reference to the intended use of development. 8.6 Paragraph 37 of the Guidance states: An authority could set differential rates by reference to both zones, and the categories of development within its area. For instance, an authority might choose to divide its area into a higher and lower value zone and set differential rates by reference to those zones. It could go further and set differential rates for residential and commercial development within both the higher and lower value zones. However, charging authorities should be mindful that it is likely to be harder to ensure that more complex patterns of differential rates are State aid compliant, so for example, charging authorities need to be consistent in the way that appropriate available evidence on economic viability informs the treatment of a category of development in different zones. 8.7 Paragraph 38 of the Guidance states: Charging authorities that plan to set differential CIL rates should seek to avoid undue complexity, and limit the permutations of different charges that they set within their area. Charging authorities should not exempt or set a zero rate for a particular zone or category of development from CIL, unless they can demonstrate that this is justifiable in economic viability terms (which would require evidence of very low (i.e. at the margins of viability, such that any charge would be de minimis), zero or negative viability across that zone or category of development). However, if the evidence shows that their area includes a zone or category of development of low viability, charging authorities should consider setting a low CIL rate in that area or for that category (consistent with the evidence). Charging authorities should not seek to exempt individual development sites from CIL through setting a differential rate. CIL is based upon broad assessments and it will not be appropriate to seek to draw zones on the basis of the individual sites. 8.8 The above paragraph clearly highlights that where there is evidence that a category of development has low viability that a charging authority can set low CIL rates for this category. The above guidance does not refer to use class rather it is categories of development and the defining criteria is low viability. low cost for sale intermediate housing which meets the NPPF definition but is not liable for social housing relief falls into this category. 2.10 Paragraph 39 of the Guidance states: Resulting charging schedules should not impact disproportionately on a particular sector or small group of developers. Intermediate housing providers which meet the NPPF definition but are not liable for social housing relief will be disproportionately impacted by the liability for CIL. Pocket and similar intermediate developers are unable to raise sales prices beyond affordability thresholds unlike private developers. This makes them uncompetitive for land. This will ultimately harm the development of intermediate homes within London Boroughs as private developers outbid intermediate providers such as Pocket. 8.10 Any suggestion that land prices will fall to reflect the additional levy on development is without any factual basis or evidence and contradicts the evidence of land values in London over the past eight years since the introduction of a target of 50% affordable housing within the 2004 London Plan which have risen significantly. 8.11 The introduction of a CIL rate equal to that of private development will create an unequal market with Pocket and similar</p>	



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						<p>developers unable to compete because of low viability. 8.12 Paragraph 40 of the Guidance states: Differential rates must be set in such a way so as not to give rise to notifiable State aid - one element of which is selective advantage. Thus, authorities who choose to differentiate rates by class of development or by reference to different areas, should do so only where there is consistent evidence relating to economic viability that constitutes the basis for any such differences in treatment. It will be the responsibility of charging authorities to ensure that their charging schedules are State aids compliant. 8.13 As highlighted previously there is clear evidence for an economic viability case for Pocket and other NPPF compliant forms of intermediate affordable housing that differential rates should be set. 8.14 The response above is supported by guidance from the Planning Advisory Service which notes with the questions raised about CIL on its website the following: Q: Is a charging authority limited to only setting differential rates by type of development in line with the Use Classes Order or can it differentiate further or differently in terms of uses? A: No. It is up to you whether to differentiate by type of development" provided that the different rates can be justified by comparing the economic viability of those categories of development. For example, for any given development type evidence could show that there are clear differences in viability depending on the scale of development. This could be reflected in differential rates, as long as decisions on rates are informed by, and consistent with, the viability evidence available. Given the clear guidance from PAS we consider there is a strong case that differential rates can be set for categories of development and that these categories are not necessary aligned with use classes as defined in the 1987 Use classes Order rather it relates solely to viability. However this housing would need to be genuinely affordable and meet the definition within the NPPF.</p>	
53	893	7	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Proposed Wording 8.16 We would propose that the boroughs Draft Charging Schedule should set a differential rate of £O/sqm for any affordable housing which does not fall within the Social Housing Relief as set out in the CIL Regulation 2010 but which meets the definition of affordable housing as set out in the National Planning Policy Framework. 8.17 For reference this as follows : Affordable housing: Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision. Social rented housing is owned by local authorities and private registered providers (as defined in section 80 of the Housing and Regeneration Act 2008), for which guideline target rents are determined through the national rent regime. It may also be owned by other persons and provided under equivalent rental arrangements to the above, as agreed with the local authority or with the Homes and Communities Agency. Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable). Intermediate housing is homes for sale and rent provided at a cost above social rent, but below market levels subject to the criteria in the Affordable Housing definition above. These can include shared equity (shared ownership and equity loans), other low cost homes for sale and intermediate rent, but not affordable rented housing. Homes that do not meet the above definition 01 affordable housing, such as "low cost market" housing, may not be considered as affordable housing for planning purposes. Pocket's model of</p>	<p>In Southwark's case, we have adapted the London Plan income limits to create our own local affordability criteria for intermediate housing specific to our average household incomes. Our figures are within the wider intermediate housing income limits set by the GLA. It is difficult to see how Pocket's housing product meets our affordability criteria as set out in the Affordable Housing SPD (updated in the draft Affordable Housing SPD). The Pocket product is also provided at 100% home ownership. Therefore, it is treated as private sector general needs housing. In identifying a new development type with a £0 rate in the CIL schedule for the type of housing Pocket offers, the Council is concerned that this may lead to CIL payments being foregone without adequate benefit being achieved for Southwark residents in housing need. There is no economic viability evidence to justify a zero rate for this type of development.</p>

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54	893	7	Objection	Preliminary draft CIL charging schedule	General Comments	<p>intermediate housing falls within the definition of affordable housing (see Appendix 1) and offers exceptional benefits which would justify a departure from normal planning requirements</p> <p>SUMMARY 9.1 Pocket is a private sector developer and provides intermediate housing for sale to singles and couples who earn too much to qualify for social housing, but not enough to buy on the open market. They have delivered over 140 intermediate units across London in the past four years. 9.2 Based on the current CIL Regulations it is considered that Pocket's innovative approach to the provision of intermediate affordable housing does not fall within the exemptions highlighted in the CIL Regulations 2010. 9.3 The CIL Regulations allow boroughs (and the Mayor of London) to set differential tariffs for different intended uses and for different zones. The CIL Guidance on Charging Schedules clearly states that the defining criteria for determination of differential rates is viability. Subject to consideration of viability evidence Charging Authorities can set different rates based on categories of development. This is not necessarily linked to a use class. The guidance from the Planning Advisory Service supports this premise. Pocket schemes should be considered at a differential rate to private residential development. This differential rate should be £0 per square metre. 9.4 If Pocket is not given a differential rate the ramifications of this will mean that Pocket schemes across key London Boroughs become uncompetitive against private developers or against Registered Providers (who are exempt from CIL). Pocket is unable to raise its sales values and does not benefit from grant funding and would therefore be squeezed from both sides. This would mean that the delivery of intermediate housing across the borough would be impacted. 9.5 As identified in the study above the effects of imposing both Mayoral and local CIL on a site of modest proportions is significant. The addition of £10,000 per unit is not sustainable or viable. 9.6 We trust that this evidence will be used by LPAs in the preparation of their Draft Charging schedules and that differential rates of £0/sqm will be set for innovative forms of affordable housing which meet the NPPF definition.</p>	<p>The NPPF states that affordable housing eligibility is determined with regard to local incomes and local house prices. Homes that do not meet the definition of affordable housing, such as "low cost market" housing, may not be considered as affordable housing for planning purposes. Pocket would therefore need to confirm that the eligibility thresholds for intermediate housing in Southwark are met. Southwark's affordability thresholds to qualify as 'intermediate affordable housing' are set out in the Affordable Housing SPD (updated in the draft Affordable Housing SPD). The Pocket product is provided at 100% home ownership. It is difficult to see how the Pocket product could meet the council's intermediate housing definition. In identifying a new development type with a £0 rate in the CIL schedule for the type of housing Pocket offers, the Council is concerned that this may lead to CIL payments being foregone without adequate benefit being achieved for Southwark residents in housing need. There is no economic viability evidence to justify a zero rate for this type of development.</p>
55	176	10	Objection	Preliminary draft CIL charging schedule	General Comments	<p>On behalf of our client, Kings College London (KCL), we are pleased to submit representations on the London Borough of Southwark's Community Infrastructure Levy (CIL) preliminary draft charging schedule, which has been published for consultation until 17 October. Kings College London KCL is a significant land owner within the London Borough of Southwark and provides educational facilities for over 23,500 students (of whom nearly 9,000 are graduate students) from 150 countries and approximately 6,000 employees. Of these figures it has over 10,000 students and employees living, working or studying in the LBS It has two major campuses at London Bridge and at Denmark Hill and is part of the Kings' Healthcare Partnership, the other partners being the Guy's and St Thomas' Foundation NHS Trust, King's College Hospital NHS Trust and the South London and Maudsley Foundation NHS Trust. It is one of the largest providers of healthcare education in Europe. As a major educational institution and employer in Southwark involved in bringing forward a range of development projects to further its purpose and the effectiveness of its delivery of educational services, the setting of CIL charging rates is of great interest and importance to KCL. The following comments are made in respect of the draft charging schedule.</p>	<p>Comments noted</p>
56	176	10	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Nil Charge Rates The LBS draft schedule proposes that no charge will be made for a range of development uses in Zones 1-4, including: • Development used wholly or mainly for the provision of education as a school or college under the Education Acts or as an institution of higher (education) by a predominantly publicly funded organisation. (NB. We assume the word in brackets is missing in error from the</p>	<p>Comments noted. The preliminary draft schedule sought to make distinct charges for health and education floorspace which is predominantly publicly funded. The CIL Regulations do not allow charging authorities to vary levies on the basis of a funding mechanism. Having considered the issue, the council is proposing to amend the description in preliminary draft CIL schedule apply a nil charge to all</p>

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						<p>charging schedule text) Development used wholly or mainly for the provision of any medical or health services by a predominantly publicly funded organisation, except the use of premises attached to the residence of the consultant or practitioner. KCL supports this approach. It is important to ensure that the CIL does not undermine the economic viability of educational or health uses, which are specifically identified in the London Plan as being essential to support the extent of development envisaged in London over the next 20 years. This approach is also reflected in the Mayoral CIL (2012).</p>	<p>education and health floorspace.</p>
57	176	10	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Exemption for Charities KCL is a charitable institution. Its charitable purpose as set out in its Charter is as follows: "The objects of the College shall be to advance education and promote research for the public benefit." Clause 3(1). The draft charging schedule sets out a range of exemptions from CIL that LB Southwark is proposing to make. This includes: "Development for charities of their own land to be used wholly or mainly for their charitable purposes." This is describing the mandatory charitable exemption that is provided by Regulation 43 of the CIL Regulations 2010. We would suggest that the text in the charging schedule is amended to read: "Development for charities of their own land to be used wholly or mainly for charitable purposes." This is to more accurately reflect the Regulations which make it clear that the use can be for the charitable purpose of the land owning charitable institution, or for the purposes of this charitable institution and other charitable institutions. Discretionary Charitable Relief: Investment Activities Regulation 43 of the CIL Regulations 2010 makes provision for charging authorities to allow relief for development by charities where the whole or part of the development is held by the charity as an investment for charitable purposes. At present the London Mayor has chosen not to adopt this relief and it appears from the draft charging schedule that LB Southwark is also not proposing to introduce the relief. KCL objects to this approach and considers that LB Southwark should introduce discretionary charitable relief for investment activities. This is because investment income is an important source of funding for many charitable institutions such as KCL. As public funding cuts take affect, the role that this income can play in supporting existing charitable functions, as well as funding new charitable facilities, is increasingly important. In KCL's case the whole purpose of such investments is to generate profits which will be used directly to support its charitable purpose. For example, the College is currently in pre-application discussion with LB Southwark regarding its site on Borough High Street. This land is in the freehold ownership of the College but will be redeveloped for a mix of College and commercial facilities. The commercial return will cross fund the re-provision of some College facilities on the same site, but also further investment in College facilities elsewhere. The imposition of CIL on this development will directly affect its viability and College's ability to fund its wider educational activities. KCL requests that the charging schedule provides explicit relief for all development by charities for investment purposes where the whole or greater part of the chargeable development will be held by a charity or charities as an investment from which the profits will be applied for charitable purposes.</p>	<p>The definition it set and the Council does not wish to offer relief for Charitable Relief: investment activity as it requires the funding to support it's own infrastructure programme.</p>
58	176	10	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Student Accommodation The draft charging schedule proposes various CIL rates for student accommodation as follows: Zones 1-2 £400 Zone 3 £250 Zone 4 £50 The same rates are proposed for C3 residential development. KCL is extremely concerned that the accommodation it provides for its own students should not be included within this category. KCL's student accommodation is provided at subsidised, sub-market rents and is in no way comparable to private rented C3 accommodation as a financial model. There are several points to consider here. The first is that student accommodation provided directly by KCL would benefit</p>	<p>We do not consider it appropriate to include reference within the charging schedule's to a nil rate charitable exemption category in relation to student accommodation. The process for collecting CIL requires liable person(s) to serve a Claim Exemption or Relief Form on the Collecting Authority to claim any social housing, charitable or exceptional circumstances relief they consider relevant and this is clear in the CIL Regulations. 1.1 The viability evidence demonstrates that the development of student accommodation can support CIL rates of £400sqm, £250sqm and £50sqm (exclusive of Mayoral CIL) and indeed CIL rates in much</p>

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						<p>from the CIL exemption for charities. The advancement of education is central to KCL's charitable purpose (see above). A vital component of KCL's educational offer in London is the ability to provide students drawn from across the UK, as well as international locations, with reasonably priced, accessible and suitable accommodation. Therefore, the student accommodation provided by KCL is of paramount importance to its overall educational offer and its charitable purpose — the advancement of education. KCL's student accommodation may be let out for short periods during University holidays. However, the Standard Residence Agreements with students cover 40 weeks (71% of the year) and have the option for extensions which many students take. Therefore, it is quite clear that the properties are "wholly or mainly" used for charitable purposes and can properly be included within the charitable exemption category. For clarity, KCL requests that this point is made clear in the draft charging schedule. The second point is that circumstances may arise whereby KCL or another charitable institution seeks to provide student accommodation in association with a partner/body without charitable status. This is a model that KCL is currently considering. However, it would take the student accommodation provided outside the mandatory charitable exemption. KCL's purpose in pursuing this model is still to provide the accommodation at a subsidised and sub market rents. In this situation the application of CIL would directly impact the viability of the development and severely prejudice KCL's ability to progress schemes on this basis, ultimately prejudicing the service provided to its students. The accommodation that King's provides directly for its students in the Southwark and Lambeth area is set out in the table appended to this letter. The rents charged include furnishings and the services outlined in the table. The rental levels are significantly below those charged by private sector organisations providing student accommodation. Drivers Jonas Deloitte's database of student accommodation indicates that in Southwark the levels are generally between £260 and £499 per week for cluster room, private flat or studio accommodation. The weekly rates in King's Residences are between £120 and £158, and although the accommodation is not in all cases directly comparable, this indicates the degree to which the rents charged are "sub-market" and offer students affordable accommodation that is not available to them from other sources. It is quite clearly inappropriate to apply the CIL rates set out in the draft charging schedule, which presumably have been calculated by reference to the private residential and commercial student housing sectors, to KCL sponsored sub-market student accommodation. Therefore KCL considers that this should be addressed in the charging schedule by introducing a further category of development for student accommodation provided by, or in partnership with, an educational institution with charitable status, where the accommodation is under the control of the charitable educational institution and will be offered at sub-market rents. There would need to be a definition agreed for a sub market rent, in the same way as for "affordable rent" in the affordable housing sector. If this approach is not adopted there will be severe impacts on KCL's ability to meet its student housing needs. On behalf of KCL, we request that we are kept informed of progress with this plus further LDF documents. In addition KCL wishes to reserve its position to submit further representations on subsequent LDF consultations.</p>	<p>greater excess of this level. We have considered the impact of CIL on the two markets of student accommodation, university led and direct-let. Schemes let at reduced rent levels by universities are likely to require cross subsidy from university resources to make them viable. However, as long as the university is the majority landowner, these schemes are likely to be exempt from paying CIL given the universities' charitable status. Private sector student accommodation rents are identified as able to generate sufficient surplus residual values, even after allowing for 35% of proposed floorspace as affordable housing, to absorb a maximum CIL of up to £1,549 per square metre exclusive of Mayoral CIL. Furthermore, direct let student accommodation must have regard to rents for alternative accommodation in the private rented sector. If rents are significantly higher than alternative accommodation the take up of student units could be adversely affected. Therefore the two markets can be seen to be in competition with one another. In addition, student accommodation schemes are required to provide affordable housing in Southwark. Our Student Housing Viability Study (2011) included a range of assumptions for the rent levels for direct let and university led schemes. The analysis included testing of affordable housing levels on a range of schemes. This demonstrated that the development of student housing will not be put at risk with the imposition of affordable housing. Given this context it is considered that in all areas, the viability of student housing will be broadly similar to that general residential development. It would also be inconsistent with the evidence already underpinning our policy on student housing to permit a CIL exemption on this basis.</p>
59	445	22	Support	Preliminary draft CIL charging schedule	General Comments	<p>Berkeley Group welcome the opportunity to comment upon the CIL Preliminary Draft Charging Schedule and supporting information (PDCS). We attach representations which have been prepared by Gerald Eve on our behalf. The attached representations on the PCDS highlight a number of concerns in connection with the setting of the proposed CIL levels. We have asked Gerald Eve to provide a high level review having regard to their significant experience in</p>	<p>The CIL viability study has set out the maximum level of CIL which different types of development should be able to absorb. Our proposed CIL rates include a margin or buffer below the theoretical capacity of development to pay CIL. The buffer will help to mitigate a number of risk factors (primarily the potentially adverse impact on land supply of setting the rates at a high level and 'shocking' the market) and it takes into account that economic circumstances and land values</p>

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60	445	22	Objection	Preliminary draft CIL charging schedule	General Comments	<p>undertaking viability assessments throughout the borough and in undertaking area wide viability studies for CIL purposes elsewhere. The basis of the attached representations is that when comparing current planning obligations with the cumulative effect of the proposed CIL rates, Mayoral CIL and Residual Section 106 Agreement obligations, there is a very significant increase in the cost burden on schemes. This will consequently put at risk the delivery of schemes in Southwark, including affordable housing. Whilst the Borough has sought to apply zones in respect of the CIL residential charging rates, the levels arrived at in each instance are clearly substantially in excess of what can viably be supported based upon the analysis undertaken by Gerald Eve. All of the sample sites were subject to affordable housing levels below policy which indicates in each case they were at the margins of viability; clearly any increase in the burden of planning obligations would detrimentally affect viability such that these sample sites could not have come forward in their current form.</p> <p>Gerald Eve LIP has reviewed the preliminary draft charging schedule (POCS) and supporting information (July 2012) of the London Borough of Southwark (LBS) on behalf of Berkeley Homes (Capital) plc. The purpose of this exercise was to consider the approach undertaken and potential effects of the imposition of the proposed Community Infrastructure Levy (CIL) rates for different uses in respect of development across the Borough. In particular, Gerald Eve has considered the POCS in respect of the following: • the basis and methodology employed in setting the level of CIL; • the operation of CIL in the Borough; and • site-specific examples of the impact of CIL. 2. Gerald Eve has summarised its findings below based upon this initial analysis. It is not the intention of this note to provide a full detailed analysis or put forward alternative viability evidence. 3. In reviewing the POCS, Gerald Eve has had regard to the CIL Regulations 2010 as amended in 2011 (the "Regulations") as information published by the DCLG on CIL. In particular, we have had regard to Regulation 14 as set out in the POCS with regard to the balance between funding infrastructure as a result of development and economic viability of development. We also note DCLG guidance which states that: "The CIL regulations place this balance of considerations at the centre of the charge setting process. In view of the wide variation of local charging circumstances, it is for charging authorities to decide on the appropriate balance for their area and 'how much' potential development they are willing to put at risk through the imposition of CIL." "In their background evidence on economic viability to the CIL examination, charging authorities should explain briefly why they consider that their proposed CIL rate (or rates) will not put the overall development across their area at serious risk" 4. Gerald Eve has also had regard to recent best practice guidance including the RICS GN published August 2012, LHDG Advice published in June 2012. Both these publications address area-wide viability testing.</p>	<p>could change during the lifetime of the charging schedule. Further, the viability appraisals have factored in a number of costs and assumptions, including 35% affordable housing, build costs and average s106/s278 obligations. CIL will equate to less than 5% of development costs and is therefore well within the 5% contingency set aside by developers. The buffer also provides for any actual variations in costs over and above those used in the assumptions adopted in the appraisals, such as sales rates, increase in build costs and developer's margin. We have also undertaken a sensitivity analysis of a number of sites showing the impact of increasing the s106/s278 charges on residential appraisals. This shows that should a slightly higher s106/s278 contribution be required per units, it is considered that this would be able to be absorbed without a large impact on the viability of schemes.</p> <p>Comments to be considered and clarification given in the CIL background evidence.</p>
61	445	22	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Operation of CIL, 5. It is noted that LBS is considering the adoption of an instalment policy to provide developers some additional time to make CIL payment. This is welcomed as in cash-flow terms, which feed through to overall viability, this approach is particularly important for large scale regeneration developments which involve significant upfront costs. It is recognised in the CIL Background Evidence paper that timing of CIL impacts on viability, albeit that this is omitted from the BNP Paribas Real Estate (BNPPRE) viability study.</p>	<p>A Mayoral instalments policy is proposed and the Council will review the effectiveness of this before considering an alternative instalment policy.</p>
62	445	22	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Section 278 and residual Section 106 costs 6. CIL Regulation 122 sets out statutory tests for Section 106 obligations which require applicants to continue to make "scaled back" (or residual) Section 106 payments if their developments require infrastructure in order to make them acceptable in planning terms. The LBS</p>	<p>This is clarified in the CIL Viability Study update (Jan 2013)</p>

**Preliminary Draft Community Infrastructure Levy Charging Schedule Representations and Officer Responses**

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63	445	22	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>has stated that once CO<sub>2</sub> is in place, Section 106 can only be used for sites specific matters such as highway works, trees and affordable housing. 7. It is noted that LBS's Planning Obligations SPD sets out two areas of site specific contributions under which it may continue to charge residual Section 106. These are summarised in the table below along with the relevant Southwark Plan and London Plan policies:</p> <p>Table 1: Residual Section 106 planning obligations</p> <table border="1" data-bbox="533 1009 1367 1932"> <caption>Table 1: Residual Section 106 planning obligations</caption> <thead> <tr> <th>Planning Obligation</th> <th>Summary</th> <th>Policies</th> </tr> </thead> <tbody> <tr> <td>Transport 2 (site specific contributions)</td> <td>Contributions to infrastructure improvements, such as: pedestrian crossings, cycleways and traffic calming. For larger developments, additional contributions to mayor infrastructure improvements may be sought, such as a bus station or taxi rank.</td> <td><b>Southwark Plan</b> 5.1 Locating developments 5.2 Transport impacts 5.3 Walking and cycling 5.4 Public transport improvements 5.5 Transport Development Areas 5.6 Car Parking <b>London Plan</b> 3C.1 Integrating transport and development 3C.3 Sustainable transport in London 3C.16 Tackling congestion and reducing traffic 3C.17 Allocation of street space 3C.20 Improving conditions for walking 3C.21 Improving conditions for cycling</td> </tr> <tr> <td>Public realm</td> <td>Contributions to mitigate the impact on the public realm in the vicinity of a development such as: footpaths, street lighting, tree planting, landscaping, etc.</td> <td><b>Southwark Plan</b> 2.5 Planning Obligations 3.1 Environmental effects 3.13 Urban design 3.14 Designing out crime 5.2 Transport impacts 5.4 Public transport improvements <b>London plan</b> 3D.7 Realising the value of open space 4B.1 Design principles for a Compact City 4B.4 Enhancing the quality of the public realm 4B.5 Creating an inclusive environment 6A.4 Priorities in planning obligations 6A.5 Planning obligations</td> </tr> </tbody> </table>	Planning Obligation	Summary	Policies	Transport 2 (site specific contributions)	Contributions to infrastructure improvements, such as: pedestrian crossings, cycleways and traffic calming. For larger developments, additional contributions to mayor infrastructure improvements may be sought, such as a bus station or taxi rank.	<b>Southwark Plan</b> 5.1 Locating developments 5.2 Transport impacts 5.3 Walking and cycling 5.4 Public transport improvements 5.5 Transport Development Areas 5.6 Car Parking <b>London Plan</b> 3C.1 Integrating transport and development 3C.3 Sustainable transport in London 3C.16 Tackling congestion and reducing traffic 3C.17 Allocation of street space 3C.20 Improving conditions for walking 3C.21 Improving conditions for cycling	Public realm	Contributions to mitigate the impact on the public realm in the vicinity of a development such as: footpaths, street lighting, tree planting, landscaping, etc.	<b>Southwark Plan</b> 2.5 Planning Obligations 3.1 Environmental effects 3.13 Urban design 3.14 Designing out crime 5.2 Transport impacts 5.4 Public transport improvements <b>London plan</b> 3D.7 Realising the value of open space 4B.1 Design principles for a Compact City 4B.4 Enhancing the quality of the public realm 4B.5 Creating an inclusive environment 6A.4 Priorities in planning obligations 6A.5 Planning obligations	This is clarified in the CIL Viability Study update (Jan 2013), with £1,000 per unit for site specific S106 based on our existing S106 toolkit for site specific transport and public realm
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64	445	22	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Site-Specific Examples                      10. Gerald Eve has undertaken an analysis of site-specific examples within the Borough based on details sourced from the Molior Database of Residential Development Research and the LBS's planning archives.                      11. Six sites were identified which had been granted planning permission for comprehensive residential-led development, with an on-site affordable housing provision, within the last 3 years. These sites are located across the proposed CIL charging zones. The combined total Section 106 contribution of the sample sites was reported by Molior to be circa £7.28m.</p> <p>Table 2: Site-specific Current Planning Obligations Development</p>	<p>The assumptions for site specific examples have been carried forward from the existing S106 toolkit which has established site specific mitigation in general terms over the last 7 years.</p>

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66	445	22	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Conclusions 20, The level of the CIL rates proposed in the POCS is very high compared with historic achieved Section 106 planning obligations, 21, The level of residual CIL has been underestimated as the sample sites demonstrate that LBS's planning policies impose a number of requirements which cumulatively exceed £1,000 per home, 22, Gerald Eve therefore, does not believe that an appropriate balance has been struck as set out in the CIL Regulations (Amended) 2011, 23, Should LBS's CIL be set at the rates proposed in the POCS, it will undermine viability and deliverability and severely impair the ability of Southwark to achieve its housing target of 24,450 new homes between 2011 and 2026, 24, The high</p>	<p>The revised CIL Viability Study update (Jan 2013) will clarify the point about future S106 payments. The CIL viability study shows the viability impact of the proposed rates. As affordable housing dwellings can benefit from relief CIL encourages the provision of Affordable housing.</p>																																										

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67	139	31	Objection	Preliminary draft CIL charging schedule	Charging zones	<p>proposed CIL rate will also reduce the borough's ability to deliver affordable housing and its direct delivery programme of 1,000 additional homes by 2020, 25, it follows that a reduction of CIL levels for residential development would have a commensurate effect on viability and the ability to produce affordable housing within the Borough,</p> <p>We write on behalf of our client, Workspace Group plc, in connection with the Council's Preliminary Draft CIL Charging Schedule. We note that in launching CIL, the government indicated that the monies collected under the levy would not, and could not, cover all the infrastructure needs of a local authority. Indeed, the majority of infrastructure investment is still expected to be derived from other funding sources. Therefore, it is necessary to strike the appropriate balance in the charging schedule in order to ensure that development remains viable. Our main comment at this preliminary stage is to question whether, in fact, the right balance is being struck, specifically in relation to the charges proposed for residential development in Zones 1-4. These concerns relate to: 1 Whether the charging rates in Zones 2-3 are in fact viable. There is a significant risk that the number of development proposals coming forward will fall. This in turn will impact on the Council's general housing trajectory but, more importantly, affordable housing, much of which will continue to rely on s106 agreements. The delivery of affordable housing will continue to rely on a healthy flow of private sector led development proposals 2 A very substantial (£200/sqm) difference is proposed between Zones 2-3 and Zone 4. This does not reflect the actual balance of land values in, for example, the border areas between the zones, albeit we recognise that the Council may wish to incentivise regeneration in the "mid Borough". 3 The difference between Zone 1 and Zone 2-3 CIL does not reflect the wide variation in land values between, for example, riverside developments, and development on the periphery of Zone 3. These differences could be a factor of 3-4x in sales values per square metre in some circumstances. The effect will be to put pressure on the viability of mid-range housing with the potential for further polarisation in the housing market.</p>	<p>The proposed CIL rates have been set at levels which take account of viability in the lowest and highest value areas of the borough. The viability evidence sets out the maximum level of CIL that a range of different development site schemes located should be able to absorb. We have not proposed charges which are right up to the margin of economic viability for the range of sites which have been tested. The buffer will help to mitigate a number of risk factors (primarily the potentially adverse impact on land supply of setting the rates at a high level and 'shocking' the market) and it takes into account that economic circumstances and land values could change during the lifetime of the charging schedule. Our planning policy strategy towards affordable housing is to secure the maximum reasonable amount when negotiating on private residential and mixed use schemes with regard to a number of factors including financial viability. The introduction of any CIL charge will not change this approach. The CIL viability study demonstrates that the viability of residential development is unlikely to be materially affected by the CIL rates. In particular, the introduction of CIL for new housing will not make a material difference to the already existing level of risk to the achievement of the target of 35% affordable housing delivery, whereas a reduction in the proposed CIL rate would be likely to undermine the Council's ability to provide funding for critical strategic infrastructure in the borough. The boundaries of the charging zones have been informed by post code data on house prices which show average value bands and broad geographical breaks between areas. We have also taken into account physical barriers such as railway lines and major roads. Whilst we accept that land value variance is observable at a finer grain, defining a greater number of charging zones would create undue complexity and potentially contentious boundaries. In proposing the CIL rates, we have been mindful of CIL Statutory Guidance on the difficulties of complex patterns of differential CIL rates.</p>
68	139	31	Objection	Preliminary draft CIL charging schedule	Charging zones	<p>Generally, we think the charging levels are far too high. The costs for a typical residential unit will be significantly in excess of s106 payments, as typically negotiated on a case by case basis in the Borough at present. This will have the effect of either reducing s106 affordable housing levels or will inhibit the promotion of development altogether.</p>	<p>Affordable housing will remain open to viability testing relative to the individual schemes. Also affordable housing dwellings can apply for relief from any CIL.</p>
69	139	31	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Consideration should be given to the phased introduction (say over three years) to the charging schedule, linked to a programme of monitoring. First, this will avoid the problems experienced in the local and strategic development control system which were seen when Mayoral CIL was introduced (at a far lower charging level per sq m than the Borough proposes) and schemes were "rushed through" to beat the charge. Second, this approach would allow the impacts of the initial charging rate to be reviewed. By way of analogy, a discounted approach to its proposed s106 tariff was used by the London Thames Gateway Development Corporation because it recognised that the "full charge" would have held back development. We would be grateful if these comments could be taken into account in formulating revision to the preliminary draft charging schedule</p>	<p>The CIL Regulations do not allow for a phased introduction of the rates. None of the proposed rates are at the ceiling of the viability assessments.</p>
70	115	3	Objection	Preliminary draft CIL charging	Preliminary draft CIL charging	<p>We write on behalf of our client, Sainsbury's Supermarket Ltd, in response to publication of the Southwark CIL Preliminary Draft Charging Schedule and would like to take this opportunity to make representations to the consultation. The</p>	<p>The Council is reviewing the retail differentiation by size and is seeking to expand the associated evidence and to clarify the differentiation by use, in line with inspectors views on other Charging Schedules.</p>

**Preliminary Draft Community Infrastructure Levy Charging Schedule Representations and Officer Responses**

Representation Ref	Objector Ref	Agent Ref	Objection/Support	Consultation Stage	Document	Details of Representation	Officer Response to Representation
71	115	36	Objection	schedule	schedule	<p>Preliminary Draft Charging Schedule proposes a differential set of rates for all retail units (A1 -A5 uses) within the borough including a nil chargeable rate for developments up to 279 sq. m, with a proposed rate of £125 per sq. m for all developments between 280 sq. m and 2,500 sq. m. Retail developments above 2,500 sq. m will be charged at a higher CIL rate of £250 per sq. m (in addition to the Mayor's adopted CIL rate of £35 per sq. m). Lack of legal Power Regulation 13 of the CIL Regulations does not allow differentiation by size. It allows differentiation by location and by use. Different charges cannot be levied against the same use simply by reference to size thresholds, in order for such an approach to be legitimate the Council would have to demonstrate that the characteristics of the use either size of the threshold were sufficiently dissimilar to be different "intended uses" of a development. There is no such evidence supporting the PDCS. Our view is that there is no difference in law between shops of different sizes - they are all simply shops and should be treated equally.</p> <p>Lack of Evidence Even if the Council had adequately demonstrated that there was a different "intended use" of development there would then need to be a clear demonstration that the viability of a 279 sq. m store is different from that of a 281 sq. m store. The same applies to the higher threshold of 2,500 sq. m. There is no such evidence supporting the PDCS. Indeed, the definitions attributed to both small and large scale retail units within the Viability Report (see paragraph 6.14) are arbitrary. The 280m figure comes from Sunday trading law which is of little relevance to either use or viability and the 2,500 sq m figure comes from the NPPF which is similarly ill-equipped for such purposes.</p>	<p>The council is proposing to rationalise the retail charges to base them on distinct types of development. These charges relate to distinguishable types of development and fine grained viability evidence. The council has amended the schedule to ensure that it does not rely on size thresholds alone.</p>
72	115	36	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Lack of Definition The proposal to charge Affordable Retail a nil rate is laudable. However, "Affordable Retail" is not adequately defined and is not a different "intended use" for the purposes of Regulation 13. Nor is the nil charge supported by any evidence.</p>	<p>The council accepts that affordable retail space is not a separate type of development and is proposing to exclude it from the draft schedule.</p>
73	115	36	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>State Aid The proposed discrimination between stores above and below 280 sq. m potentially offers a selective financial advantage , or state aid, to the smaller store . Similarly , discrimination in favour of "Affordable Retail" may offer selective financial advantage. Any potential state aid needs to be objectively justified and there is no adequate evidence supporting the PDCS on this point in relation to different sizes of retail development.</p>	<p>The council accepts that affordable retail space is not a separate type of development and is proposing to exclude it from the draft schedule. The council is proposing to rationalise the retail charges to base them on distinct types of development. The charges are justified by fine grained viability evidence.</p>
74	115	36	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Instalments Policy In order for the requirements of CIL not to affect the long-term delivery of retail development within the borough, Sainsbury 's consider it essential that Southwark also prepare and adopt an instalments policy in line with CIL Regulation 69B. If all CIL is payable at the commencement of a development process then that might affect viability. Further clarification will therefore be required within the Draft Charging Schedule so that the financial consequences can be modelled.</p>	<p>AA Mayoral instalments policy is proposed and the Council will review the effectiveness of this before considering an alternative instalment policy.</p>
75	115	36	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Exceptions Policy In addition to adopting an instalments policy , Sainsbury 's suggest that the Council also adopt a policy which would provide for the Charging Authority to offer discretionary relief from the CIL payments . Sainsbury's considers it essential that the Council retains the opportunity for such an agreement to be reached in particular circumstances and welcomes the drafting of an exceptions policy in preparation for the next round of consultation. We trust the above points are helpful and look forward to reviewing the Draft Charging Schedule when published in due course . Our view is that if the Council wishes, as it appear to support retail development in Southwark then a nil CIL rate should be charged to all genuine retail uses. Should you have any queries we would be happy to discuss these with you. Please contact Chris Deeks in the first instance</p>	<p>The Council is considering the merits of an Exceptions Policy.</p>

**Preliminary Draft Community Infrastructure Levy Charging Schedule Representations and Officer Responses**

Representation Ref	Objector Ref	Agent Ref	Objection/Support	Consultation Stage	Document	Details of Representation	Officer Response to Representation
76	194	24	Objection	Preliminary draft CIL charging schedule	General Comments	<p>I write on behalf of our client, the Mayor's Office for Policing and Crime/Metropolitan Police Service (MOPAC/MPS), with regard to the Council's consultation on the Community Infrastructure Levy Preliminary Draft Charging Schedule and Draft CIL Infrastructure Plan. The MOPAC/MPS provide a vital community service to Southwark and it is essential that the required community infrastructure, such as policing, comes forward in line with development in order to maintain safety and security in the Borough. Policy context to representations The provision of effective policing is of crucial importance across London to ensure safe places to live are created as part of a sustainable community, consistent with planning policy at all levels. The current planning policy framework that supports policing can be summarised as follows: National Guidance • National Planning Policy Framework (March 2012) - one of the objectives of the NPPF is to deliver the right community facilities to meet local needs (Para 70). London Plan • Policy 3.16 requires development proposals to support the provision of social infrastructure and resist the net loss of social facilities. Policing is included within the definition of social infrastructure. • Paragraph 3.86 further notes that existing or new developments should, wherever possible, extend the use of facilities to serve the wider community, especially within regeneration and other major development schemes. • Policy 7.13 states that Boroughs should work with stakeholders to ensure London remains resilient to emergency and the subtext states the Metropolitan Police should be consulted as part of major development proposals. • Policy 8.2 requires development proposals to address strategic as well as local priorities in planning obligations. Boroughs should set out a clear framework for negotiations on planning obligations in their LDF to ensure that 'it will be a material consideration whether a development makes an appropriate contribution or other provision (or some combination thereof) towards meeting the requirements made necessary by, and relating to, the proposed development'. In light of the overarching policy basis we wish to make the following comments in relation to the Preliminary Draft Charging Schedule and Draft CIL Infrastructure Plan. CIL Preliminary Draft Charging Schedule</p>	Noted.
77	194	24	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Uses attracting a nil rate/zero charge The draft charging schedule indicates that CIL payments will be required from most development including offices (B1) in Zone 1, and D1 and Sui Generis uses in all zones. This would impact on future operational policing floorspace including office space used for policing and other policing facilities which are sui generis although similar in function to B Class uses. By being subject to a CIL payment, policing floorspace would be prejudiced in being able to provide essential policing facilities contrary to the aims of the NPPF, London Plan and Core Strategy. It is therefore essential that CIL is not payable for new policing floorspace in the Borough which would take funding away from frontline policing. Section 216 of the Planning Act 2008 highlights that regulations can add, remove or vary the list of matters included within the meaning of infrastructure. The DCLG 'Community Infrastructure Levy: An Overview' document (May 2011) at paragraph 12 highlights that police stations and other community safety facilities are infrastructure. Policing is listed in the Southwark Infrastructure Plan. There is therefore no doubt that policing is therefore infrastructure. Therefore in providing community infrastructure (i.e. new policing facilities) which would attract a CIL liability, the MPS contribution to community infrastructure would effectively be double counted. On the one hand being charged CIL whilst on the other being a potential beneficiary. The provision of new floorspace is generally a consolidation of the estate therefore there is no greater impact on infrastructure than existing. Further, the Southwark Community Infrastructure Levy Viability Study prepared by BNP Paribas (July 2012) covers offices, retail, residential and student</p>	<p>The MPS Estate Strategy 2010-2014 and the draft Estate Strategy 2013-2016 set out that the priorities for the police estate will be to consolidate the existing estate, dispose of inefficient and surplus buildings and reinvest in the remaining stock. The strategy does not acknowledge particular needs arising as a result of growth in Southwark and does not identify and new build facilities in the borough. The proposed CIL charges have been set having considered detailed viability appraisals for different types of development throughout the borough. Further appraisals have been carried out since consultation on the preliminary draft charging schedule. In light of this evidence, we are proposing to reduce the charge for 'all other uses' from £50 per square metre to £30 per square metre and the charge for offices (B1) in charging zone 1 from £100 per square metre to £70 per square metre. Applying a modest CIL of £30 sqm to such 'all other uses' (with the exception of health, libraries and education which will be zero rated) is considered to be unlikely to adversely affect the viability of such developments.</p>

**Preliminary Draft Community Infrastructure Levy Charging Schedule Representations and Officer Responses**

Representation Ref	Objector Ref	Agent Ref	Objection/Support	Consultation Stage	Document	Details of Representation	Officer Response to Representation
						<p>accommodation, hotels, and industrial. It does not consider policing facilities. There is no detailed justification for where the £50 per m2 for 'other floorspace' has come from. 'Other floorspace' covers such a wide range of uses, which would have very different levels of viability. It is suggested that the CIL should include the wording 'Development by police for operation purposes' as attracting a nil rate. Such an approach has been adopted elsewhere. In the Bristol Draft CIL Charging Schedule submitted for Examination it lists 'Residential and Non-residential Institutions (Classes C2, C2A, 01) and development by the emergency services for operational purposes' as attracting £0 CIL rate/rr'. The Inspector's report (published 10th July 2012) has approved this. The examiner's report for Huntingdonshire District Council CIL was published on 11th April 2012 and concluded that, subject to two modifications, the Charging Schedule be approved. On the 25th April 2012, Huntingdonshire District Council approved the implementation of the Community Infrastructure Levy from the 1st May 2012. This states that Business (B1), General Industrial, Storage &amp; Distribution (B2 and B8), Community Uses (provided by the public, not-for-profit or charitable sectors)(within 01 - except Health Uses - and 02) and Agricultural attract a nil rate. In relation to London Borough's, Brent's Draft CIL Charging Schedule (July 2012) lists Police station and police facilities (Sui Generis) as attracting a zero charge and Sutton's Preliminary Draft CIL Charging Schedule (April 2012) lists community facilities as attracting a nil rate. Other London Borough's exempt sui generis and office uses. For the above reasons, the MOPAC/MPS strongly recommend that, when formulated, applications for policing facilities attract a nil rate in the draft charging schedule.</p>	
78	194	24	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Beneficiaries In addition to the above it is recommend that, when formulated, the list of beneficiaries of CIL (Regulation 123) includes policing facilities and that this includes a contribution towards policing where development would have a material impact upon policing provision in the Borough. This is consistent with the DCLG guidance - Community Infrastructure Levy: An Overview published in May 2011 which states that the levy can 'be used to fund a very broad range of facilities such as [inter alia] police stations and other community safety facilities' (para 12).</p>	<p>CIL will primarily be used to fund new and improved infrastructure to support growth in the borough. Based on the MPS Estate Strategy, it is not clear that need has been identified for new and improved facilities in Southwark and so no evidence at this time that CIL receipts would be required. Furthermore, the strategy states that reinvestment in police facilities will occur as surplus parts of the police estate are disposed of. The role of the Regulation 123 list is to clearly set out the types of infrastructure that the charging authority will no longer negotiate s106 payments for. The inclusion of police facilities on this list could in fact reduce flexibility to provide new police floorspace in-kind as part of new developments, should a future need be identified.</p>
79	194	24	Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>Draft eil Infrastructure Plan The section on policing is not very detailed and simply refers to the Metropolitan Police Service Asset Management Plan for Southwark (2007). This document is now out of date. I attach a copy of the Estate Strategy for 2010-2014, which should be referred to. In addition, attached to this letter is an infrastructure table which we ask is incorporated into the Infrastructure Plan. We hope to be able to provide more detail on in due course and may be subject to amendments once the evolving MOPAC local Policing Model is finalised. I trust that this is acceptable and the objectives of the MOPAC/MPS will be reflected in the forthcoming documents. Please do not hesitate to contact Vanessa Garner or myself at this office should you have any queries or require any further information</p>	<p>The section on policing has been updated to reflect the updated Estate Strategy 2010-2014. It is also noted that a draft Estate Strategy 2013-2016 is currently being consulted on.</p>
80	161	24	Objection	Preliminary draft CIL charging schedule	General Comments	<p>In order to provide relevant context the representations briefly detail the relevant planning policy context, before analysing the proposed charging schedule against this. Relevant legislation planning Policy The 2008 Planning Act (Part 11) introduced the Community Infrastructure Levy (CIL) as a method to fund the costs for infrastructure to support development can be funded (Wholly or partly) by owners or developers of land. The CIL Regulations 2010 (as amended) require the Council (Regulation 14) to strike a balance between (a) the desirability of funding</p>	<p>Comment noted</p>

**Preliminary Draft Community Infrastructure Levy Charging Schedule Representations and Officer Responses**

Representation Ref	Objector Ref	Agent Ref	Objection/Support	Consultation Stage	Document	Details of Representation	Officer Response to Representation
81	161	24	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>from CIL to cover (in whole or part) the estimated total cost of infrastructure required to support development and the likely funding sources and (b) the potential effects of the imposition of CIL on the Viability of development across the borough.</p> <p>Draft: Charging Schedule These representations detail (i) concerns in respect of student accommodation and the viability evidence prepared which informed the proposed levy, and (ii) a general assessment of the proposed charging schedule against the CIL Regulations and relevant development plan policy. I refer to each issue in turn, immediately below . Draft Charging Schedule - Student Accommodation Viability An essential component of the CIL Regulations is to ensure that the proposed charging schedule rates are considered viable. The Community Infrastructure Levy : An Overview (CLG, May 2011) confirms that the levy should be set at a rate that does not discourage development. To do so would prejudice wider regeneration and development objectives. The DCLG document, paragraph 23 states: "Charging authorities wishing to introduce the levy should propose a rate which does not put at serious risk the overall development of their area. they will need to draw on the infrastructure planning that underpins the development strategy for their area. " The paragraph goes on to state that charging authorities are required to strike a balance between the desirability of meeting infrastructure costs from development and the effects of the levy upon economic viability of development across their area. This is reflected in legislation through CIL Regulation 14 (above). There are two principal issues regarding student accommodation viability : - ( 1) The extremely limited number of student schemes ' tested'; and (2) The assumed link between general housing viability and that of student accommodation The Viability Report (BNP Parabas, July 2012) underpinning the setting of the CIL rates within the Charging Schedule sets an extremely narrow focus in determining whether student accommodation can viably accommodate the proposed levy. Only two schemes (from a total of 41 tested) comprise an element of student accommodation. Both are located in Charging Zone 3 (£250/sq.m) (Site Refs 11 &amp; 19). This level of analysis is considered insufficient to determine an accurate assessment of viability mindful of the proposed levy and its likely impact upon development delivery . The capitalised value of a student accommodation rental scheme is judged through an assessment of the development yield - i.e. the net rental income likely to be achieved based upon forecast rent levels and occupancy. Whilst the conventional housing viability data is tested against previously deemed 'viable' residential development, specific assessment is made for student accommodation. In deed, the Viability Report (paragraph 6.10) states " In all areas, the viability of student housing will be broadly similar to that of general residential development." In order for the CIL figure to represent accurately student accommodation scheme Viability, independent analysis of student accommodation is required Finally, Site Appraisal 19 assumes a profit on GDV level of 8.5%. This level is considered unrealistic and therefore cannot constitute a reasonable assessment of likely scheme viability. The Council's Viability Report (Paragraph 3.4 ) highlights various development appraisal variables and confirms that lenders generally required a return at 15% of Gross Development Value (GDV) when perceived risk level was low. Current expected return is generally in excess of 20%. In order to ensure the Viability testing for student accommodation viability can be robustly measured, it is necessary to amend the expected developer's return detailed with in the relevant scheme appraisals.</p>	<p>The CIL viability study tested three schemes with student accommodation. The private sector student accommodation rents are identified as able to generate sufficient surplus residual values, even after allowing for 35% of proposed floorspace as affordable housing, to absorb a maximum CIL of up to £1,549 sqm. In relation to university schemes, provided the university is the majority landowner, these schemes are likely to be exempt from paying CIL given the universities' charitable status. Rents for private direct let student accommodation must have regard to rents for alternative accommodation in the private rented sector. If rents are significantly higher than alternative accommodation, the take up of student units could be adversely affected. Therefore the two markets can be seen to be in competition with one another. In addition, student accommodation schemes are required to provide affordable housing in Southwark. Given this context it is considered that in all areas, the viability of student housing will be broadly similar to that general residential development.</p> <p>Student housing carries considerably less risk than other forms of development, with a plentiful demand from investors to buy completed developments, backed by considerable demand from students to rent the accommodation. This is reflected in the lower profit assumption.</p> <p>In any case, this scheme generates a significant surplus above the current use value. In reality, there is scope on this particular scheme to generate a higher profit than the minimum level assumed.</p>
82	161	24	Objection	Preliminary draft CIL	Preliminary draft CIL	<p>(II) Draft Charging Schedule - General Comments A number of points are relevant and highlighted thus: - (i) Assumption regarding availability of CIL Relief (ii)</p>	<p>The majority of development sites in Southwark are brownfield with existing buildings on them, and the assumptions for existing floorspace which have been</p>

**Preliminary Draft Community Infrastructure Levy Charging Schedule Representations and Officer Responses**

Representation Ref	Objector Ref	Agent Ref	Objection/Support	Consultation Stage	Document	Details of Representation	Officer Response to Representation
				charging schedule	charging schedule	<p>Discretionary Relief (iii) Phased Payment I refer to each issue in turn, immediately below: - (i) Assumption regarding availability of CIL: Relief Appendix 4 of the Viability Report commissioned by the Council confirms the chargeable proportion of floorspace which applies to each site reference. CIL Regulation 40 confirms that existing gross internal floorspace on site can be deducted from the quantum of floorspace for which CIL will be payable. The Charging Schedule noting E400/E250/E50/ sq.m for student accommodation as 'viable', is based upon the assumption that the proposed CIL rate will be chargeable on a net additional floorspace figure. Both sites containing student accommodation within the Site Testing Table demonstrate that CIL chargeable floorspace figure is circa 50% of the total proposed. This assumption effectively factors in a 50% CIL liability 'discount' for student schemes and therefore cannot provide an accurate assessment of viability and capacity for student schemes across Southwark to absorb the proposed CIL rate. Regulation 40 further states that to qualify for the existing floorspace CIL 'credit' part of this floorspace must be in continuous and lawful use for a period of at least six months during the twelve months preceding the grant of lawful planning permission. Grant of lawful permission is deemed to include discharge of pre-implementation conditions attached to the planning permission. It is therefore highly unlikely that the CIL liability existing floorspace 'credit' will be applicable in the majority of cases. Further, assuming 50% existing floorspace on site to arrive at a 'viable' levy prejudices vacant sites from being developed, where no existing floorspace relief can be applied against the proposed levy . (ii) Discretionary Relief Regulation 55 (as amended by the 20 11 Regulations) confirms a charging authority may grant relief ("exceptional circumstances") from liability to pay CIL in respect of chargeable development if : (a) it appears to the charging authority that there are exceptional circumstances which justify doing so; and (b) the charging authority considers it expedient to do so. However exceptional circumstance relief can only be granted where: - (a) The LPA has opted to make exceptional circumstance relief available ; (b) A planning obligation under S106 has been entered into; and (c) The Charging Authority considers that the cost of complying with the planning obligation is greater than the CIL amount payable and it would have an unacceptable impact upon economic viability. Regulation 56 requires the Council to publish their intention to offer exceptional circumstances relief prior to implementing this. Mindful of the current and forecast future economic climate, it is considered necessary for the Council to offer this relief within an amended Charging Schedule, allowing a degree of flexibility for applicable schemes. (ii) Phased Payment Regulation 69(8) (as amended by the 2011 Regulations) provides the ability for CIL payments to be made in instalments to the charging authority, rather than requiring full payment upon commencement of development . Within the current economic context it is considered appropriate to introduce this level of flexibility and that therefore the Council should make this clear within the amended draft Charging Schedule.</p>	<p>factored into the viability appraisals have been informed by planning permissions granted in the borough and expert consultant advice. We understand that there may be some variance in the amount of existing floorspace on an individual development site compared against the average amount of existing floorspace which is observed in a wider area. It must be borne in mind that the use of an assumption percentage is considered appropriate in the exercise of broadly testing viability across the borough. Furthermore, it should be noted we have proposed a margin or buffer between the maximum CIL rates which are indicated as viable for development schemes (as set out in the CIL viability study) and the recommended CIL rates to allow for movement in scheme variables. ii) We are considering the merits of offering discretionary relief. (iii) An instalments policy will be proposed and consulted upon in 2013. Representations and consideration of the affect of any Instalments Policy can be considered then. It should be noted that the Mayor of London will be consulting upon their Instalments Policy, which will be the default for Southwark until such a point Southwark brings forward it's own.</p>
83	132		Objection	Preliminary draft CIL charging schedule	General Comments	<p>I write in respect of the above and in order to provide relevant context the representations briefly detail the relevant planning policy context, before analysing the proposed charging schedule against this. Relevant legislation Planning Policy: The 2008 Planning Act (Part 11) introduced the Community Infrastructure Levy (CIL) as a method to fund the costs for infrastructure to support development can be funded (wholly or partly) by owners or developers of land. The CIL Regulations 2010 (as amended) require the Council (Regulation 14) to strike a balance between (a) the desirability of funding from CIL to cover ( in whole or part) the estimated total cost of infrastructure required to support development and the likely funding sources and (b) the potential effects of the imposition of CIL on the viability</p>	<p>Comment noted.</p>

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Representation Ref	Objector Ref	Agent Ref	Objection/Support	Consultation Stage	Document	Details of Representation	Officer Response to Representation
84	132		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>of development across the borough.</p> <p>Draft Charging Schedule These representations detail (i) concerns in respect of student accommodation and the viability evidence prepared which informed the proposed levy , (ii) residential accommodation and supporting Viability evidence and (iii) a general assessment of the proposed charging schedule against the CIL Regulations and relevant development plan policy. I refer to each issue in turn, immediately below (i) Draft Charging Schedule - Student Accommodation Viability An essential component of the CIL Regulations is to ensure that the proposed charging schedule rates are considered viable. The Community Infrastructure Levy: An Overview (CLG, May 2011) confirms that the levy should be set at a rate that does not discourage development. To do so would prejudice wider regeneration and development objectives. The CLG document, paragraph 23 states: "Charging authorities wishing to introduce the levy should propose a rate which does not put at serious risk the overall development of their area. they will need to draw on the infrastructure planning that underpins the development strategy for their area. The paragraph goes on to state that charging authorities are required to strike a balance between the desirability of meeting infrastructure costs from development and the effects of the levy upon economic viability of development across their area. This is reflected in legislation through CIL Regulation 14 (above) . There are two principal issues regarding student accommodation viability : - ( 1) The extremely limited number of student schemes 'tested' ; and (2) The assumed link between general housing Viability and that of student accommodation. The Viability Report (BNP Parabas, July 2012 ) underpinning the setting of the CIL rates within the Charging Schedule sets an extremely narrow focus in determining whether student accommodation can viably accommodate the proposed levy. Only two schemes (from a total of 41 tested) comprise an element of student accommodation. Both are located in Charging Zone 3 (£250/ sq.m) (Site Ref's 11 &amp; 19) . This level of analysis is considered insufficient to determine an accurate assessment of viability mindful of the proposed levy and its likely impact upon development delivery . The capitalised value of a student accommodation rental scheme is judged through an assessment of the development yield - i.e the net rental income likely to be achieved based upon forecast rent levels and occupancy. Whilst the conventional housing viability data is tested against previously deemed 'viable' residential development, specific assessment is made for student accommodation. Indeed, the Viability Report (paragraph 6.10) states "In all areas, the Viability of student housing will be broadly similar to that of general residential development." In order for the CIL figure to represent accurately student accommodation scheme viability, independent analysis of student accommodation is required. Finally, Site Appraisal 19 assumes a profit on GDV level of 8.5%. This level is considered unrealistic and therefore cannot constitute a reasonable assessment of likely scheme viability . The Council's Viability Report (Paragraph 3.4) highlights various development appraisal variables and confirms that lenders generally required a return at 15% of Gross Development Value (GDV) when perceived risk level was low. Current expected return is generally in excess of 20%. In order to ensure the viability testing for student accommodation viability can be robustly measured, it is necessary to amend the expected developer's return detailed within the relevant scheme appraisals.</p> <p>(ii) Draft Charging Schedule - Residential Accommodation Mindful of the Council's obligation to strike an appropriate balance between the desirability of funding from CIL infrastructure requirements required to support development and the potential effects upon development viability, it is considered that the proposed levy for residential development in Zones 1-3 in particular is considered unsustainable. A</p>	<p>There will always be variations in viability between individual sites, but the CIL statutory guidance advises that viability testing should establish the most typical viability position; not the exceptional situations. The CIL viability study tested three schemes with student accommodation. The private sector student accommodation rents are identified as able to generate sufficient surplus residual values, even after allowing for 35% of proposed floorspace as affordable housing, to absorb a maximum CIL of up to £1,549 sqm. In relation to university schemes, provided the university is the majority landowner, these schemes are likely to be exempt from paying CIL given the universities' charitable status. Rents for private direct let student accommodation must have regard to rents for alternative accommodation in the private rented sector. If rents are significantly higher than alternative accommodation, the take up of student units could be adversely affected. Therefore the two markets can be seen to be in competition with one another. In addition, student accommodation schemes are required to provide affordable housing in Southwark. Given this context it is considered that in all areas, the viability of student housing will be broadly similar to that general residential development. Student housing carries considerably less risk than other forms of development, with a plentiful demand from investors to buy completed developments, backed by considerable demand from students to rent the accommodation. This is reflected in the lower profit assumption. In any case, this scheme generates a significant surplus above the current use value. In reality, there is scope on this particular scheme to generate a higher profit than the minimum level assumed.</p>
85	132		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>(ii) Draft Charging Schedule - Residential Accommodation Mindful of the Council's obligation to strike an appropriate balance between the desirability of funding from CIL infrastructure requirements required to support development and the potential effects upon development viability, it is considered that the proposed levy for residential development in Zones 1-3 in particular is considered unsustainable. A</p>	<p>The proposed rates in zones 1,2 and 3 are higher for residential and lower for office schemes than the current S106, with the exception of those in the E &amp; C OAPF area which already have the OAPF S106 tariff. Zone 4 will have a lower rate for both residential and office. The Council is considering the appropriateness of offering Discretionary Relief. The assumptions on existing floor space are based</p>



**Preliminary Draft Community Infrastructure Levy Charging Schedule Representations and Officer Responses**

Representation Ref	Objector Ref	Agent Ref	Objection/Support	Consultation Stage	Document	Details of Representation	Officer Response to Representation
						<p>typical 2-bed residential unit (75sq.m) in Zone 1/2 would attract a levy requirement of £30,000, whilst a similar unit in Zone 3 would equate to £18,750. The Mayor's CIL results in a further charge of £35/sqm in addition to the figures above. Reviewing the total level of financial contributions collected under the 5106 regime adopted by Southwark, the proposed rates are likely to result in significantly higher mandatory contributions, which will prejudice deliverability of development across the Borough. The viability appraisal accounts for an existing floorspace discount which may not be applicable in practice (referred in detail below). (iii) Draft Charging Schedule - General Comments A number of points are relevant and highlighted thus: - (i) Assumption regarding availability of CIL Relief (if Discretionary Relief (iii) Phased Payment I refer to each issue in turn, immediately below: - (i) Assumption regarding availability of CIL Relief Appendix 4 of the Viability Report commissioned by the Council confirms the chargeable proportion of floorspace which applies to each site reference. CIL Regulation 40 confirms that existing gross internal floorspace on site can be deducted from the quantum of net-space for which CIL will be payable. The Charging Schedule noting f 400/£250/£50/sq.m for student accommodation/ conventional residential as 'viable', is based upon the assumption that the proposed CIL rate will be chargeable on a net additional floorspace figure. Both sites containing student accommodation within the Site Testing Table demonstrate that CIL chargeable floorspace figure is circa 50% of the total proposed. This assumption effectively factors in a 50% CIL liability 'discount' for student schemes and therefore cannot provide an accurate assessment of viability and capacity for student schemes across Southwark to absorb the proposed CIL rate. Regulation 40 further states that to qualify for the existing floorspace CIL 'credit' part of this floorspace must be in continuous and lawful use for a period of at least six months during the twelve months preceding the grant of lawful planning permission. Grant of lawful permission is deemed to include discharge of pre-implementation conditions attached to the planning permission. It is therefore highly unlikely that the CIL liability existing floorspace 'credit' will be applicable in the majority of cases. Further, assuming 50% existing floorspace on site to arrive at a 'viable' levy prejudices vacant sites from being developed, where no existing floorspace relief can be applied against the proposed levy. (ii) Discretionary Relief Regulation 55 (as amended by the 2011 Regulations) confirms a charging authority may grant relief for exceptional circumstances " from liability to pay CIL in respect of chargeable development if: (a) it appears to the charging authority that there are exceptional circumstances which justify doing so; and (b) the charging authority considers it expedient to do so. However exceptional circumstance relief can only be granted where: - (a) The LPA has opted to make exceptional circumstance relief available; (b) A planning obligation under S106 has been entered into; and (c) The Charging Authority considers that the cost of complying with the planning obligation is greater than the CIL amount payable and it would have an unacceptable impact upon economic viability. Regulation 56 requires the Council to publish their intention to offer exceptional circumstances relief prior to implementing this. Mindful of the current and forecast future economic climate, it is considered necessary for the Council to offer this relief within an amended Charging Schedule, allowing a degree of flexibility for applicable schemes. (ii) Phased Payment Regulation 69 (6) (as amended by the 2011 Regulations) provides the ability for CIL payments to be made in instalments to the charging authority, rather than requiring full payment upon commencement of development. Within the current economic context it is considered appropriate to introduce this level of flexibility and that therefore the Council should make this clear within the</p>	<p>on an set percentage for all schemes and with CIL will encourage site not to fall vacant. The viability assessments shows the viability of potential developments including the various CIL rates. It shows that development as a whole across the borough would be viable.</p>

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86	132		Objection	Preliminary draft CIL charging schedule	General Comments	<p>amended draft Charging Schedule.</p> <p>Conclusion The proposed levy on student accommodation has not been adequately tested by the Council and notwithstanding this, the assumptions made in determining viability cannot be justified. It is therefore demonstrated that the proposed levy is unviable and requires reduction in order to ensure delivery of this specialised form of accommodation across Southwark is not prejudiced. I trust the above will be taken into account during examination of the Borough's draft CIL Charging Schedule. Please do not hesitate to contact me should you have any queries or require any further information, and I would appreciate early engagement with the Borough in the next stage of evolution of the document.</p>	<p>See also response to rep 84. The viability evidence has shown that the development of student accommodation can support CIL rates of £400, £250 sqm and £50sqm (exclusive of Mayoral CIL) and indeed CIL rates in much greater excess of this level and we do not consider the delivery of student housing will be prejudiced. We have acknowledged the respondent's request to be kept informed of the next stage of consultation.</p>
87	175	39	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>We write in order to make comment on the above named document. Please note that we act on behalf of the London Fire And Emergency Planning Authority (LFEPA) and that this representation is made on their behalf. For your information the following LFEPA sites are within the borough:- • Dockhead Fire Station - 8 Wolsley Street, SE1 2BP. • Old Kent Road Fire Station - 405 Old Kent Road, SE1 5JH. • Peckham Fire Station - 78/80 Peckham Road, SE5 8PR • Southwark Fire Station - 94 Southwark Bridge Road, SE1 OEG. LFEPA also own the freehold interest in Southwark Training Centre (94 Southwark Bridge Road, SE1 OEG) and a long leasehold interest over the adjoining Grotto Place Playground site (1/17 Sturge Street, SE1). We note that 'All other uses', within which category a new fire station would fall, carries a levy of £50 per square metre across the borough. As fire stations are a vital community safety facility, we believe that they should be excluded from payment of this levy. The reasoning behind this is that fire 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, 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. For example, LFEPA are in the process of redeveloping their Dockhead and Old Kent Road fire stations as part of a significant rebuild programme for nine stations, under Private Finance Initiative (PFI). The levy would have a serious impact on the affordability of this project.</p>	<p>Our approach to Fire Stations is consistent with that of the Mayor of London and with other London Boroughs, such as Croydon and Lewisham. Having had regard to further viability evidence, we are proposing to reduce the charge for 'all other uses' to £30 per square metre across the borough. The infrastructure plan has been updated to reflect the proposed redevelopment of the Dockhead and Old Kent Road fire stations.</p>
88	175	39	Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>In addition to the above, we request that consideration should be given to the use of CIL funding for any future LFEPA fire safety and community facilities within the borough. Please note that LFEPA do not currently receive any Section 106 contributions, despite having requested them in the past via planning framework representations. We trust that the above is clear and look forward to receiving future correspondence from you relating to the matter. In the meantime, please do not hesitate to contact me should you require any further information, or further clarification of the point raised above.</p>	<p>Aside from the schemes at Dockhead and Old Kent Road that are being funded via the PFI programme, no future schemes have been identified to address projected growth in the borough. Based on available evidence, there is no requirement at this time to stipulate that CIL receipts will be required to fund infrastructure related to the fire service. We would welcome further dialogue with the LFEPA in future should the need for new facilities to meet growth in Southwark be identified.</p>
89	190	17	Objection	Preliminary draft CIL charging schedule	General Comments	<p>As you know, Lend Lease has recently submitted planning applications for the Heygate Masterplan, Phase One of the Heygate Regeneration, and St. Mary's Residential in the Elephant and Castle Opportunity Area. All three applications are anticipated to be heard at the Council's Planning Committee this year. The total combined quantum of development proposed by Lend Lease is: • Up to 2,989 residential units (almost 75% of the Opportunity Area target) • Up to 22,763 sqm (GEA) of retail and leisure floorspace (over 50% of the Opportunity Area target) • Up to 5,413 sqm (GEA) of business floorspace (almost 20% of the Opportunity Area target) • Up to 5,000 sqm (GEA) of community and culture floorspace • A new energy centre • A new Park and significant improvements to public realm. This</p>	<p>Details about the planning application and the Regulations are noted. With regard to the evidence base, it should also be noted that the council prepared a development infrastructure funding study for the E&amp;C opportunity area. Lend Lease were consulted on the assumptions that were used in the DIF study. Similar assumptions have been used in preparing the CIL and the proposed CIL charges are similar to the charges set out in the E&amp;C SPD, which Lend Lease were also consulted on and have commented on.</p>

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90	190	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>proposed development with be brought forward in phases and delivered over a period of approximately 13 years. Lend Lease is therefore fully informed and well placed to comment on the Preliminary Draft CIL Charging Schedule, its implications on the viability and deliverability of development, and the implications on the Council's ability to meet planning policy targets for the regeneration in a significant Opportunity Area. Implications for Development CIL is a tax on development in order to fund infrastructure. Under the CIL Regulations, the circumstances in which relief from CIL may be sought are limited and the figures, once set, are non-negotiable. The level of CIL set by the Council will have a direct impact on the viability and deliverability of development schemes. Put simply, if the rate is set too high, commercial acceptable profit margins will be reduced and schemes may become unviable having serious implications for development and regeneration. This will particularly be the case for large-scale outline developments that are to be delivered over a number of years as it will create added uncertainty for delivery and future costs. The Preliminary Draft CIL Charging Schedule identifies the following rates applicable to the Elephant and Castle Opportunity Area (Zone 3): Residential £250/sqm • Office £0/sqm • Retail £0/sqm up to 279 sqm £125/sqm between 280 and 2,499sqm £250/sqm when providing over 2,500sqm • Student £250/sqm • Hotel £125/sqm • All other uses £50/sqm The Charging Authority's evidence base includes a Viability Study undertaken by BNP Paribas (July 2012) and an Infrastructure Plan (July 2012). Lend Lease's Representations These representations are made following a thorough review of the Preliminary Draft Charging Schedule, and its supporting evidence base, by DP9 and Savills on behalf of Lend Lease. They have been prepared in the context of the relevant tests set out in the Community Infrastructure Levy Regulations, including Regulation 14, which states that: "In setting rates (including differential rates) in a charging schedule, a charging authority must aim to strike what appears to the charging authority to be 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." Having reviewed the evidence base supporting the Council's Preliminary Draft CIL Charging Schedule, it appears that the suggested rates fail to achieve the balance lawfully required by the Regulations. Lend Lease has fundamental concerns about the evidence base upon which the Draft Charging Schedule is based, specifically the BNP Paribas Viability Study, and in particular whether the evidence takes full account of the likely burden of all planning policy and regulatory costs that fall upon development, and particularly on large strategic sites in Opportunity Areas, such as the level of site specific Section 106 obligations and affordable housing provision.</p>	<p>The methodology used for undertaking the study is consistent with the advice in the guidance document Viability Testing Local Plans (2012). This document states that its methodology is also appropriate for testing CIL.</p>

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91	190	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>(August 2012) states that when considering the value of a development for planning purposes the 'Site value should equate to the Market Value subject to the following assumption; that the value has regard to development plan policies and all other material planning considerations and disregards that which is contrary to the development plan.'</p> <ul style="list-style-type: none"> <li>Build Infrastructure Costs BNP Paribas states that its build costs have been taken from the Build Cost Information Service (BCIS). Since the costs are taken from BCIS Savills has assumed that they are on a Gross Internal Area (GIA) basis, although this is not stated in the BNP Paribas Report. BCIS build costs do not however include the costs of external works and infrastructure. According to the HCA, analysis completed by BCIS for the Housing Corporation in 2007 indicated that the average cost of external works and infrastructure on residential schemes started since 2003 was equivalent to an additional 27% of building costs, including a wide range of site specific circumstances. BNP Paribas has only included an element of infrastructure costs, in the form of Road and Site Works, in three of their appraisals. It is not clear why it has only incorporated these costs into three appraisals and it is also not clear how it arrived at its figures. Savills is of the opinion that infrastructure costs are likely to be considerably higher to cover parcel and site infrastructure costs and that these costs will relate to a significant number of the sites tested by BNP Paribas.</li> </ul>	Build costs are sourced from BCIS to which an allowance for external works and infrastructure has been added, but also from tenders for housing projects that the Council has procured. The Council has led numerous regeneration schemes and it has access to a wealth of information on actual build costs which it has considered alongside BCIS.
92	190	17	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Effective Operation of CIL Savills also urges the Council to consider providing Payments in Kind, Instalment Policies and CIL Relief which we comment on as follows: • Payments in kind/ Bespoke CIL. Rule Regulation 73(1) permits the payment of land in lieu of CIL. This is an interesting tool which could be proactively interpreted where the land in question is provided for infrastructure, for example for transport provision or open space. The Preliminary Draft Charging Schedule is silent on the use of payments in kind. Savills therefore encourages the Council in the supplementary reports accompanying CIL to outline a proactive mechanism and approach to permitting developers to offer land either as payment or to take into account the value of land which is retained for the use of infrastructure. • Instalment Policies With regard to the payment of CIL, Regulation (69B(1)) and CIL - An Overview (paragraphs 45 - 48) are clear that the Charging Authority has the flexibility to request the timing of the charge and hence to outline the payment procedure. This flexibility extends to: • Levy payment deadlines • Instalments policy However, the choice to impose an 'instalments policy' is entirely discretionary. Savills considers that it is imperative that such a policy is outlined at the earliest opportunity. • CIL Relief The Community Infrastructure Levy Relief - Information Document (CLG, May 2011) outlines the Government's position on "exceptional circumstances" which could warrant exception from CIL (paragraph 66 onward). The first matter to note from the Regulations is that the offer of relief is discretionary on the Charging Authority (Regulation 55(3) (a)). As outlined, Savills considers it is imperative that the Council makes available relief from the date of the adoption of CIL, and that it clearly outlines its approach to doing so (in conformity with the Regulations).</p>	<p>The Regulations allow (where agreed) the provision of payment in kind through land. No reference is required in the PDCS. An instalments policy will be proposed and consulted upon in 2013. Representations and consideration of the affect of any Instalments Policy can be considered then. It should be noted that the Mayor of London will be consulting upon their Instalments Policy, which will be the default for Southwark until such a point Southwark brings forward it's own. The Council is considering the merits of exceptional circumstances relief.</p>
93	190	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Inaccurate Assumptions on Section 106 Agreements The suggested rates in the Preliminary Charging Schedule do not appear to pay regard to, or take into due consideration, the levels of Section 106 obligations that have been, or are being, actually achieved in the borough. Clearly, whilst this need not be deterministic of the appropriate level for CIL, it is a strong indication of the appropriateness and reasonableness of proposed CIL rates and, importantly, their likely effect on development viability. This is particularly the case given many developments within</p>	<p>The updated BNPP study will clarify the S106 assumptions. Their existing work test the viability of the proposed rates across the borough.</p>

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						<p>The Charging Authority's area would have recently been the subject of thorough independent viability assessment in accordance with Development Plan policies in order to arrive at appropriate levels of Section 106 obligations. Indeed, Lend Lease has been in recent discussions with the District Valuer (advising the Council) on the viability of its planning applications. Should the CIL rates be set at a level materially higher than historic or emerging Section 106 obligations then this would raise very serious questions as to assumptions made by the Charging Authority and, clearly, would require very robust evidence to justify the inference that development can afford to contribute and pay more. Contributions achieved in recent Section 106 Agreements for strategic sites in the borough pose serious questions over the reasonableness of the rates and assumptions set out in the Preliminary Draft Charging Schedule, including the ability to deliver substantial infrastructure contributions and still deliver 35% affordable housing as assumed by the BNP Paribas Viability Study. In addition, critically it is unclear from the evidence base what assumptions the Council has made about the Section 106 obligations that would normally be expected for future development. The BNP Paribas Viability Study refers to a standard rate of £1,000 per unit which is unjustified other than a reference to the same charge in Poole, Dorset. This is clearly an inappropriate approach and justification, given that the Regulations require Charging Authorities to prepare and rely upon a robust evidence base which takes account of the characteristics of infrastructure needs and planned development in their areas. A contrary approach, including placing reliance on rates set elsewhere, will not be robust against challenge.</p>	
94	190	17				<p>Lack of Consideration of Opportunity Areas and Impact on Elephant and Castle                      The BNP Paribas Viability Study is general in nature and does not adequately consider how development in Southwark is planned over the period of the Development Plan. In other words it has not properly considered the effect of CIL on the most important strategic development sites and areas allocated within the Development Plan, most notably the Opportunity Areas. A number of appraisals are attached as an Appendix to the Viability Study, but it is unclear how these relate to the real life circumstances associated with the deliverability and viability of the strategic development locations. A full consideration of the Opportunity Areas is critical owing to the role these areas play in delivering the Council's and London's housing targets. Lend Lease is concerned that the Charging Authority is unable to draw any clear or reasonable conclusions as to the risk posed by the suggested rates to these areas and, therefore, the Development Plan, on the basis of the BNP Paribas Viability Study. Through discussions on its current planning applications in the Elephant and Castle Opportunity Area Lend Lease is acutely aware of the many competing objectives involved in the delivery of strategic developments in order to achieve scheme viability as a whole. It is essential that robust and relevant evidence is provided to assess the impact of CIL rates on the delivery of development in Opportunity Areas and the necessary consideration given to the appropriate rates to be imposed. It should be noted that the Council's adopted Core Strategy states that Elephant and Castle is one of the best available areas to accommodate major growth in jobs and housing in the borough, and the Council adopted the Elephant and Castle SPD /OAPF in March 2012 to set out the Council's vision for the Opportunity Area. It is therefore essential that an appropriate level of CIL is set to allow the necessary development to occur to meet the policy aspirations and regeneration benefits for the area. In this regard, the evidence provided to support the Preliminary Draft Charging Schedule is unclear in explaining how the actual proposed rates and associated geographical zones have been arrived at. The zones do not appear to relate logically to any of the economic</p>	<p>The council prepared a development infrastructure funding study for the E&amp;C opportunity area. This examined the impact of s106/CIL on development across the opportunity area. It informed the s106 tariff set out in the E&amp;C SPD, which Lend Lease have commented on. The proposed CIL charges are at the similar level to those set out in the DIF study and SPD. The DIF study recommended a maximum charge of £175 per square metre for residential space, across all tenures of housing. The CIL proposes £250 per square metre, which is higher than the DIF/SPD charge but which takes account of the fact that under the CIL Regulations, affordable housing qualifies for relief. The council considers that the SPD charges and proposed CIL charge are supportable by development in the E&amp;C opportunity area and will not put it at risk. There is consequently no need to put E&amp;C into a CIL separate zone. Moreover the CIL zones have been informed by viability. While costs required by planning policies have been taken into account, the CIL zones do not follow planning policy designations. The CIL infrastructure plan includes the key requirements set out in the E&amp;C SPD.</p>

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95	190	17	Objection	Preliminary draft CIL charging schedule	General Comments	<p>viability considerations explained in the BNP Paribas Viability Study. They would also appear not to pay proper regard to, or align with, planning policy designations. Elephant and Castle is included in Zone 3, which spans the entire width of the borough and sets generic rates, however the evidence provided in Appendix 3 of the BNP Paribas Viability Report (notwithstanding the points raised elsewhere in the letter) shows that development within Elephant and Castle can sustain some of the lowest rates in the that Charging Zone. Without proper consideration of the role of Opportunity Areas, and a robust justification of geographical zones, Lend Lease is concerned that delivery of development at Elephant and Castle will be adversely impacted upon. In light of the concerns raised above, Lend Lease considers that the Council should introduce a separate zone for the Elephant and Castle Opportunity Area which acknowledges the unique viability characteristics of the location and the strategic importance of the area to delivering the Council's planning policy objectives over the life of the Development Plan. In addition, the Draft Infrastructure Plan needs to consider where CIL can be used to specifically assist in the delivery of key infrastructure in Elephant and Castle (over and above those currently identified) to assist in the successful regeneration of this important area. Lend Lease would like to reserve the right to comment further on the Draft Infrastructure Plan in future representations</p>	
95	190	17	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Conclusions As the Council's Development Partner Lend Lease is committed to the delivery of significant regeneration at Elephant and Castle, which is a key policy aspiration of the Council. Lend Lease has submitted three planning applications for almost 3,000 residential units and associated development and is fully informed and well placed to comment on the viability and deliverability of development in the borough, and the need for appropriate provisions to be set to create certainty in the long term delivery of strategic projects. Lend Lease is concerned that the Council has prepared its Preliminary Draft Charging Schedule on the basis of unreliable and inappropriate evidence. Because of this Lend Lease considers that the Council is not yet in a position to judge whether the proposed Preliminary Draft Charging Schedule would risk the economic viability of development across its area i.e. the tests set out in Regulation 14 cannot yet be meaningfully applied. Further viability assessment work must be undertaken prior to publication of the next version of the Draft Charging Schedule - this should focus on:</p> <ul style="list-style-type: none"> <li>• The concerns raised about the appropriateness of the evidence base, including defining the charging zones.</li> <li>• Providing further provisions relating to payments in kind, Instalment Policies and CIL Relief.</li> <li>• The balancing of Section 106 and CIL.</li> <li>• The impact on the deliverability of planning policy targets for Opportunity Areas.</li> </ul> <p>Lend Lease considers the Council has not adequately tested the objectives of the Development Plan against the effect of CIL. The only conclusion possible at this stage is the Preliminary Draft Charging Schedule stands to place at serious risk the ability of Development Plan housing delivery targets to be achieved, particularly in Elephant and Castle. In light of these concerns Lend Lease considers that the Council should also consider the introduction of a separate zone for the Elephant and Castle Opportunity Area which acknowledges the unique viability characteristics of the location and the strategic importance of the area to delivering the Council's planning policy objectives over the life of the Development Plan. The Draft Charging Schedule should set appropriate rates to ensure that these objectives can be delivered. In addition, the Draft Infrastructure Plan needs to consider where CIL can be used to specifically assist in the delivery of additional key infrastructure in Elephant and Castle to assist in the successful regeneration of this important area. Lend Lease would like to reserve the right to comment further on the Draft Infrastructure Plan in future representations. Lend</p>	<p>An instalments policy will be proposed and consulted upon in 2013. Representations and consideration of the affect of any Instalments Policy can be considered then. It should be noted that the Mayor of London will be consulting upon their Instalments Policy, which will be the default for Southwark until such a point Southwark brings forward it's own. The updated BNPP study will clarify the S106 assumptions. Their existing work test the viability of the proposed rates across the borough. The council will monitor the impact of CIL once it has been introduced and will review the CIL as and when required. The proposed CIL charges are at the similar level to those set out in the DIF study and SPD. The DIF study recommended a maximum charge of £175 per square metre for residential space, across all tenures of housing. The CIL proposes £250 per square metre, which is higher than the DIF/SPD charge but which takes account of the fact that under the CIL Regulations, affordable housing qualifies for relief. The council considers that the SPD charges and proposed CIL charge are supportable by development in the E&amp;C opportunity area and will not put it at risk. There is consequently no need to put E&amp;C into a CIL separate zone.</p>

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96	669	53	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Lease also considers that, once adopted, the Charging Schedule should be reviewed on a regular basis to allow it to take in account its effect on the viability and deliverability of development in the borough, and any material changes in market conditions that may affect the delivery of Development Plan targets. Lease would welcome the opportunity to meet with the Council in advance of the publication of the Draft Charging Schedule in December 2012 to discuss the way forward in relation to the points made in these representations.</p> <p>As you will no doubt be aware, Key Property Investments (a 50:50 joint venture between St Modwen and Salthia) is proposing a significant mixed use scheme at Elephant &amp; Castle Shopping Centre which represents one of the most important regeneration projects in south London. Aside from the new accommodation it will provide, its strategic location will act as an enabler for not only significant adjacent regeneration, but also a number of key transport infrastructure projects which have been identified as priorities for the Borough. This is of course well recognised in the Borough's Core Strategy and the London Plan. We reviewed the Council's Preliminary Draft Community Infrastructure Levy (CIL) Charging Schedule and have significant concerns about the impact it will have on our proposals - put simply the proposed charging rates combined with the Council's affordable housing policies; and the recently adopted Elephant &amp; Castle SPD/OAF (as referred to in our correspondence dated 7<sup>th</sup> February 2012) put at risk the ability to deliver a viable scheme. It adds another layer of cost to an already fragile appraisal that has many complexities to overcome. Not least through the exceptional entry costs of land acquisition represented by a high density mixed use building on the site combining three floors of retail and leisure with a further 85,000 sq ft of offices above - exactly the type of project not envisaged in the worked examples of the accompanying Viability Study (July 2012). Having examined the Council's evidence base, and particularly the Viability Study undertaken by your consultants BNP, we do have a number of specific issues and concerns which we set out below. However, at a more strategic level we consider that the approach taken is simply inappropriate for a regeneration scheme of the scale and complexity we are proposing to deliver.</p>	<p>The Council's viability work appraised a number of development scheme typologies in the Elephant and Castle Opportunity Area, large and small. This work was undertaken for the Elephant and Castle OAPF/SPD to inform setting the strategic transport s106 tariff for the area. At the time of preparing the Elephant and Castle Development Infrastructure Study, the key landowners were consulted on the assumptions for the viability work. This work followed the same methodology as the CIL Viability Study and subsequently, these site appraisals were included in the CIL Viability Study. The charge for zone 3, which includes Elephant and Castle is broadly consistent with the s106 strategic transport tariff level agreed in the SPD. The CIL when brought into effect will replace the Elephant and Castle SPD tariff. There is unlikely to be any increase in burden when affordable housing and existing floorspace are taken into account. S106 contributions will largely be subsumed in to CIL. CIL will not be an additional requirement; it largely replaces existing requirements. We have not proposed CIL rates which are at the limits of viability and our proposed rates include a buffer between the maximum level of CIL which development can absorb to allow for change and site specific viability issues to be accommodated. We need to secure contributions towards infrastructure that will support growth, and if we do not charge CIL, we will be unable to grant planning consent for developments due to the cumulative impact schemes will have.</p>
97	669	53			General Comments	<p>Exceptional Circumstances The CIL Regulations do enable Councils to make available Exceptional Circumstances Relief which would enable the ultimate CIL charge to take into account viability. There is no indication within the Preliminary Draft as to whether this is the Council's intention but we would strongly urge it to do so in this particular instance. In addition, as we will illustrate through our analysis of BNP's Viability Study, we do consider that there is a clear case for the Council setting an additional Charging Zone to take into account the specific viability issues arising from the Elephant &amp; Castle Shopping Centre / Regeneration Area. There is already precedent for this at Wandsworth where the (shortly to be adopted) Charging Schedule sets a zero rate on a very small area of the Borough in Roehampton. This approach is based on viability as required by the Regulations and has been approved at an Examination in Public. We consider that there is a clear case to take a similar approach here.</p>	<p>The council is considering the merits of Exceptional Circumstances Relief.</p>
98	669	53	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Evidence Base Turning to the specifics of the evidence base, we have reviewed the work undertaken by BNP and consider there are a number of areas where the methodology and conclusions set out in the Viability Study is flawed. Retail Use looking at retail use first, the Council is proposing a differential rate based on size threshold, with a proposed charge of £250 per sq m for development in excess of 2,500 sq m. The Viability Study acknowledges that there has been some dispute around whether this approach is permissible. However at the recent stakeholders' workshop they indicated that they were now of the view that this was a correct</p>	<p>We are proposing to amend the charging schedule and remove the size thresholds proposed for the retail CIL rates. In the Draft CIL Schedule we have proposed to include a detailed description of those uses which would attract the higher charge of £250 per square metre. These are namely supermarkets and shopping centres which have on-site parking facilities. We have also identified that the values of retail uses differ in relation to their distinct shopping experiences. We have also proposed to amend the description of development accompanying the proposed rate of £125 per square metre, to make this rate applicable to all other retail uses</p>

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						<p>interpretation of the Regulations and this was backed up by a similar approach being validated by the Examiner at Wycombe. We do not seek to dispute that this approach can be taken by a Charging Authority. However, we would point out that at the recent Examination in Public on the Poole charging schedule, the Examiner concluded that it would need to be based on a 'fine grained' viability analysis which clearly demonstrated that the approach was justified. We consider that the Viability Study falls foul of this in two areas. Firstly, the 2,500 sq m threshold appears to have been chosen somewhat arbitrarily in the context of CIL. At Paragraph 6.14 the Study states that "With regard to very large retail developments, the NPPF prescribes a default threshold of 2,500 square metres at which point retail assessments are required". The CIL Regulations make no reference to the NPPF, and there is no suggestion within the NPPF that this figure reflects any sort of viability threshold. We consider that it is for the Council to make a clear viability case that retail above their chosen threshold has clearly differentiated viability characteristics. We believe that the Viability Study has failed to do this. In the justification of the charging figure, the Viability Study contains only three schemes with retail content in excess of 2,500 sq m - Sites 28, 29 and 34. Site 28, by their own analysis, falls well short of being viable even without any CIL being imposed. Site 34 is a mixed use scheme. BNP have sought to split out retail and residential for the purposes of their analysis and from this have concluded that a CIL of £779 per sq m is payable. However, the residential element of the scheme makes a significant loss so it is clear that taken as a whole this scheme does not support the payment of a CIL. Only one scheme, Site 29, supports a positive CIL for 'large' scale retail. This in itself is troublesome given the need for a 'fine grained' viability approach to support a differential charging regime. Furthermore, Site 29 is wholly untypical of the sort of retail development likely to come forward in Southwark. In an area of densely occupied urban land, the Viability Study includes a scheme which sits on a large undeveloped site which they are therefore able to apply an extremely low benchmark land value to. The related financial appraisal makes assumptions which we again consider to be unrepresentative of the wider retail market in the Borough as follows: • Build costs of £1,200 psm may be suitable for a retail scheme of limited architectural complexity on a flat site with no upper floor uses, but such cost assumptions will not support more complex urban schemes. Indeed, this is the sort of rate we would expect to see for an edge of centre large unit scheme - not one that is appropriate in a dense urban context; • 7 month rent free period is assumed in a market where incentives packages to retailers of 2-3 years are not uncommon; • Rents of £538 per sq m which we consider to be extremely optimistic; • An investment yield of 6% is not realistic - 'high street' retail schemes are over 8% today depending on covenant strength. The quoted yield suggests the 'primer' end of investment and in the context of a generic Southwark-based scheme we consider this is not sufficiently justified to argue that the bulk of the Borough falls into such category; and • Developer's profit of 20% which may be suitable for a straightforward retail 'shed' scheme but would certainly not be suitable for more complex urban regeneration schemes. Taken this all into account, there is no question that BNP have failed to provide a justification for setting an increased charge for retail in excess of 2,500 sq m. We should also point out that there are very few retail schemes anticipated across the Borough in the Plan period on this scale. The additional receipts which might be secured through this differential rate will be negligible in the context of the Council's overall infrastructure funding requirements.</p>	<p>(A1-A5) and to include sui generis uses akin to retail uses. Of all the sites tested with a retail element, all but one of the viable developments should be able to pay the charges and on that basis, the proposed charges should not put development at risk. We have also proposed that the nil charge for affordable retail space is deleted on the basis while the affordability of the space affects viability, it is not in itself a distinct type of retail provision. The testing indicated that any costs associated with affordable space should be absorbed within the overall retail element of the development and therefore this change should not put such development at risk. We have reviewed the assumptions in the viability appraisals for the retail schemes. For Site 29, the build costs have been increased and the rents have been reduced. A rent free period of 18 months has been incorporated as an input. On further consideration, the rental yield has been reduced, however developer's profit remains the same. A 20% return on GDV after finance has been used as measure of return. Typically developers and banks are targeting 20-25% Internal Rate of Return on a development scheme. The assumption is consistent with the approach adopted on several major schemes in the borough.</p>
99	669	53	Objection	Preliminary draft CIL	CIL Viability Study	Residential Use Looking at residential, the Viability Study includes modelling on a wider selection of	There will always be variations in viability between individual sites, but viability testing should establish the most typical viability position; not the exceptional



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				charging schedule		<p>scenarios. However, the conclusions do not take into account the complexities and additional costs arising from a mixed use regeneration scheme as is illustrated by their analysis of Site 34 - a large mixed use scheme with significant amounts of both retail and residential which is not viable. This is flawed when it comes to demonstrating that the higher retail rate should be charged but also illustrates the lack of viability for residential in a scheme of this nature.</p>	<p>situations. A number of sites were appraised including whole or part retail component, in varying locations. Of all the sites tested with a retail element, all but one of the viable developments should be able to pay the charges and on that basis, we consider that the proposed charged should not put development at risk. The provision of mixed use schemes is a matter which is a planning requirement and must be addressed through the planning system (in the same way that the Council will weigh affordable housing against other requirements).</p>
100	669	53	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Other Issues Instalments Policy The 2011 amendment to the Regulations allows charging authorities to put in place an appropriate instalments policy for the payment of CIL. At this stage the Council has provided no indication as to what its intentions are in this respect. For larger schemes, particularly with a high residential content, units will be delivered and sold over a long period of time - in the case of our scheme we might estimate that residential will be built out and sold over a period of 10+ years. It is important to acknowledge that given the scale of development proposed in the locality, the take up rate will impose a natural break on the capacity to absorb large numbers of new residential units from anyone site over a short period. This will inevitably place further strain on the cash flow as the debt for undertaking the initial development build and acquisition costs still needs to be serviced during that period. From a cashflow perspective, having to meet a large CIL bill at the outset has an extremely damaging impact on viability and as such its charging should at least match the longer term phased delivery of the project. BNP's viability analysis appears to take absolutely no account of the costs associated with having to pay CIL monies up front and this does represent a flaw in the methodology. We would strongly urge the Council to adopt a generous instalments policy for larger schemes. The London Borough of Wandsworth is proposing that top threshold schemes should make the payments over a period of 540 days which, whilst a concession to large projects, still fails to adequately address the issue. This is still a very short period in the context of schemes which are being delivered on 5-10 year programmes and Southwark Council should have regard to this.</p>	<p>A Mayoral instalments policy is proposed and the Council will review the effectiveness of this before considering an alternative instalment policy. It should be noted that the Mayor of London will be consulting upon their Instalments Policy, which will be the default for Southwark until such a point Southwark brings forward it's</p>
101	669	53	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Land 'in lieu' In formulating our scheme, discussions have been held with the Council and TfL around making available an area of land for TfL to deliver an improved London Underground station. The CIL Regulations permit land to be provided in lieu of financial contributions. However, as we understand it, such land would be valued at the date that CIL is payable. The proposed land parcel is currently occupied by a myriad of tenants paying good levels of rent and we will need to incur significant costs in securing vacant possession to make this available for the proposed works. However, these acquisition costs will be incurred prior to the valuation date and therefore an overly zealous interpretation of the wording could lead to these costs not being reflected in the valuation. This would be contrary to the spirit of intent to the parties' current intentions. The Council must therefore look to set a policy which facilitates the coming together of like-minded interests where the public and private sector are together seeking to deliver a broader regeneration initiative. Without such circumstances, clearly we would not be able to proceed on the basis currently proposed. Whilst we appreciate that the above point is not strictly speaking an issue for the charging schedule, we would welcome a discussion with the Council as to how this issue might be dealt with in a mutually beneficial manner. Clearly it is in no-one's interest for Key Property Investments to leave the land occupied prior to any transfer as this will have a delay on the delivery of the strategic transport improvements and this would have inevitable knock-on effects on the delivery of the wider regeneration of the area</p>	<p>The Regulations set out the approach and requirements for in lieu payments in the form of land transfers.</p>

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102	669	53	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Conclusions Key Property Investments is committed to the delivery or a significant regeneration scheme at Elephant &amp; Castle. We understand that this is also a key priority for the Council. It will have a transformative effect on the area and also enable the delivery of some key transport infrastructure projects. However, the proposed CIL charging rates, combined with the Council's affordable housing policy and the expectations of the adopted SPD/OAF, will collectively have a dramatic effect on the viability of the development proposals and there is a significant risk that as a result we will not be able to deliver the scheme. We would therefore urge the Council to do the following: • Introduce a separate Charging Zone for Elephant &amp; Castle Shopping Centre / Regeneration Area which acknowledges the unique viability characteristics of the location as has been done by other Councils, most recently Wandsworth, and sets lower/zero rates for development; • Make available Exceptional Circumstances Relief available so the specific viability issues faced by this scheme can be addressed within the provisions of the CIL Regulations; and • Adopt an instalments policy which genuinely reflects the lengthy development programme for a scheme of this nature. We would welcome the opportunity to meet with the Council and its advisors to discuss how these issues can be addressed in the context of the Council's overall charging schedule.</p>	<p>The Council's viability work appraised a number of development scheme typologies in the Elephant and Castle Opportunity Area (OA). This work was undertaken for the Elephant and Castle OAPF/SPD to inform setting the strategic transport s106 tariff for the area. This work followed the same methodology as the CIL Viability Study and subsequently, these site appraisals were included in the CIL Viability Study. This evidence concludes that based on current values and costs, development can absorb a tariff of up to £175 sqm across the majority of the sites tested. Since December 2011 development in this area have been subject to the transport tariff and since the adoption of the OAPF/SPD, three major developments have gained planning permission covering over 2500 units. This shows the tariff has not stopped delivery of acceptable development which is key to the delivery of our Core Strategy. The proposed CIL rate for charging zone 3, which includes Elephant and Castle opportunity area, is broadly consistent with the s106 tariff level agreed in the SPD (the CIL, when brought into effect, will replace the Elephant and Castle SPD tariff). We do not consider there is sufficient evidence to demonstrate that the imposition of the CIL would seriously jeopardise the viability of development in the OA and therefore cannot justify setting lower/zero rates for development in this location. We are considering the merits of offering discretionary relief. An instalments policy will be proposed and consulted upon in 2013. Representations and consideration of the affect of any Instalments Policy can be considered then. It should be noted that the Mayor of London will be consulting upon his own instalments policy, which will be the default for Southwark until such a point Southwark brings forward its own.</p>
103	437		Objection	Preliminary draft CIL charging schedule	General Comments	<p>The Board of Better Bankside welcomes this opportunity to respond to Southwark Council's public consultation on the Preliminary Draft CIL Charging Schedule. 2. Better Bankside is the third BID in the UK, the second in London and the first south of the river. A Business Improvement District (BID) is an independent, business-owned and led company, which seeks to improve a given location for commercial activity. Better Bankside's members are the 460 companies in the BID area who pay its annual 'levy'. Many of these are heavily involved in the governance of the company. 3. Better Bankside therefore represents 460 businesses across Bankside and Board members have a wide range of commercial expertise and experience. Our core mission is to make Bankside a better place to work, live and visit, which is central to actions and outcomes of the CIL. While most of our comments therefore relate to proposals for Zone 1 we wish to make clear that Better Bankside cares deeply about the economic and social development of the whole borough, and it is because of impacts to the wider borough, as well as to Bankside specifically, that we make these representations. 4. One of the principal strengths of Bankside is the mix it offers both residentially and commercially, as well as in streetscape and style. This mix of tenures, character and size of premises actively attracts new investors and encourages many residents and businesses to stay. We would wish to see that variety retained and actively supported across all council policies.</p>	<p>Noted.</p>
104	437		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>We welcome the opportunity that CIL can bring to support growth in the borough. We acknowledge that there are difficult decisions to be made in setting the charging schedule, not least as CIL will not meet all of the infrastructure needs anticipated, but we believe that the levy schedule as it is currently proposed will lead to detrimental outcomes that could be harmful to both the economic and the social future of the borough as a whole. 6. In particular we are concerned that the proposed charge for residential development in zone 1 of £400/sq m will discourage new residential development in this area other than those high value and high cost schemes that are able to bear these charges. This would lead to an</p>	<p>The proposed charges in Zone 1 are underpinned by viability evidence and are comparable to similar areas in neighbouring boroughs. The council believes that the range of charges represent an appropriate balance between providing infrastructure to support growth, whilst ensuring that the viability of overall development across the borough is not jeopardised. Affordable housing will still be required in accordance with adopted planning policies and developers will be able to apply for these units to be exempt from contributing towards CIL payments.</p>

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105	437		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>exclusivity and homogeneity in housing which would have the effect of making the area less, not more attractive to investors, as well as producing an increasing alienation of one part of the borough from another. In turn this could reduce the overall receipts through CIL and thus the amount of development that can be supported throughout the borough. 7. Charging authorities must strike a balance between securing funding for infrastructure projects and the potential effects of the CIL levy on economic viability. We acknowledge that reducing the CIL levy for residential development in Zone 1 will not in itself guarantee that more mixed housing is delivered by developers in this area, but we believe it is a necessary first step in keeping that possibility alive.</p> <p>CIL is just one means that the council has to support development in the area. The Neighbourhood Plan, whose proposals are currently being developed, would set out an important framework for development in the area. Better Bankside supports the development of the Neighbourhood Plan, and believes that it is essential that CIL receipts will continue to make a significant contribution to the area from which they are generated Bankside and areas adjacent to it offer the most opportunities for generating CIL monies in Southwark. Bankside has seen much welcome development but it is not a finished area by any means. Better Bankside is mindful of its obligations to support regeneration in Southwark. Investment in community and physical infrastructure in Bankside is essential in order to maintain the quality of the environment and thus its competitiveness. We attach a list of projects that have been identified so far within the proposed Neighbourhood Plan, and that have support from residential and business communities, which we would hope to see delivered with support of CIL receipts. We hope that by taking a wider view of the above policies and plans, Southwark Council will help ensure that the competitiveness of Bankside remains viable.</p>	<p>A 'meaningful proportion' of CIL receipts will be retained to provide new and improved infrastructure in the area in which development takes place. Where a neighbourhood plan is in place, the 'meaningful proportion' is defined by Government as being 25%. This allocation would be made using a community infrastructure project list (CIPL) which will be based on a revised s106 project bank list. This would be updated every year with consultation with the community councils and planning committee to ensure it reflects local needs. Where there are particular infrastructure projects identified in an adopted neighbourhood plan as being necessary to support growth in an area, CIL receipts could be used as a funding mechanism.</p>
106	895		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Representations on the preliminary draft CIL charging schedule Thank you for providing us with the opportunity to comment on the Preliminary Draft CIL Charging Schedule. As a major landowner and developer in the London Borough of Southwark, Land Securities has an excellent track record of delivering high quality new development in the Borough, as well as throughout London and has had a major role in the regeneration of key parts of the Borough. We note that the intention of CIL is to provide developers with more certainty about the costs associated with a development. It is acknowledged that the monies collected through CIL will be used to fund the local infrastructure that is required to support new development and growth in the Borough and this is welcomed. However, it is considered that IL at the rate currently proposed in the Preliminary Draft CIL Charging Schedule will adversely impact on scheme viability and willing to create the conditions that support local economic growth, which is a primary objective of the Government's recently announced growth agenda (Written Ministerial Statement by Rt Hon Eric Pickles MP, 6 October 2012) and the National Planning Policy Framework (NPPF) (2012). As stated in the NPPF, development should not be subject to such a scale of obligations and policy burdens that its ability to be developed viably is threatened. To ensure viability it is stated in the NPPF, that the costs of any requirements likely to be applied to development, such as requirements for affordable housing and infrastructure contributions, should, when taking account of the normal cost of development and mitigation provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. Specifically, the NPPF states that CIL should "support and incentivise new development". The CIL rates currently proposed in the Preliminary Draft CIL Charging Schedule, combined with the other costs of development, are unlikely to provide competitive returns to a willing landowner and</p>	<p>The council considers that the proposed charges in zones 1 and 2 are supported by the evidence. Of the three residential schemes tested in zones 1 and 2, the proposed CIL is well within the maximum chargeable CIL. Values generally change moving southwards. The zonal boundaries have been informed by post-code data on average house prices. Again, these confirm the fact that values reduce, moving southwards from the river.</p>

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107	895		Objection	Preliminary draft CIL charging schedule	Charging zones	<p>willing developer. This is likely to threaten the deliverability of development and consequently restrict the ability of the Borough to meet its targets for growth. The use of arbitrary boundaries for the CILZ ones to establish the different levels of CIL payments that a development can afford is likely to result in parts of the Borough in need of investment remaining unimproved due to an unnecessarily high level of CIL relative to existing use values and returns from new uses.</p> <p>In order to support and incentivise new development in the spirit of the NPPF, Zones 1 to 3 identified on the CIL Zones Map 2012 should be amalgamated to create a single zone. The viability of development within this new single zone should be tested further to establish a robust and reasonable CIL rate that development can afford.</p>	<p>The council considers that the proposed charges in zones 1 and 2 are supported by the evidence. Of the three residential schemes tested in zones 1 and 2, the proposed CIL is well within the maximum chargeable CIL. Values generally change moving southwards. The zonal boundaries have been informed by post-code data on average house prices. Again, these confirm the fact that values reduce, moving southwards from the river.</p> <p>While CIL will be mandatory, affordable housing will continue to be negotiated through s106 planning obligations.</p>
108	895	17	Objection	Preliminary draft CIL charging schedule	Charging zones	<p>It is noted that the Borough CIL, as well as the Mayoral CIL, is treated as the top 'slice' of the costs that a development can viably afford. Therefore, where a development is subject to a full CIL payment, then the other charges applied to a development, including Section 106 obligations and, specifically, affordable housing requirements in the case of residential development would need to be reduced to ensure that development remains viable and is capable of being delivered. We look forward to receiving confirmation that these representations have been received. We reserve the right to make further representations on subsequent versions of the draft Charging Schedule and to attend the Examination in Public, as necessary.</p>	
109	896	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>We write on behalf of our client, the Carlyle Group, the Owners of the Sampson House and Ludgate House site, to submit representations to the recently published Community Infrastructure Levy (CIL) infrastructure Preliminary Draft Charging Schedule (PDCS). Our client's representations are set out below. Following a review of the relevant documents, our client considers a balance has not been struck between the desirability of funding from CIL of infrastructure (in whole or in part) and the potential effects of the proposed PDCS on the economic viability of development. Impact on Strategic Development in the Bankside, Borough and London Bridge Opportunity Area) Our client's site is a major development site located in the Bankside, Borough and London Bridge Opportunity Area and is located in Zone 1 where the PDCS gives the highest CIL rates in the Borough (for example £400/sqm for residential and £100/sqm for offices). It is considered that the large strategic sites in the Opportunity Area have not been appropriately analysed. These sites are important to the achievement of local and regional policy objectives. The evidence has not considered the potential effects of CIL, infrastructure on these sites and has not, therefore, enabled the Charging Authority to make a proper judgment on the effect of the rates set out within the PDCS on the deliverability of Development Plan objectives. A number of appraisals are attached in the Appendix of the Viability Study, but it is unclear how these relate the real life circumstances associated with the deliverability and viability of the strategic development sites. Adequate consideration of the Opportunity Areas is essential due to the role these areas play in delivering LBS housing targets. The Bankside, Borough and London Bridge Opportunity Area is required to deliver a minimum of 1,900 homes and 25,000 jobs during the lifetime of the London Plan (up to 2031). Our client is concerned that the Charging Authority is unable to draw any clear or reasonable conclusions as to the risk posed by the CIL levels to the viability of development in these areas and, therefore, the Development Plan on the basis of the BNP Paribas Viability Study.</p>	<p>The CIL Viability Study tests the ability of a wide range of sites and types of development throughout the borough to yield contributions to infrastructure requirements through CIL. In accordance with CIL guidance, the sites selected include a range of developments, including large high density development sites located in the Bankside, Borough and London Bridge Opportunity Area. We are not relying upon a small number of large sites to deliver our housing and employment targets, rather a number of sites located right across the borough. The site appraisals have showed that many sites could accommodate much higher CIL rates to what is proposed in the opportunity area. In proposing CIL rates, we have incorporated a substantial buffer to factor in potential risks to delivery. The buffer will help to mitigate a number of risk factors (primarily the potentially adverse impact on land supply of setting the rates at a high level and 'shocking' the market) and it takes into account that economic circumstances and land values could change during the lifetime of the charging schedule. The CIL viability study demonstrates that the imposition of CIL at the rates proposed does not appear to be a critical factor in determining whether a scheme is viable, with other factors such as movements in sales values, build costs and existing use values shown to be far more important and that CIL charges will represent only a relatively small percentage of development costs, approximately 3%.</p>
110	906	17	Objection	Preliminary	CIL Viability	<p>Lack of Consideration of historic Section 106 obligations DP9 has undertaken an</p>	<p>The Council is developing its Charging Schedule in the context of challenging</p>

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				draft CIL charging schedule	Study	<p>analysis of Section 106 Agreements entered into for schemes of over 250 units over the course of the past two years. On average, the total value of Section 106 Agreements is estimated over this period to have been of the order of £73 per sqm for residential developments and £107 per sqm for non residential developments. This is substantially below the PDCS proposed rates; for example for housing alone the CIL rate is £400 per sqm in Zone 1 and it is worth noting that these Section 106 Agreements on average have achieved levels of affordable housing below target local planning policy. The PDCS and supporting evidence proposes that development on average can afford to contribute substantially more than it has done historically to local infrastructure (through CIL and any residual Section 106) and, at the same time, deliver affordable housing in accordance with local planning policy. The assessed Section 106 Agreements would have been agreed from open book independent financial appraisal. The only conclusion that can be made is that the Charging Authority is satisfied that the viability of development has substantially improved. There is no evidence that the general economic climate has improved at all since 2009, let alone substantially. Uncertainty still clouds the development market and many developers continue to find it difficult to secure borrowing for schemes on favourable terms. The proposed PDCS will adversely affect scheme viability and hence reduces the attractiveness of many proposed developments to bank lenders. The result will be the delivery of less jobs and homes. If the CIL rates are set at a level substantially higher than historic Section 106 obligations, this raises questions as to assumptions made by the Charging Authority and, clearly, would require very robust evidence to justify the assumption that development can afford to contribute and pay more. The Charging Authority is, therefore, proposing that development on average can afford to:</p> <ul style="list-style-type: none"> <li>• contribute substantially more than it has done recently towards infrastructure;</li> <li>• achieve local planning policy targets for affordable housing provision. The BNPP Viability Study assumes affordable housing policy is achieved, which is surely the correct assumption insofar that it would be at odds with the Development Plan were the Charging Authority to assume affordable housing policy were to be sacrificed in order to deliver CIL rates (unless that is, of course, the LBS is proposing to amend its Core Strategy affordable housing policy in parallel to its Charging Schedule taking effect);</li> <li>• mitigate the effects of development and enter into Section 106 Agreements as necessary. Evidence of the London Borough of Southwark's record in recent years regarding the nature and extent of Section 106 obligations which have been secured, including specifically in relation to affordable housing, would suggest that the rates set out in the PDCS would therefore pose a serious risk to development, viability and prevent beneficial development from happening</li> </ul>	<p>current economic circumstances, and the range of assumptions have taken into account current day costs and values and average site specific s106 planning obligations. It is impossible to model every possible development contingency. In accordance with CIL statutory guidance, our background evidence report provides an overview of the s106. Our annual monitoring report sets out to what extent the boroughs affordable housing and other targets have been met. However, we are not required to consider the relationship between CIL and S106 contributions. The forthcoming s106 planning obligations SPD will provide further clarity on the expected interaction between the CIL and S106 legal agreements for site specific infrastructure, where the latter would still be necessary. The proposed CIL rates are relatively conservative, and we have proposed a buffer between the maximum capacity of development to pay CIL. There is sufficient margin to allow for some variation in the level of costs incurred by developers, or the amounts payable under s106 obligations and the CIL viability study demonstrates that the viability of residential development is unlikely to be materially affected by the CIL rates. In particular, the introduction of CIL for new housing will not make a material difference to the already existing level of risk to the achievement of the target of 35% affordable housing delivery, whereas a reduction in the proposed CIL rate would be likely to undermine the Council's ability to provide finance for critical strategic infrastructure in the borough. The Council's planning policy for the provision of affordable housing is to secure the maximum reasonable amount when negotiating on private residential and mixed use schemes with regard to a number of factors including financial viability. The introduction of any CIL charge will not change this approach. The viability study has shown that the proposed CIL rates should be able to be absorbed by the majority of residential development schemes in the borough, and due regard has been given to the Council's affordable housing policy requirement in the appraisals. The CIL charge for residential development equates to around 3% of development costs and is therefore within the 5% contingency set aside by developers. It will also replace some of the costs which would normally be met under a S106 agreement such that there will be no significant change in the costs to the developer with a CIL With CIL in place, many of the costs for infrastructure which had been sought through S106 contributions will be captured by the CIL, and in any event there are stringent constraints on the use of S106 under Regulation 123 which will reduce the contributions which can be covered by means of a S106 agreement.</p>





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						<p>tests for Section 106 planning obligations set in Regulation 122 are in effect the same as those that were provided in guidance in Circular 5/2005). As Section 106 continues to be the means through which direct impacts are mitigated, it follows that Section 106 commitments to infrastructure do not automatically legitimise a reduction in CIL. CIL is not intended to secure the mitigation of impacts from individual developments, so that Section 106 obligations which are necessary for a development (whether by way of money or infrastructure) have little to do with CIL. A charging authority should not normally assume that CIL is the appropriate way to provide infrastructure which is likely to be necessary for the development of individual sites or groups of sites. Apart from risking double charging for such infrastructure, such an approach also runs risks for the robustness of planning decisions which approve development without securing a commitment to the provision of necessary infrastructure on the assumption that it will be provided through CIL. The likely need for developments to commit to significant items of infrastructure under Section 106 without offsetting or relief should be fully taken into account at the CIL setting stage and an assessment of the extent of this infrastructure should form an integral part of the CIL rate setting. This is especially the case for strategic sites in the Opportunity Areas, where typically significant investment in infrastructure is required to both enable and mitigate development. An assumption that infrastructure will almost now wholly be paid for through CIL rather than through Section 106 is not appropriate. The lack of clarity between CIL and Section 106 within the evidence base is potentially a risk to the future viability of development. The proposed CIL rates would result in a substantial net additional cost to development and LBS assume that development can sustain more cost when economic market conditions suggest otherwise.</p>	
112	896	17	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Conclusions As set out above, the PDCS would adversely effect development viability and the successful delivery of the Development Plan policies must be called into question. The proposed charging rates would frustrate the deliverability of strategic development sites coming forward within the Opportunity Area. A more cautious approach should be taken which would far better fit with the Government's and Borough's aspirations and objectives for encouraging economic growth. Our client is of the view that the Charging Authority has not adequately tested the objectives of the Development Plan against the effect of CIL and this will impact the ability of Development Plan housing and office delivery targets to be achieved. Our client considers that a more balanced approach to matters of viability and deliverability of development need to be undertaken and the proposed CIL rates set out in the PDCS should be significantly reduced. Our client reserves the right to provide further representations and evidence at subsequent stages in the preparation of the Charging Schedule.</p>	The Council is proposing further evidence and clarification of its viability tests.
113	898	24	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>On behalf of our client, Bermondsey Investments Ltd ("Seller"), we hereby submit the following representations in relation to the Preliminary Charging Schedule currently subject to consultation. Our client has significant land interests within the London Bridge area which falls in the 'Zone 1' area within the Preliminary Charging Schedule. Unrealistic and Unviable CIL Levels Zone 1 includes the area identified as the London Bridge, Borough and Bankside Opportunity Area within the London Plan. The strategic policy direction for this area identifies that the area has significant potential for intensification, particularly at London Bridge station and its environ, complemented by improvements to public transport and interchange facilities, better pedestrian integration with the surrounding area and greater use of river passenger transport. It recognises that the area has potential for strategic office provision as well as new housing. Whilst the London Bridge area has witnessed significant development in recent years with the construction of the</p>	Noted.



**Preliminary Draft Community Infrastructure Levy Charging Schedule Representations and Officer Responses**

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114	898	24	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Shard, and commencement of development in relation to The Place, and other schemes, if further development is to come forward to meet the aspirations for the area and its regeneration then sensitive consideration will need to be given to the feasibility of schemes, the direct benefits they can deliver and their viability. The area also still continues to face challenges, as well as significant competition from other central London areas, and therefore the CIL rate set must ensure that future development is not unduly constrained</p> <p>The Community Infrastructure Levy: An Overview (CLG, May 2011) makes it clear that the levy should not be set at levels which discourage development. Paragraph 23 states that: "Charging authorities wishing to introduce the levy should propose a rate which does not put at serious risk the overall development of their area. They will need to draw on the infrastructure planning that underpins the development strategy for their area. Charging authorities will use that evidence to strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the levy upon the economic viability of development across their area." More specifically, Regulation 14 of the Community Infrastructure Levy (CIL) (Amendment) Regulations 2011 comments that: "In setting rates (including differential rates) in a charging schedule, a charging authority must aim to strike what appears to the charging authority to be 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 for 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." We strongly consider that the Council has not struck an appropriate balance as required by Regulation 14 in relation to the setting of the CIL rate for residential development within the Zone 1 area. A proposed flat rate of £400 per square metre for residential floorspace in Zone 1 &amp; 2 will significantly constrain the development of new housing, which is to be encouraged within this location. It will have a significant impact on the overall regeneration of the London Bridge, Borough and Bankside area and does not support the provision of a sustainable mix of uses within this location, as setting an unfair bias for non-residential use despite the identified requirements for new housing. From a detailed review of the current Section 106 SPD and the Section 106 agreements signed by the Council as shown within their 2011 Annual Monitoring Report it is evident that the monetary contributions agreed demonstrate that significantly higher levels of contribution will be required under the current proposed CIL charges. In addition, the site specific contributions, which are unquantifiable within the Section 106 Agreements, could also be requested in relation to schemes liable to CIL once introduced. Based on the 'Zone 1' area within the Preliminary Charging Schedule a typical 2 bed flat (75 sq m) would result in a charge of £30,000 per unit. This is in addition to the Mayor's CIL which already results in a charge of £2,625 for a typical unit. A cumulative CIL charge of £32,625 (plus any site specific contributions which the Council's Viability Study assumes as an additional £1,000 per unit) is considered to be wholly unsustainable and significantly higher than contributions agreed within the Section 106 regime. It is understood that the Council's Viability Study considers the viability of 'traditional' schemes across the Borough. We are concerned, however, that the Study does not test the viability of non-typical, abnormal sites which may be complex to develop. These sites often lead to the delivery of higher density developments and significant numbers of residential units, a key part of the Council's overall strategic objectives. We are therefore concerned that such schemes will be seriously prejudiced. The viability assessment has considered only four sites in zones 1 &amp; 2</p>	<p>In the council's view, the available evidence supports the proposed charge for residential floorspace in the north of the borough. The 4 residential schemes tested in CIL zones 1 and 2 generated significant surpluses above existing use values. A CIL of £400 per square metre (£435 including the Mayoral CIL) would leave a substantial viability 'buffer' below the least viable scheme tested in this area.</p>

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115	898	24	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>combined on which the level of CIL has been reviewed for residential use in Zone 1. Full details of the specific details of these sites, any exception costs, on site infrastructure requirements or site specific issues have not been provided. In the current economic climate and the Government's most recent announcement to boost residential development and remove constraints on development it is considered that this increased burden will render some developments unviable and stifle residential scheme delivery in particular. We note that the Charging Schedule acknowledges the Council's affordable housing requirements and states that these have been taken into account when setting the rates. However, we are strongly of the opinion that if the Council does introduce a charge at this level it will render schemes unviable at least at the current target level of affordable housing within the Borough. We also consider that this increased financial burden is contrary to other Government guidance aiming to assist the delivery of development such as the current consultation on renegotiating Section 106 obligations which recognises that high contributions make schemes economically unviable. As such, we do not consider that the proposed rates meet the requirements of Regulation 14.</p> <p>Direct Provision of Infrastructure and Affordable Housing Recent developments within the London Bridge area, as well as providing appropriate contributions towards strategic infrastructure within the area related to the specific development, have also made the direct provision of new infrastructure as part of their schemes. The Shard and The Place development for example have delivered significant improvements to the public realm and pedestrian environment, as well as improvements to the station entrance and accessibility from the surrounding area. The Place has also included the provision of a new London Bridge Bus Station as part of the redevelopment of the site. The CIL charges now proposed would not enable these improvements to be delivered as a direct provision as part of these development schemes. The proposed CIL rates set out will constrain development schemes and endanger the direct improvements that these can deliver for the area. As the payment of CIL is non-negotiable once the rate has been set, there is the significant risk that the setting of a high CIL charge will have an adverse impact on the direct infrastructure provided as part of a development and on affordable housing, which will still be secured through S106 Agreements. These elements will be significantly affected where the CIL rate is set at such a level whereby the viability of schemes requires a considerable reduction in site infrastructure or affordable housing to ensure they are deliverable. It is therefore essential that the Council set a realistic CIL rate, to ensure that required site infrastructure and affordable housing can be secured as appropriate by S106 Agreements.</p>	<p>The transfer of land as an in lieu payment (subject to agreement) is accepted.</p>
116	898	24	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Infrastructure Plan and Planning Policy As required by the regulations Southwark Council has prepared an Infrastructure Plan as part of their evidence base. The Infrastructure Plan identifies the strategic infrastructure which is needed to support growth and development in the borough. In the production of the Infrastructure Plan the Council considered the various draft and adopted Area Action Plan's and area specific Supplementary Planning Documents (SPDs). However, the draft London Bridge, Borough and Bankside SPD was not included as part of the considerations. Given that the charges set out in the Preliminary Draft Charging Schedule includes the highest charges for development in this area, it is considered that full assessment and inclusion of the infrastructure required to support the planned future development in this area is required to support the level of rates proposed. It is also evident that some of the infrastructure listed within the Plan has already been completed, including the London Bridge Bus Station.</p>	<p>The infrastructure plan sets out the infrastructure that has been identified as necessary to underpin the level of growth that is set out in the core strategy. Further information has been drawn from evidence base studies and the strategies of partner organisations where relevant. The draft Bankside, Borough and London Bridge SPD has limited material weight as it is not an adopted document. Further work on the SPD has been suspended pending the preparation of neighbourhood plans in Bankside and Bermondsey. Should further work in these areas lead to the identification of key infrastructure projects, these could be taken into account in future revisions of the infrastructure plan. The charges set out in the preliminary draft charging schedule are determined by the viability study that has been undertaken by BNP Paribas, not the anticipated costs of providing new and improved infrastructure in the borough. This is consistent with the CIL Regulations. London Bridge Bus Station will be removed from the infrastructure plan.</p> <p>The Council is considering merits of offering this relief.</p>
117	898	24	Objection	Preliminary	Preliminary	Discretionary Relief for Exceptional Circumstances Regulation 55 (1) of the 2011	

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				draft CIL charging schedule	draft CIL charging schedule	<p>Regulations notes that a charging authority may grant relief ("relief for exceptional circumstances") from liability to pay CIL in respect of a chargeable development if: (a) it appears to the charging authority that there are exceptional circumstances which justify doing so; and (b) the charging authority considers it expedient to do so. However, a charging authority may only grant relief for exceptional circumstances if (Regulation 55 (3)): (a) it has made relief for exceptional circumstances available in its area; (b) a planning obligation under Section 106 of TCPA 1990 has been entered into; and (c) the charging authority (i) considers that the cost of complying with the planning obligation is greater than the chargeable amount payable, (ii) considers that to require payment of the CIL charged by it would have an unacceptable impact on the economic viability. Regulation 56 (1) indicates that a charging authority wishing to offer exceptional circumstances relief in its area must first give notice publicly of its intention to do so. It is therefore considered that the above should be recognised within the Charging Schedule guidance notes to enable the Council to consider claims for relief on chargeable developments from landowners on a case by case basis, (provided the above conditions are met). It would also be useful for landowners at this stage to understand from the Council the possible criteria against which exceptional circumstances would be considered. In the current economic climate, it is considered that this would be a prudent and appropriate step for the Council to take to allow some flexibility in exceptional circumstances to ensure that potentially beneficially development is not prohibited from coming forward due to economic viability.</p>	
118	898	24	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Instalment Policies The 2011 Regulations require payments to be made on commencement of development. However, Regulation 69B provides the ability to allow payment in instalments. In the current economic context it is considered very onerous for charging authorities to require full payment on commencement of development when there is the ability within the Regulations to provide some flexibility. The Regulations indicate that if a charging authority wishes to set its own levy payment deadlines and / or offer the option of paying by instalments, it must publish an instalments policy. It is therefore considered that an instalments policy should be included within the Charging Schedule to allow this flexibility.</p>	<p>A Mayoral instalments policy is proposed and the Council will review the effectiveness of this before considering an alternative instalment policy.</p>
119	898	24	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Charging Schedule Review Given the current economic flux and changing economic circumstances, it is considered that the Charging Schedule should provide clarity on how frequently the Schedule, and the Viability Study underpinning the rates, will be reviewed. This would provide greater clarity on the applicability of the rates over a defined time period. The proposed rates of CIL as set out in the Preliminary Draft Charging Schedule have the potential to significantly constrain and restrict beneficial development, particularly the provision of new housing, coming forward in the London Bridge, Borough and Bankside area and assisting the regeneration of the area to meet the borough's needs. The level of charge set against residential development should be significantly reduced to ensure that it is in line with the charge sought for offices, whilst the office charge should be re-assessed to ensure a viable contribution at this time, and not account for an increase in future values which is not a sustainable approach. We look forward to receiving confirmation of receipt of these representations and would be grateful if the authority could consider appropriate amendments to address the issues raised. If you do have any comments please contact Matthew Brewer on the details above.</p>	<p>The annual review required by the regulations will highlight the need for further reviews of the rates.</p>
120	907	49	Objection	Preliminary draft CIL	Preliminary draft CIL	<p>This submission comprises representations being made by Development Securities PLC in respect of the London Borough of Southwark's ("LBS")</p>	<p>Comments noted</p>

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121	907	49	Objection	charging schedule	charging schedule	<p>Community Infrastructure Levy ("CIL") Preliminary Draft CIL Charging Schedule ("PDCS"). The submission has been collated in reference to the CIL Regulations (as amended in 2011 and 2012), specifically Regulation 14 which states : (1) In setting rates (including differential rates) in a charging schedule, a charging authority must aim to strike what appears to be the charging authority to be 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. PDCS (July 2012) The PDCS sets out the draft CIL rates on a zonal and property use class basis. The draft CIL rates relate to chargeable floor space for all new development apart from that exempt under the Regulations. A list of exemptions is provided within the PDCS . The calculation of chargeable development is undertaken in accordance with Regulation 40. The CIL rates range from zero, for example for industrial and warehousing (B2, B8) across the borough to £400 per sq m for residential and student housing in zones 1 to 2. The zones are illustrated in the CIL Zones Map 2012 included as Annex 2 of the PDCS. The PDCS states that an additional £35 per sq m charge will be applied by the Charging Authority. Regulation 14 (2) states that a Charging Authority may also have regard to actual and expected administrative expenses in connection with CIL to the extent that those expenses can be funded from CIL in accordance with regulation.</p>	<p>Whilst the sensitivity analysis has considered the impact of increases in sales values accompanied by an increase in build costs, any risk of a downward movement of residential values is adequately addressed through the substantial buffer below the maximum CIL rates. The buffer is the discount below the average maximum CIL rate and will help to mitigate a number of risk factors (primarily the potentially adverse impact on land supply of setting the rates at a high level and 'shocking' the market) and it takes into account that economic circumstances and land values could change during the lifetime of the charging schedule. This approach is in accordance with the requirements of the CIL Regulations and statutory guidance that charging authorities should not set CIL rates at the margins of viability. With regard to the comment about affordable housing provision, the charging authority has to strike a balance between securing funding for infrastructure and securing affordable housing. The introduction of CIL for new housing will not make a material difference to the already existing level of risk to the achievement of the target of 35% affordable housing delivery, whereas a reduction in the proposed CIL rate would be likely to undermine the Council's ability to provide finance for critical strategic infrastructure in the borough. We need to secure contributions towards infrastructure that will support growth, and if we do not charge CIL, we will be unable to grant planning consent for developments due to the cumulative impact schemes will have.</p>
				charging schedule	CIL Viability Study	<p>BNP Paribas en, Viability Study (July 2012) The evidence base underpinning in the PDCS is provided in the form of the BNP Paribas (BNPP) CIL Viability Study. The terms of reference for the study are clearly listed on page 8. These are: • to test the impact upon the economics of residential development of a range of levels of CIL; • for residential schemes, to test CIL alongside the Council's requirements for affordable housing and other standards and obligations; and • to test the ability of commercial schemes to make a contribution towards infrastructure through CIL; and to assess the potential amount of CIL which may be generated over the next 13 years. Therefore, this submission provides a response to the BNPP Viability Review and provides concise comments in the order in which the issues are raised within the BNPP report. Paragraph 1.4 The methodology allows for sensitivity analysis within the financial modelling on the major inputs. However, despite an acknowledgement in the report that refers to 'uncertainty' in terms of residential values in the current market, the sensitivity analysis allows for upward only movements in relation to the residential values but both positive and negative movements in build costs. This in our opinion builds in an overly optimistic view on the current market conditions and those for the foreseeable future and does not take into consideration the significant risks of delivery associated with a reduction in residential values. Paragraph 1.6 The BNPP study refers to a 'buffer' that will allow schemes to absorb the maximum CIL rate. The definition is not explicitly defined however the wording implies that with the inclusion of a reasonable site value, GLA and LBS CIL, affordable housing and other residual S106 costs that there will be a 'buffer' over and above a reasonable site value and proposed target return (i.e. that the maximum CIL rate could indeed be higher). BNPP elaborate on this point on page 22 of their report by stating that the CIL rate shouldn't be set at the limits of viability and they should leave a margin or contingency to allow for change and site specific viability issues. Our experience on current schemes, either in lower value areas or in higher value (zone 1 to 2) with higher alternative use values, is that the provision of 35% affordable housing alone is problematic in viability terms. We would question the robustness of this assertion once a</p>	

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122	907	49	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>reasonable land value is taken into account in the site appraisal (in accordance with the National Planning Policy Framework (NPPF))</p> <p>Paragraph 1.8 The BNPP study states that the imposition of CIL at the proposed rates is unlikely to be a determining factor on whether or not a scheme is viable. The study advises LBS to pay limited regard to these unviable sites. It is our experience, there are schemes without the benefit of planning permission that would be subject to a CIL payment but are already unviable before that additional liability is added. A number of these schemes are on the fringes of generating a target return that would enable delivery (subject to receipt of a satisfactory planning consent) and the imposition of CIL at any level will have a significant adverse impact on the future delivery pipeline. To discount unviable schemes from the study seems in our opinion to be a fundamentally flawed approach particularly in the context of the current challenging economic environment</p>	<p>The addition of CIL which is a modest proportion of development costs would not stop these schemes coming forward. Movements in sales values and build costs are the key factors, therefore CIL is a marginal factor. If we set the CIL rates on the basis of unviable schemes, the implication is a nil rate and this would lead to a lack of funding for essential strategic infrastructure. The CIL charge equates to up to 5% of development costs and is therefore within contingency set aside by developers. With CIL in place, many of the costs for infrastructure which had been sought through S106 contributions will be captured by the CIL, and in any event there are stringent constraints on the use of S106 under Regulation 123 which will reduce the contributions which can be covered by means of a S106 agreement.</p>
123	907	49	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Paragraph 2.3 The BNPP study makes no reference in the National Policy Context section to the NPPF and in particular paragraph 173 that states: '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. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable'. Whilst section 173 of the NPPF relates to Plan making at Local Planning Authority level, in our opinion this is pertinent to the CIL debate and regard should be had to NPPF in relation to the setting of CIL rates that will impact on the delivery of local strategic objectives. We note the inclusion of a reference in the BNPP report to the Greater London Authority CIL Charging Schedule EIP. The Examiner's Report was published in January 2012 prior to the publication of the RICS's Guidance Note (Financial Viability in Planning) and what in our experience is a general shift in viability modelling to a more market-led approach to land delivery. The BNPP report at paragraph 3.13 draws attention to the Local Housing Delivery Group report dated June 2012. We note that on page 29 of the LHDG report, whilst referring to premiums over current use value, the report also states that a reference to market values can provide a useful 'sense check' on the threshold values that are being used in (Local Plan) financial modelling. We do not believe that the BNPP methodology takes this into account. In summary, in our opinion, the Viability Benchmark section of the BNPP methodology is not aligned with the NPPF and RICS GN and as such, in relation to the financial modelling upon which the CIL rates are set, is inaccurate and does not fully take into consideration a market led approach to land delivery.</p>	<p>The CIL Regulations require that charging authorities have regard to viability when setting their rates of CIL. This is entirely consistent with the approach adopted in the NPPF. The CIL regulations require that rates should not put development at serious risk across the area as a whole. This is entirely compatible with para 173 of the NPPF&gt; The RICS guidance is not relevant to Local Plan viability testing or CIL viability testing. However, the RICS guidance in one place advocates the approach that we have adopted (see para 3.4.4). With regard to the comment related to the Viability Study stating that a reference to market values can provide a useful 'sense check' on the threshold values that are being used in (Local Plan) financial modelling, we confirm that some of the benchmarks used in the viability study were market values</p>
124	907	49	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Paragraph 2.5 The BNPP study states that Charging Authorities may elect (Regulation 55) to offer exemptions from CIL. Regulation 55 refers to 'discretionary relief for exceptional circumstances'. In order for landowners to make applications for discretionary relief, the Charging Authority must make discretionary relief available although we note that no reference has been made to discretionary relief in the PDCS. This is a factual comment by BNPP in relation to the Regulations and our reference here relates to what appears to be a decision by LBS not to allow landowners to apply for discretionary relief in exceptional circumstances. Given the complexity of delivering difficult urban sites (both small and large) and the</p>	<p>Our approach has been to identify borough wide CIL rates that are economically viable, rather than proposing to make discretionary relief available for certain uses. The scope for exceptional circumstances relief is extremely limited by virtue of the CIL Regulations and Government guidance. For relief to be allowed a s106 agreement must also exist on the site and the value of this must be greater than the CIL charge. In addition relief must not constitute notifiable state aid.</p>

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125	907	49	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>exceptional costs over and above the relatively standard inputs included in the BNPP study, in our opinion, an inability to discount the CIL rate in some exceptional circumstances will likely stall development, particularly on larger multi-phased schemes with up front capital intensive costs and those sites that are blighted by contamination and site remediation issues.</p> <p>Paragraph 3.3 The BNPP study states that 'if a proposal generates a sufficient positive land value (in excess of existing use value), it will be implemented. If not, the proposal will not go ahead, unless there are alternative funding sources to bridge the gap'. This is our opinion is too simplistic approach. Landowners will generally only dispose of sites where there is a premium above the existing use value. The premium depends on, for example, the quality of the asset, if there are any other viable alternative uses on the site, if the current property is tenanted, if the income is secure, the age of the property, the owner's circumstances and so on. Risk adjusted offers to landowners below current market values for comparable development land are generally not acceptable and land does not come forward. The BNPP report does not take this into consideration and therefore the Benchmark Land Values in the report are at an artificially low level in many of the case studies</p>	<p>The Viability Study methodology has assessed the Existing Use Value of a site and applied a premium to reflect the quality of the asset and demand etc in testing the viability of developments in the borough. The Council cannot be expected to take into account inflated prices paid for sites which could limit the potential for contributions towards infrastructure. Furthermore, when schemes come forward the viability testing is undertaken using Existing Use Value plus an appropriate premium; applicants are now allowed to use their purchase price to negotiate levels of affordable housing or S106 contributions. Testing levels of CIL with the purchase price would be illogical and not inconsistent with how the Council applies its planning policies.</p>
126	907	49	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Paragraph 3.4 The BNPP study refers to a target return range of 20-22.5% (pre-finance Internal Rate of Return) but takes the bottom end of the range as an input into the financial modelling. We would not disagree that a 20% IRR is an appropriate return on some sites. The rate does not take into consideration more complicated sites with long development programmes where the time weighted cost of capital is a real concern for the developers and their funders in terms of the risk profile associated with what is generally (in the case of residential) speculative development. In our opinion the CIL rates should be set with reference to sensitivities attached to the profit requirements.</p>	<p>The Viability Study has used a 20% return on GDV after finance as the measure of return. The study does not refer to 20% pre-finance IRR (which would incidentally be around 14% after finance, considerably lower than the assumption for most schemes). The approach is consistent with the approach adopted on several major schemes in the borough.</p>
127	907	49	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Paragraphs 3.7 - 3.14 The BNPP study refers to a viability benchmark, which is a common term in Financial Viability Assessments. The viability benchmark relates to a Site Value or Profit Return that the residual outputs of a proposal are compared to in order to gauge whether a scheme is viable or not. Simply, if a viability benchmark is equalled or exceeded a scheme is deemed to be viable, if below the viability benchmark the scheme is unviable. Therefore the level at which the benchmark Site Value of Profit Return is set, is critical in relation to the rate at which CIL, S106 financial obligations and affordable housing can be levied whilst maintaining the chances of delivery in alignment with the NPPF and the London Plan. We would note that the best practice that the BNPP study refers to was issued in 2009, namely the HCA'S 'Investment and Planning Obligations: Responding to the Downturn'. Whilst this has been helpful guidance it predates the adoption of the National Planning Policy Framework (NPPF) and the RICS Guidance Note (Financial Viability in Planning). Both the NPPF and RICS GN take a more market led approach to land delivery as opposed to the BNPP methodology which is based upon current use value plus a small arbitrary margin. Whilst we note the inclusion in the BNPP report of a number of Appeal Decisions in relation to the use of a current use value approach to viability, these also predate the adoption of the NPPF (being decisions that were made in 2008 and 2009). We would bring to your attention the St Edmund's Appeal Decision (APP/X5210/A/12/2173598) which was issued on 9th October 2012 and includes references to the RICS GN in relation to a market led approach to land release (refer to paragraph 9 of the decision). Our opinion is that the Appeal decision reflects central Government intent in terms of encouraging land delivery and is</p>	<p>The exemplified provided (St. Edmund's) is an appeal on an individual scheme being taken through the planning system. It is not relevant to a test of planning policy or CIL. The document 'Viability Testing Local Plans: Advice for planning practitioners', was launched by Sir John Harman the Chair of the Housing Delivery Group on 22 June 2012. The approach in this document is recommended for use by local authorities and their consultants to plan wide viability and the community infrastructure levy. The approach taken in the RICS guidance to plan making viability and CIL is not recommended by the advice given in 'Viability Testing in Local plans' document (pg 29). The Harman report states: "Consideration of the appropriate Threshold land value needs to take account of the fact that future plan policy requirements will have an impact on land values and landowner expectation. Therefore using a market value approach as a starting point carries a risk of building –in assumptions of current policy costs rather than helping to inform the potential for future policy." It then goes on to state that market value can act as a useful sense check.</p>

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128	907	49	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>aligned with paragraph 173 of the NPPF. Whilst we note that the methodology that underpins the PDCS is the same as that supporting the Affordable Housing Policy, the Affordable Housing Viability Study pre-dates the NPPF and RICS GN. The new methodology needs to seek a more market led approach to land supply.</p> <p>Paragraph 4.3 We note that the methodology for sales growth is based upon Savills expectations in relation to house price growth. Whilst we appreciate that residential growth forecasting is inherently volatile would it perhaps not have been better to model an independent economic forecast as opposed to a residential agent who are likely to be bullish about market prospects. Similarly, as per our comments in relation to paragraph 1.4 we note that the residential value sensitivities are upwards only as opposed to the cost forecasts that are both positive and negative thus presenting an optimistic range of residual outputs</p>	The sensitivities on house prices are purely indicative and have not determined the maximum rates of CIL proposed (which are based on current values and current costs).
129	907	49	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Paragraphs 4.5 - 4.7 There are irregularities in relation to the value of the affordable housing elements within the appraisals that are not clear. The BNPP study notes given LBS's position on Affordable Rent, the social rented element should be valued on a target rent basis. We would agree. However the subsequent values are significantly ahead of where we believe the valuation of target rents should be based on current market evidence.</p>	The values used in the viability appraisals are consistent with Registered Provider offers.
130	907	49	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Paragraph 4.12 The BNPP study includes professional fees at 10%. This is not a totally reasonable assumption and reflects the costs on some schemes. However, the GLA and RCA viability models both use 12% as a default and our experience is that this is also a reasonable assumption on some projects. Whilst the 2% difference may appear marginal there is a cumulative impact as a number of the BNPP costs are at the lower end of expectations. In relation to development modelling this has a significant cumulative impact on the residual outputs and thus the ability of projects to incorporate CIL rates at the level at which they are currently proposed.</p>	It is considered that 10% for professional fees is a reasonable assumption and is at the higher end of the range for the majority of schemes.
131	907	49	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Paragraph 4.14 We note the inclusion of a residual s106 payment of £1,000 per dwelling for site specific mitigation measures. We are unsure at this stage of whether this is an accurate figure however, in our opinion, particularly on larger sites, there will be a range of site specific measures that are required and not included in LBS's Infrastructure Schedule, and £1,000 per dwelling appears to be an optimistic figure. The likely liability will be, in our opinion, higher</p>	This will be clarified in the updated BNPP report.
132	907	49	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Paragraph 4.20 We note that the BNPP study excludes exceptional costs which are a very real development costs on a range of sites for various reasons. The BNPP study notes that a 'buffer' between a reasonable CIL rate and the maximum possible CIL rate exists in order to allow for site specific circumstances. It would seem sensible however that a specific contingency is included in the modelling to take into account this potential liability. There appears to be no recourse through discretionary relief for exceptional circumstances if schemes become unviable because of these high costs and the BNPP methodology discounts unviable residential schemes. The provision of either a contingency to make allowance for a reasonable level of costs would seem reasonable when setting a CIL rate that is non-negotiable. This should be an explicit cost as opposed to an implied margin that using BNPP's approach will be a further deduction from the Site Value</p>	This matter was considered at other examinations and CIL examiners have rejected applying blanked assumptions to all sites, including those which will not actually suffer any abnormalities. Local authorities currently have the ability to provide a contingency to deal with abnormal issues within developments as S106 obligations, and therefore making the cost of complying with the S106 obligation greater than the CIL would have been.
133	907	49	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Paragraph 6.19 In setting the CIL rates, the BNPP study acknowledges a number of the risks that are summarised above. It is interesting to note that BNPP refer to a risk that if CIL vastly exceeds the current levels of S106 obligations that this would result in a 'shock' that would result in a potential reduction in development land supply. Our recent experience is that the proposed CIL rate for residential, particularly in zones 1 and 2, are significantly higher than the current s106</p>	Our estimates are based on recently implemented schemes.

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134	907	49	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>liabilities. Our estimate is that the residential CIL charges are 3 to 4 times higher. This section also refers to Charging Authorities setting their rates at no more than 5% of the overall development costs. On this basis, a residential site in zone 1 or 2 would have a CIL liability of £400 per sq m (excluding the administrative charge and Mayoral CIL) that equates to development costs of £8,000 per sq m, or £743 per sq ft. This is very high and may be true on a limited number of schemes in borough with very high land costs however these very land costs are not reflected in BNPP's methodology so the impact of CIL on a percentage basis is significantly higher once BNPP's Benchmark Land Values are entered into the equation</p> <p>Annex One We note in paragraph 6.23 that the zonal approach is based upon post code data on house prices from the VOA. Our experience is that there is a significant delta in terms of residential values within zones 1 and 2. The application of the £400 per sq m rate across zones 1 and 2 without reference to the range of end values could have a serious detrimental impact upon the deliverability of schemes. We also note the inclusion of full CIL rates in Opportunity Areas where by their very nature development in many cases will be marginal. Further thought is required in our opinion in regard to the zonal boundaries.</p>	<p>The zones set out in the CIL Charging Schedule have been informed by viability evidence and broadly reflect land values across the borough. The charging zone boundaries have been informed by these appraisal outputs, by plotting the outputs on a map to identify where developments can be considered to be most viable, in combination with Land Registry data at sub-postcode level. We have also taken into account physical barriers such as railway lines and major roads. Whilst we accept that there is a land value variance observable at a finer grain, defining a greater number of charging zones would create undue complexity and potentially contentious boundaries. Our assessment of the viability evidence and decision to charge differential rates by use, we have been mindful of CIL Statutory Guidance on the difficulties of complex patterns of differential CIL rates and zones.</p>
135	907	49	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Annex Four We have a number of general comments regarding the viability modelling including as Annex 4:</p> <ul style="list-style-type: none"> <li>• The gross to net calculation is 85% which is at the very highest end of the range and well in excess of a number of live schemes that we are working on. This has the impact of improving the revenue or conversely decreasing the costs of development;</li> <li>• There is no finance cost on site 28a which in theory would be in excess of £10,000,000 thus significantly impacting upon the perceived viability of the scheme;</li> <li>• The BNPP report and modelling is unclear in relation to the treatment of mixed use schemes. For example, where commercial space is being provided through planning as opposed to market led requirements, the residential models to not take into consideration the negative impact the commercial space can have on residual outputs</li> </ul>	<p>Site 28a has been corrected.</p> <p>A requirement to include commercial development as part of a residential led scheme is entirely a matter to be addressed through the Council's application of its policies. Nothing will change that following the introduction of CIL. If a scheme cannot afford to provide both CIL and meet a requirement for loss making commercial floorspace, then the Council will weigh priorities accordingly.</p>
136	907	49	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Summary We have identified a number of issues within the BNPP Viability Study that underpins the proposed CIL rates within LBS. Our key concerns are:</p> <ul style="list-style-type: none"> <li>• The level at which the benchmark land values are included bears little relation to the real costs of bringing land forward thus creating an artificial viability position;</li> <li>• Whilst the methodology mirrors LBS's evidence base supporting the Affordable Housing Policy, the latter pre-dates the adoption of the NPPF and the publication of the RICS GN both of which promote a more market led approach to land delivery;</li> <li>• The appraisals generally present a very optimistic overview of the financial dynamics of development. This is through a combination of overly positive growth assumptions, particularly regarding residential value growth and a range of development cost inputs that are generally reasonable but at the lower end of expectations which has a cumulative impact on the residual outputs of the financial models;</li> <li>• There are concerns in regard to the viability of residential schemes with planning-led commercial components where residential values effectively subsidise the delivery of less valuable property components;</li> <li>• What appears to be an</li> </ul>	<p>The council considers that the proposed charges are based on robust available evidence and that the balance has been struck between the desirability of funding infrastructure with the impact of CIL on the viability of development across the borough.</p>



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137	153		Objection	Preliminary draft CIL charging schedule	General Comments	<p>imbalance between proposed CIL, rates in zones 1 and 2 and current s106 liabilities.</p> <p>Thank you for consulting English Heritage on the London Borough of Southwark's Community Infrastructure Levy (CIL) Draft Charging Schedule. As the Government's Statutory Advisor on the Historic Environment, English Heritage is pleased to comment on this document. English Heritage recognises the importance of Community Infrastructure Levy as a source of funding to deliver the infrastructure necessary to support the Borough's development. However, we are concerned that the application of a local CIL charge on development which affects heritage assets or their settings might lead to harm being caused to their historic significance. For example, there could be circumstances where the viability of a scheme designed to respect the setting of a heritage asset in terms of its quantum of development, could be threatened by the application of CIL. There could equally be issues for schemes which are designed to secure the long term viability of the historic environment (either through re-using a heritage asset or through enabling development). Paragraph 126 of the National Planning Policy Framework (NPPF) requires that Local planning authorities set out in their Local Plan, a positive strategy for the conservation and enjoyment of this historic environment, including heritage assets most at risk through neglect, decay or other threats. For the historic environment in particular we therefore encourage the borough to ensure that the conservation of its heritage assets are taken into account when considering the level of the CIL to be imposed so as to safeguard and encourage appropriate and viable uses for the historic environment.</p>	<p>We consider that the protection and enhancement of heritage assets is a key planning policy issue. The CIL Viability study has tested a large number of development schemes on sites around the borough, appraising a representative sample of the types of development to come forward in the borough. The CIL viability study has set out the maximum level of CIL which different types of development should be able to absorb. Our proposed CIL rates include a margin or buffer below the theoretical capacity of development to pay CIL. Further, the viability appraisals have factored in a number of costs and assumptions, including build costs and s106 obligations. CIL will equate to less than 5% of development costs and is therefore well within the 5% contingency set aside by developers. The buffer also provides for any actual variations in costs over and above those used in the assumptions adopted in the appraisals, such as sales rates, increase in build costs and developer's margin. Therefore, the imposition of CIL is not considered a critical factor in determining whether a development scheme is viable or not, with the relationship between schemes values, costs and existing use values being far more important. We are still considering the merits of offering discretionary relief.</p>
138	153		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>It is noted that the CIL Regulations (2010), paragraphs 55 - 58, provide for charging authorities to offer discretionary relief from CIL for a chargeable development in exceptional circumstances. With the above in mind we encourage the local authority to recognise in the Draft Charging Schedule that any CIL payment on development which affects heritage assets may need to be considered exceptional circumstances, and in particular, cases where the requirement to pay CIL would have a harmful impact on significance of heritage assets due to impacts on economic viability of development. Following guidance set out in the Community Infrastructure Levy Relief Information Document (2011) the conditions and procedures for this could be set out within a separate statement following the Draft Charging Schedule, including on the Council's CIL appeals and relief web page. The statement could set out the criteria to define exceptional circumstances and provide a clear rationale for their use, including the justification in terms of the public benefit (for example, where CIL relief would enable the restoration of heritage assets identified on English Heritage's Heritage at Risk Register.) For clarity the statement could also reiterate the necessary requirements and procedures which would be followed in such cases, including the need for appropriate notification and consultation.</p>	<p>The Council is considering the merits of offering Discretionary Relief for exceptional circumstances, however this would only apply where S106 costs out way those of CIL.</p>
139	153		Objection	Preliminary draft CIL charging schedule	General Comments	<p>Conclusion We urge the Council to reserve the right to offer CIL relief for particular cases which affect heritage assets in order to avoid unintended harm to the historic environment through the application of CIL. English Heritage would strongly advise that the local authority's conservation staff are involved throughout the preparation and implementation of the Draft Charging Schedule as they are often best placed to advise on local historic environment issues. Finally, I must note that this advice is based on the information provided by you and for the avoidance of doubt does not affect our obligation to advise you on, and potentially object to any specific development proposal which may subsequently arise from this or later versions of the Draft Charging Schedule, and which may have adverse effects on the historic</p>	<p>This is not allowed within the CIL Regulations, which define what relief can be made available for.</p>

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140	127		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>environment.</p> <p>Thank you for consulting Thames Water Utilities Ltd (Thames Water) on the above document. Thames Water are the statutory water and sewerage undertaker for the whole of the Borough. General Comments It is our understanding that developer cannot be requisitioned for the provision of water and waste water services using S106 contributions. It is also our understanding that developers cannot be requisitioned to provide water industry infrastructure using CIL. It is therefore likely that any infrastructure costs will be paid for by Thames Water and / or the developer via the Water Industry Act. The provision of water and waste water infrastructure is imperative to all development and where upgrades to infrastructure are required it is essential that these are in place ahead of occupation. As such upgrades to water and wastewater infrastructure are necessary to support growth. This may require the use of appropriately worded Grampian planning conditions to ensure the upgrades are in place ahead of the occupation of development as set out in the Infrastructure Delivery Plan. The supporting documentation for the draft CIL Charging Schedule sets out that the CIL is required to support growth. Water and wastewater infrastructure upgrades will also be required in order to support growth but as set out above it is unlikely that such upgrades could be funded through the CIL.</p>	Noted.
141	127		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>It is likely that any new buildings required in connection with water and wastewater infrastructure would fall within the exempt categories of development set out in the CIL Regulations. However, as upgrades to water and wastewater infrastructure would support growth and for the avoidance of doubt it is considered that the charging schedule should set out that water and wastewater infrastructure developments will not be liable to the CIL charge. The Local Planning Authority may wish to consider the use of CIL to enhance the public surface water network beyond that funded by the water industry regulator in critical areas identified as at risk of flooding.</p>	Exemptions are clearly set out in Part 2 and Part 6 of the CIL Regulations. Storm water storage is acknowledged in the infrastructure plan. Further work is being progressed via the council's work on the surface water management plan.
142	795		Objection	Preliminary draft CIL charging schedule	General Comments	<p>Thank you for inviting Sport England to comment on the above document. Sport England is the Government agency responsible for delivering the Government's sporting objectives. Maximising the investment into sport and recreation through the land use planning system is one of our national and regional priorities. You will also be aware that Sport England is a statutory consultee on planning applications affecting playing fields. Sport England has considered the above document in the light of Sport England's 'Spatial Planning for Sport and Active Recreation: Development Control Guidance Note (2009) Appendix 2'. The overall thrust of the statement is that a planned approach to the provision of facilities and opportunities for sport is necessary in order to ensure the sport and recreational needs of local communities are met. In response to the consultation, Sport England would like to make the following comments on the consultation document</p>	Noted.
143	795		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>Infrastructure Plan Sport England supports the identification of the need for further provision of indoor and outdoor sports facilities. However, please see below. OBJECTION – Local Plan &amp; Evidence Base The National Planning Policy Framework (NPPF) requires each local planning authority to produce a Local Plan for its area. Local Plans should address the spatial implications of economic, social and environmental change. Local Plans should be based on an adequate, up-to-date and relevant evidence base. In addition, paragraph 73 of the NPPF requires that: "Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessment should identify specific needs and quantitative deficits or surpluses of open space, sports and recreational facilities in the local area."</p>	<p>The infrastructure plan focuses on parts of the borough where we anticipate that there will be significant population growth over the period up to 2026. We anticipate increased demand for sport and leisure as a result. The sport and leisure section of the infrastructure plan includes an £8m refurbishment of the Seven Islands leisure centre at Canada Water and £20m development of a replacement leisure centre at Elephant and Castle. These areas are designated in the London Plan as an Area for Intensification and an Opportunity Area, respectively. Significant investment has also been made at Camberwell leisure centre, which reopened in January 2013. Further consideration will be given to the need for indoor and outdoor sports facilities in the borough as part of the preparation of the New Southwark Plan, which we anticipate will begin in Spring</p>

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144	733		Objection	Preliminary draft CIL charging schedule	Charging zones	<p>Paragraph 175 of the NPPF states: "Where practical, Community Infrastructure Levy charges should be worked up and tested alongside the Local Plan." Sport England advocates that new developments should contribute to the sporting and recreational needs of the locality made necessary by their development. Although it is acknowledged that The Preliminary Draft Community Infrastructure Levy Charging Schedule refers to the Council's 2012 Playing Pitch Strategy, this document does not appear to take full account of the need for outdoor sports facilities arising from the existing and projected populations of Southwark. Furthermore, Sport England is not aware of a robust evidence base for indoor sports facilities for Southwark. It is not clear how this lack of evidence base has been/will be taken into account to develop this document. Sport England would be happy to provide further advice on how Sevenoaks District Council can strategically plan for sports facilities. There are a number of tools and guidance documents available, which can be found on Sport England's website at: <a href="http://www.sportengland.org/facilities_planning/developing_policies_for_sport.asp">http://www.sportengland.org/facilities_planning/developing_policies_for_sport.asp</a>. In addition, Sport England has a web based toolkit which aims to assist local authorities in delivering tailor-made approaches to strategic planning for sport. This can be found on Sport England's website at: <a href="http://www.sportengland.org/facilities_planning/planning_tools_and_guidance.aspx">http://www.sportengland.org/facilities_planning/planning_tools_and_guidance.aspx</a>. The toolkit focuses on built facilities for sport and recreation, setting out how planners can make the best use of sport-specific planning tools in determining local facility needs. Information regarding sport and CIL can be found on Sport England's website at: <a href="http://www.sportengland.org/facilities_planning/planning_tools_and_guidance/planning_contributions/community_infrastructure_levy.aspx">http://www.sportengland.org/facilities_planning/planning_tools_and_guidance/planning_contributions/community_infrastructure_levy.aspx</a>. Sport England hopes that these comments can be given full consideration. Please do not hesitate to contact the undersigned if you have any queries or would like to discuss the response.</p> <p>I write in response to the current consultation on CIL charges, specifically to query the inclusion of the Canada Water core area in zone 3 and not zone 2. Given the value of land in the area cannot possibly be lower than areas around King Stair's Gardens in Zone 2, for example, due to the proximity of better transport links (the Jubilee Line, the Overground and at least 6 bus routes) I fail to see why or how the core area, at the very least, has been placed in zone 3.</p>	<p>The zones set out in the CIL have been informed by viability evidence and broadly reflect land values across the borough. The residential values in the schemes assessed at Canada Water were in the region of £5,500 per sqm. By contrast, the values in the schemes assessed in zones 1 and 2 were £8,000-£9,000 per sqm metre. This was also reflected in the maximum CIL rates. The maximum CIL rates at Canada Water in the three schemes assessed were £532 per sqm, £720 per sqm and £378 per sqm. A CIL charge of £400 could not be absorbed by the latter scheme. The maximum viable CIL rates for residential schemes tested in zones 1 and 2 were 42% higher than for those tested at Canada Water. The value differences are also reflected in average house prices. Average prices over the last 18 months in SE1 9 (Bankside) were £1.3m. In SE1 2 (London bridge/Shad Thames) they were £598,000. In SE16 4 (Riverside/Rotherhithe) they were £522,000. By contrast in SE16 7 (Greenland Dock/ shopping centre etc) they were £319,000. In SE16 5 (Surrey Docks) they were £352,000 and in SE16 6 (around Russia Dock Woodland) they were £367,000. When assessed overall, the viability evidence does indicate that values in zones 1 and 2, which are closer to the river, are generally greater than at Canada Water. The CIL is based on existing values. The council will monitor the impact of CIL and publish an annual report. The council has the opportunity to review the CIL at any stage. If it becomes evident that values at Canada Water have risen as a result of regeneration in the area, the council would be able to review the CIL charges.</p>
145	733		Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Having read the consultant's report and their methodology it appears that levying a £400 charge rather than a £250 charge would not discourage development or make application unviable, particularly as the additional funds could be put to work to solve congestion on Jamaica Road and Lower Road and actually aid</p>	<p>The council's view is that a CIL charge of £250 per sqm for residential space is more appropriate for Canada Water for the reasons set out in the response to representation no. 144.</p>

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146	902	52	Objection	Preliminary draft CIL charging schedule	General Comments	<p>applications by solving current traffic problems. I would be grateful if this argument could be put forward as part of the responses to the formal consultation, and in turn to planning committee and the cabinet.</p> <p>We act for Asda Stores Limited ('Asda'), and write to make representations on its behalf in respect of the Council's Preliminary Draft Charging Schedule ("Charging Schedule"). Under Regulation 14 of the Community Infrastructure Levy Regulations 2010 ("CIL Regulations"), the Council's primary duty when setting the level of CIL charges is to strike an appropriate balance between the desirability of funding the cost of infrastructure required to support development from CIL and its potential effects on the economic viability of development. In our view, the approach taken to assessing the Charging Schedule does not achieve an appropriate balance between these two objectives. We wish fundamentally to object to the approach taken to assessing the Charging Schedule, and to the disproportionate loading of the Community Infrastructure Levy ("CIL") upon retail development, on the following grounds: - 1. The impact on policy's promoting economic growth and employment opportunities ; 2. The proposal to impose differential rates on retail development; 3. The financial assumptions and viability assessments contained in the Council's Viability Report. We have also raised a few more general concerns and made some suggestions, which we hope you will consider.</p>	<p>In the council's view, the proposed charges are justified by available evidence which shows that development across the borough will not be put at risk by the proposed charges.</p>
147	902	52	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Concerns over the differential rates for retail development. It is our view that the Council's proposal to apply differing CIL rates to retail development, depending on the size of the proposed scheme, and the type of retail development proposed, falls outside of the scope of the rate differentials permitted in the CIL regulations (as amended). Clause 13(1) of the CIL Regulations states that a charging authority may set different rates for different zones in which development would be situated and/or by reference to different intended uses of development within those zones. It does not allow different rates based solely on the size of developments that are intended for the same use. Nigel Payne, the Inspector who examined Newark &amp; Sherwood's Charging Schedule, found that: "Without very clear viability justification two different rates for retail development could be said to unreasonably favour smaller retailers over larger ones and/ or constitute a policy decision by the charging authority to support smaller units that goes beyond viability considerations alone and conflicts with national guidance accordingly. " The viability evidence put forward by the Council does not justify the size thresholds proposed. The site assessments carried out in respect of retail development by BNP Paribas clearly indicate that the size of a retail development scheme is not a clear indicator of viability. For example: • Site 2c, which comprises 1,459 sq m of retail floor space, could bear a maximum charge of £262 per m<sup>2</sup>; • Site 3b, which comprises only 106 sq m of retail floor space, could bear a maximum CIL charge of £660 per sq m; • Site 14b, which comprises 796 sq m of retail floor space, could bear a maximum CIL charge of £3 per m<sup>2</sup>; and • Site 16b, which comprises 1,027 sq m of retail floor space, cannot support a charge at all. Given the lack of viability evidence supporting the proposed size thresholds the Council's adoption of them could be perceived as a part of a general policy to support smaller units at the expense of larger ones. This would be consistent with the emphasis on supporting and encouraging smaller format 'boutique' retail in the recently adopted Elephant and Castle SPD and the new requirement that larger retail development schemes provide "affordable retail units" within their developments, for the benefit of smaller competitors. We note that large retail developers will not be required to pay CIL on these "affordable retail units" but are concerned that the cost of their provision has not been included in the financial modelling that underpins the Council's Viability report (see below).</p>	<p>The council is proposing to rationalise the retail charges to base them on distinct types of development. These charges relate to distinguishable types of development and fine grained viability evidence. The council has amended the schedule to ensure that it does not rely on size thresholds alone. The council accepts that affordable retail space is not a separate type of development and is proposing to exclude it from the draft schedule. All but 1 of the viable retail developments tested could support a charge of at least £125, suggesting that the proposed CIL would not put at risk development across the borough.</p>

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148	902	52	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Concerns over financial assumptions underpinning the Viability Assessment The Viability Report contains retail development assumptions that in our view are inadequate as they do not make allowance for:- 1. s.106 contributions which will need to be paid by developers in addition to the ell payments, including the cost of providing affordable retail units; or 2. the costs involved in obtaining planning permission for the development scheme. By excluding the potentially large s.106 costs and the costs of obtaining planning permission (examples of which are set out in schedule 1 to this letter), the Council has underestimated the true cost of convenience retail developments, and artificially inflated the relevant benchmark land values used for its financial Viability models. This will, in turn, have inflated the amount of the CIL levy proposed.</p> <p>Change of use and conversion projects The Council do not appear to have taken into account in the Viability assessment the economics of regeneration projects into account. By way of explanation, Regulation 40 of the CIL Regulations only permits developers to deduct pre-existing floorspace from the CIL calculation if it is 'in lawful use'. 'lawful use' is defined in Regulation 40 (10) and requires part of a building to have been in use for a six month continuous period in the 12 months before the date of the planning permission permitting the development. However, many regeneration projects on brownfield land involve demolishing, converting or redeveloping buildings that have lain vacant for some time. This is particularly true of schemes which involve changes of use from Employment land, where the fact that a unit has been vacant for a considerable time is often a key factor in the Council's decision to grant planning permission for the scheme. The Viability Report has not considered the impact of CIL on the viability of conversion/regeneration schemes involving vacant units; however, it does acknowledge that the economics of conversion schemes are very different to those of new build schemes. It is difficult to see how the Council can assess whether the imposition of CIL will put the majority of these schemes at risk, without having considered its impact on their viability.</p>	<p>The updated BNPP study will clarify the S106 assumptions. Their existing work test the viability of the proposed rates across the borough.</p>
149	902	52	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Concerns about Council's approach to setting Community Infrastructure Levy charges generally The stated purpose of CIL is to raise revenue for infrastructure necessary to serve development. CIL is intended to address the imbalance of raising funds for infrastructure under the s.106 route, where larger schemes have effectively subsidised minor developments. However, CIL does not replace the s.106 revenue stream; it will simply provide additional revenue for infrastructure. In light of this, we have some further concerns:- The Charging Schedule, as drawn, does not make the connection between the CIL charges proposed and the infrastructure requirements of the particular developments upon which they are being levied. By way of example, using the CIL figures proposed in the Charging Schedules (£250.00 per square metre) the proposed charge would add £1,000,000 to the cost of a generic 4,000 square metre, supermarket development. There is no evidence that this is necessarily the appropriate figure in terms of the related infrastructure costs that a retail development should be expected to carry, but rather it appears to be a high level calculation based on the sector's assumed ability to pay. We accept that some supermarkets may individually necessitate the provision of specific local infrastructure, but it could be argued that given the proliferation of modern supermarkets infrastructure requirements have reduced, for example, it is frequently the case that journey times fall as new supermarkets are opened. The inevitable consequence of this is that most existing infrastructure is used less, not more, as a result of such developments. There is a concern that as local authorities will still seek site-specific commitments under the Section 106 regime as well as CIL then the two charges represent an unreasonable double levy</p>	<p>The appraisals tested a range of schemes, some of which contain existing space which may be used to offset CIL and others which do not. The assumptions about floorspace are set out in appendix 2 of the viability appraisal report. The council's view is that the proposed charges are justified by evidence based on a range of circumstances.</p>
150	902	52	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Concerns about Council's approach to setting Community Infrastructure Levy charges generally The stated purpose of CIL is to raise revenue for infrastructure necessary to serve development. CIL is intended to address the imbalance of raising funds for infrastructure under the s.106 route, where larger schemes have effectively subsidised minor developments. However, CIL does not replace the s.106 revenue stream; it will simply provide additional revenue for infrastructure. In light of this, we have some further concerns:- The Charging Schedule, as drawn, does not make the connection between the CIL charges proposed and the infrastructure requirements of the particular developments upon which they are being levied. By way of example, using the CIL figures proposed in the Charging Schedules (£250.00 per square metre) the proposed charge would add £1,000,000 to the cost of a generic 4,000 square metre, supermarket development. There is no evidence that this is necessarily the appropriate figure in terms of the related infrastructure costs that a retail development should be expected to carry, but rather it appears to be a high level calculation based on the sector's assumed ability to pay. We accept that some supermarkets may individually necessitate the provision of specific local infrastructure, but it could be argued that given the proliferation of modern supermarkets infrastructure requirements have reduced, for example, it is frequently the case that journey times fall as new supermarkets are opened. The inevitable consequence of this is that most existing infrastructure is used less, not more, as a result of such developments. There is a concern that as local authorities will still seek site-specific commitments under the Section 106 regime as well as CIL then the two charges represent an unreasonable double levy</p>	<p>The appraisals take account of the fact that developers will be required to pay CIL and s106 planning obligations. The proposed charges are based on impacts on the viability of development, balanced against the need for infrastructure to deliver growth. Supermarkets, alongside other development will benefit from provision of infrastructure. Infrastructure in the IP is largely drawn from existing planning documents, including the Core Strategy, Canada Water AAP, PNAAP and Elephant and Castle SPD. The infrastructure set out in these documents reflects the levels of growth anticipated. Where necessary the infrastructure requirements identified in these documents have been updated. The IP has also been supplemented with strategic infrastructure identified in other adopted council strategies.</p>

**Preliminary Draft Community Infrastructure Levy Charging Schedule Representations and Officer Responses**

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151	902	52	Objection	Preliminary draft CIL charging schedule	General Comments	<p>for infrastructure, which is being placed onto a very limited category of development. There is also a risk that some of the infrastructure projects identified by the Council to be funded by CIL will already have been funded by undelivered projects funded by existing s.106 commitments. At present, s.106 contributions paid to the Council are repaid to the developer if the infrastructure has not been delivered within a certain period of time. These delivery periods are long, usually between five and ten years, and the onus is on the developer to check that the Council has carried out the works and to request a refund if not. As you will be aware, there is no similar mechanism to allow developers to reclaim unspent CIL contributions.</p> <p><b>B KEY SUGGESTIONS</b></p> <p>1 Exceptional circumstances relief Whilst the Council has not stated whether it intends to adopt exceptional circumstances relief, we would strongly encourage it to do so. The Viability Report makes it clear that the viability of any particular development scheme is finely balanced, and will fluctuate depending on the costs involved in the development and the state of the economy when the development comes forward. It identifies a number of housing or commercial schemes, which are on the borders of viability, which will not come forward as a result of CIL being imposed on them. By adopting 'exceptional circumstances' relief the Council would have the flexibility, if it so wished, to allow strategic or desirable but unprofitable development schemes to come forward by exempting them from the CIL charge or reducing it in certain circumstances. Simply exempting schemes from certain Section 106 obligations is unlikely to be sufficient to counteract the negative impact of the CIL charge, particularly as not all schemes (in particular retail developments) would attract an affordable housing requirement which could be waived. Further, the types of strategic development which are most likely to be of concern to the Council, such as large regeneration or housing schemes, are precisely the types of development which are likely to carry heavy site specific infrastructure costs, which will be funded under s.106, and are most likely to qualify for "exceptional circumstances" relief.</p>	<p>The Council is considering the merits of offering this relief.</p>
152	902	52	Objection	Preliminary draft CIL charging schedule	General Comments	<p><b>2 Proposed Staged Payments Policy and Phased Developments</b></p> <p>We note that the Council does not propose to consult on a staged payments policy at this stage. When considering a staged payments policy, we should be grateful if the Council would take into account the fact that many major development projects are implemented in phases and ensure that developers are not disadvantaged by submitting an application for full, rather than outline, planning permission. Large scale developments are phased for a number of reasons, most commonly because the revenue generated by the early phases of the development needs to be realised in order to fund the remainder of the scheme. As planning authorities have often expressed a preference for determining full planning applications where all of the relevant information is available to them, large scale developments are often submitted to the Council as full planning applications, rather than applications for outline permission. If this trend is to continue, allowances will need to be made for the phasing of large scale developments which have been granted full, rather than outline, planning permission. At present the CIL Regulations allow for staged payments to be linked to the period of time that has passed since commencement, rather than the phase of development achieved. This means that anyone staged payment could fall due before the earlier phases of the scheme have started to generate the revenue required to fund it, rendering the project economically unviable. This puts developers who have applied for full planning permission at a disadvantage, compared to those who have an outline permission, as the charging regime for outline planning permissions makes specific allowances for phased</p>	<p>A Mayoral instalments policy is proposed and the Council will review the effectiveness of this before considering an alternative instalment policy.</p>

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153	902	52	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>development Under the CIL Regulations, developers are required to serve a notice of commencement of development on the Charging Authority, but are not required to notify them of the commencement of individual phases of development. This could, however, be easily addressed through the use of planning conditions or, alternatively, planning obligations requested through a Section 106 agreement.</p> <p>3 Flat Rate Levy A much fairer solution, accepting for the purpose of this argument the premise that the Community Infrastructure Levy is necessary for the purpose of funding district-wide infrastructure, would be to divide the council's estimate of total infrastructure costs over the charging period (and in this connection, it is important to remember that the Government's guidance as recorded in the National Planning Policy Framework is that only deliverable infrastructure should be included) by the total expected development floor space, and apply a flat rate levy across the district and across all forms of development. That will have the least possible adverse effect upon the market for land and for development, and yet the greatest possible opportunity for the economy to prosper and thrive, and for jobs to be created. The potential impact of a flat rate levy on the viability of those types of development which are not currently identified as viable, could be balanced by the council's implementation of Exceptional Circumstances Relief, as mentioned above. It should be noted that within the borough over the planned period there is likely to be a limited number of large format retail developments. Consequently, reducing the levy proposed per square metre on this floor space would not result in a proportionate increase in the levy required on other forms of commercial or other development. However, applying the current proposed levy could run the risk of diminishing substantially the number of such stores built, with a consequential loss of employment opportunities and investment in district and local centres.</p>	The council's view is that the proposed charges are supported by available evidence. The evidence in the appraisals shows that CIL would not put at risk retail development in the borough. In assessing the level of the proposed CIL charges, the council has balanced the need for infrastructure with the impact on development.
154	902	52	Objection	Preliminary draft CIL charging schedule	General Comments	<p>C. CONCLUSION For these reasons, we would ask that the Council undertakes a fundamental rethink of its position, and substantially alters its Charging Schedule in so far as it relates to retail development in general, and large scale retailing in particular. Alternatively, we would request that the Council: • Re-visits its viability evidence to address omissions identified above; • Introduces exceptional circumstances relief for those types of development which would otherwise be unviable; • Adopts a single flat rate levy across all development within its boundaries; and/or introduces a flat CIL rate across all types of retail development within the borough; • Produces a draft staged payments policy that ensures that developers are not disadvantaged by submitting an application for full, rather than outline planning permission.</p>	In the council's view, the proposed charges are justified by available evidence which shows that development across the borough will not be put at risk by the proposed charges.
155	904		Objection	Preliminary draft CIL charging schedule	General Comments	<p>I write in a personal capacity. I have been working on CIL for many years, first as Chair of the British Property Federation working group on CIL, and then representing the BPF on the CLG group that helped develop the 2008 legislation and the CIL Regulations. We are still in dialogue with CLG on a range of issues. I have also been advising the National Housing Federation on CIL issues. I have a number of concerns about the approach that is being adopted by the Council. The following observations are offered in the spirit of constructive criticism. The Council now has the opportunity to address the issues ahead of the publication of the Draft Charging Schedule and I would be happy to talk through the issues in more detail if that would help. Testing the Balance 1 Regulation 14 requires a balance to be drawn between the desirability of securing funding for infrastructure and the effect that charging CIL will have on the viability of development as a whole. Although there are multiple graphs in the BNP viability analysis that show the effect on value thresholds of various levels of CIL, there is no obvious evidence that quantifies this effect in terms of the number of houses, or the level of commercial or other</p>	The CIL Viability Study has included commentary which sets out that the CIL charge for residential development equates to less than 5% of the value of development and is therefore within the 5% contingency set aside by developers. Furthermore, as the proposed CIL rates have been in the public domain since July 2012 it is considered that much of the additional costs of the proposed rates will have been absorbed by the market by the time any charging schedule is in place. The same logic can be applied to the Council's affordable housing policy, which is a minimum of 35%, and it is generally accepted that the policy has not reduced land supply in the borough. Furthermore, one of the main areas for growth is the Elephant and Castle opportunity area. Since December 2011 development in this area have been subject to a strategic transport tariff of a similar value to that of the proposed CIL rate for that area. Since it's adoption three major developments have gained planning permission covering over 2,500 units, showing that the tariff has not stop delivery of acceptable development key to the delivery of our local plan.

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156	904		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	development floorspace, that are likely to be affected. In the absence of this evidence it is difficult to see how a regulation 14 balance can properly be drawn.  Infrastructure The definition of "infrastructure" in Section 216 of the 2008 Act is not exclusive. It is certainly not limited to the categories of infrastructure that are mentioned in the section. However, care will need to be taken by the Council (particularly when spending CIL) that it is genuinely spent on infrastructure. Some of the items in the list in paragraph 2.2.4 of the Council's CIL Report (eg biodiversity and "socio-economic infrastructure" may well be outside the scope of Section 216.	The 2012 Amendments to the Regulations expand the scope of the 'infrastructure' that can be considered.
157	904		Objection	Preliminary draft CIL charging schedule	CIL Viability Study	Large Sites 3 It is best practice for viability assessments to review the impact of CIL on large sites, particularly those which are of borough wide (and in some case sub-regional) significance since they will often be expected to make a significant on-site/enabling infrastructure cost. Areas like the Elephant & Castle, Canada Water and the Aylesbury Estate are good examples of this. It would be far better to review the infrastructure requirements and viability of the major sites/areas of opportunity separately in order to be able to test properly the balance that should be drawn. The supporting evidence for CIL does not do this although some of the necessary information is available as part of the support for the relevant AAPs and SPDs This approach should apply to both allocations and to major consented schemes. Consented schemes need to be considered since there is always the possibility (almost an inevitability at the Elephant & Castle) that existing consented schemes will need to change, in which case they will become liable to CIL.	The viability study tests the impacts of CIL on several large sites in areas in which a significant amount of growth is expected. Several sites in the Canada Water Core Area were tested, a large sites on the Aylesbury estate and several sites at Elephant and Castle. The latter included the largest site in the borough, the Heygate estate which is providing some 2,500 new homes. The council, together with the GLA also undertook a Development Infrastructure Funding study for Elephant and Castle (this is also available on our website). The DIFs looked at a number of sites in the E&C opportunity area and tested the maximum charge which would viably be applied. This study informed the s106 tariff which has recently been adopted in the E&C SPD (2012) as well the proposed CIL, which when adopted will replace the E&C tariff for developments in the opportunity area. In conclusion, the council is confident that the appraisals adequately test the impact of CIL in the main growth areas of the borough.
158	904		Objection	Preliminary draft CIL charging schedule	General Comments	Duty to Co-operate 5 Although the duty to co-operate does not apply directly to the preparation of CIL charging schedules, there is an odd lack of reference to the progress that is being made by Lambeth on its charging schedules. For example the areas on the South Bank near Waterloo probably merit some joint consideration	LBL and LBS have consulted each other on their rates and discuss the cross borough infrastructure need
159	904		Objection	Preliminary draft CIL charging schedule	Charging zones	Differential Boundaries 6 There is relatively little in the supporting evidence to justify the chosen boundaries. Although they doubtless follow some form of value contour there is no explanation, or evidence in the viability analyses or elsewhere, that this is the case.	More detail will come in the updated background evidence paper.
160	904		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	Differential Uses 7 Regulation 13 only permits differentiation by location and intended use. As a matter of law, I do not think that it is possible to differentiate, as proposed, between retail facilities above and below 280 square metres – the intended use is essentially the same. A store of 279 square metres is a retail store operating in precisely the same way as a store of 281 square metres. The same is true at the proposed 2,500 threshold. The same is true of "Affordable Retail" and other retail. Crudely, they are all shops. 8 I note the references in the Council's CIL report to the statements in various CIL examiners reports that the CIL regulations do not "prevent" differentiation by size. This is true but is largely irrelevant. In fact the regulations do not "prevent" much. They do not prevent higher charges being levied on development promoted by Chelsea supporters. They do not prevent higher charges on development companies with a capitalisation of more than £100m. They do not prevent higher charges on Berkeley Homes. All could probably be justified on viability grounds, and might even be desirable, but that is not the point. The proper question for the Council is what do the regulations actually permit? That is clear. Differentiation is permitted by location and intended use – where there is a viability justification for so doing. In the absence of different intended uses then there can be no differentiation. 9 It is important to note that this point has only been argued in Poole (where the result was a nil CIL rate for all retail development). Nowhere has an authority adopted a differential approach	The council is proposing to amend the draft CIL schedule to ensure that charges are based on distinguishable types of development that are not reliant on size thresholds.



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161	904		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>after an examination debate. It is likely that the first authority to do so will have to address the point in the Courts. 10 In any event, the BNP report provides no evidence that: (a) there is a viability difference either side of the 280 square metre limit, a figure which is arbitrarily chosen on the basis of Sunday trading legislation – if there is a justifiable threshold it should emerge from the viability analysis rather than being the product of legislation reflecting Victorian values; (b) there is a viability difference either side of the 2,500 square metre limit, a figure which is arbitrarily chosen on the basis of the NPPF definition rather than for viability reasons. 11 It is important to note that the reference in the Council's CIL Report to large retail development having a greater "impact" (paragraph 3.1.19) would, even if true, not be a justification for a differential charge in accordance with the CLG CIL Guidance. As you will be aware the Guidance makes it clear that the CLG view is that differentiation is only justified on viability grounds</p> <p>State Aid 12 The proposed differentiations in the Charging Schedule, by area and by size, need to be carefully justified to meet the CIL Regulation requirements. They also need to be separately justified to a level that meets state aid requirements. The proposed high charge on large retail uses is potentially offering a selective financial advantage to operators of smaller retail facilities. While viability can be a justification for different treatment the level of evidence required is higher than that used to support the present PDCS</p>	The council considers that its charges are supported by appropriate and available evidence. The council is proposing to amend the draft CIL schedule to ensure that charges are based on distinguishable types of development that are not reliant on size thresholds.
162	904		Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Re-Use of Floorspace It is not clear from the evidence what allowances have been made in each of the charging zones for existing floorspace. In many developments in urban areas there is existing floorspace which will, subject to conditions, be "credited" in calculating the eventual CIL liability. This affects the likely levels of CIL and the viability of development. 14 In areas of demolition like the Aylesbury Estate because of the potential need for early decanting and demolition the conditions for "crediting" the existing floorspace may not exist which, amongst other reasons, is why large development areas should be tested separately.</p>	This is a set assumption in the BNPP study.
163	904		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Use Classes and definitions 15 As a matter of best practice, it is better to avoid reference to the use classes within the descriptions of the uses in a charging schedule. The use classes are a derogatory tool, used largely to define when planning permission is not required for certain changes of use. They are not a very useful taxonomy of uses for the purposes of charging CIL. It is far better to rely on a clear text description, probably in rather fuller terms than the ones that are in the present schedule. In time the schedule will have to be supported by guidance to applicants for planning permission that they should use the categories of use defined in the CIL charging schedule. As an example, a casino, which once upon a time sat within use class D2, now sits outside it. In reality, it is a casino use and should therefore be charged at a casino rate assuming that there is viability evidence for doing so. 16 The definition of "intended uses" in the charging schedule is, probably, unworkable. CIL needs to be clear. A charge that is dependent on, for example, the source of "predominant" funding or the proposed charging structure is unworkably imprecise -- and may well be unknown (or undisclosed) at the point that CIL is charged. Indeed, reliance on such a condition to differentiate charges almost certainly falls outside the scope of regulation 13.</p>	The council is proposing to amend the draft CIL schedule to omit references to the Use Classes Order. Reference to intended uses have also been omitted.
164	904		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Content of the Schedule 17 Although it is necessary to provide a summary of the way in which CIL will be calculated in a charging schedule it is, probably, inappropriate to set out the detail of regulation 40. As the recent draft amendment regulations make clear regulation 40 will be amended to correct mistakes in</p>	Comments noted. The Charging Schedule has been amended to remove CIL regulation 40 to be replaced by a summary of how CIL will be calculated.

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165	904		Objection	Preliminary draft CIL charging schedule	General Comments	<p>relation to the treatment of existing on-site floorspace. It will probably also have to be corrected, in time, to deal with areas in the approach to indexation. 18 It would be better for the charging schedule simply to summarise the broad principles of the calculation rather than give the detail that is presently provided. If you follow the present route then, arguably, when the CIL regulations change the CIL charging schedule will have to be updated.</p> <p>Future Treatment of Planning Obligations 19 Regulations 122 and 123 use the same formula to set out limitations on the way in which planning obligations should be considered. The regulations indicate that obligations cannot "constitute a reason for granting planning permission" unless certain tests are met. It is important to understand the effect of these provisions. They do not mean that planning obligations that do not meet the tests are unlawful. They do not mean that such an obligation cannot be a material consideration; and, clearly, if it is a material consideration it must be taken into account. They simply prevent an obligation from being a reason for the grant of consent. 20 It may be best to think of this by reference to an example. Assume that there are six developments all requiring a roundabout to access their development. If the first developer agrees to pay for all of the roundabout then the resulting planning obligation probably fails the "fair and reasonable" test in regulation 122(2). However, the obligation would still be lawful, it addresses what would otherwise be a reason for refusal and it would be a material consideration. It should be taken into account in determining the application but the payment (strictly the "over-payment") should not be treated as a reason for approval. 21 Taking the example further if the developer argues that the cost of providing the roundabout means that affordable housing levels should be abated then the roundabout payment would have to be taken into account as part of the justification for the reduced level of affordable housing. Moving on, if each of the first five developers pay their "fair and reasonable" part of the cost of the roundabout then, assuming that access is needed, the sixth developer can justifiably be refused permission unless the final unlocking contribution is made. His obligation would not comply with regulation 123(3) but would still be material. Incidentally, even if the roundabout was included (unnecessarily) in the regulation 123 "relevant infrastructure" list the same analysis would still apply. Any planning obligation committing to the roundabout would be lawful and material; but could not be a reason for approval. It would however deal with the underlying reason for refusal – lack of adequate access. 22 The Council's CIL Report makes reference to certain planning obligations not being "permitted" and not being able to "pool". That is not accurate and, with the larger sites in particular, there may well need to be a more refined approach. This should be taken into account when reviewing the Planning Obligation SPD and the regulation 123 infrastructure list.</p>	Noted
166	904		Objection	Preliminary draft CIL charging schedule	General Comments	<p>Material Considerations 23 Potential CIL payments are meant to influence planning decisions. However, care will need to be taken, and development plan policies may need to be prepared, to ensure that CIL payments are material considerations. If the planning authority wishes to take a CIL payment into account then it will probably have to give a commitment that the resulting CIL will be spent on infrastructure related to the development. The Plymouth case indicates that the relationship does not need to be strong – "more than tenuous" was the language used. However, in the absence of that link any committee report treating a payment as material will raise a potential ground for challenge. I hope that these comments are of some help. As mentioned above I am happy to expand on them informally with the Council.</p>	Noted.

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167	619		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>1.7 summary of the IP themes The £159 million figures for health appear to be from the 2011-15 Strategic Plan and includes £149million for a polsystem configuration(2012-2016),£8million for the new Aylesbury Health Centre (2015-2017) and £2million for Watworth clinic. The council are asked to use the HUDU model when predicting infrastructure costs against housing and population growth. The HUDU model calculation in Sept 2011 was based on a 21,050 home increase to 2021 and estimated a total figure cost of £140m(capital and revenue). The recent CIL paper estimates housing growth to be 24,450 homes up to 2026 so a revised cost estimate based on a figure of £6,649 per housing unit would increase the total cost requirement to £162.6million. NHS Southwark would be more comforted if the council adopt the HUDU model for all these calculations. The HUDU model has been developed to respond to Local Authority requirements to show how health infrastructure costs are arrived at in an open and authoritative manner.</p>	We have amended the infrastructure plan to refer to the HUDU model and estimated infrastructure costs of £162.6m due to projected levels of housebuilding
168	619		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>1.2 Primary Health Care Could this heading be changed to health rather than primary health, as population growth also affects the NHS Acute and mental health sector alongside the community health sector.</p>	The heading has been amended as requested
169	619		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>1.3 Reference to gps Could the reference to the number of gps required to meet population growth be struck out as this implies that population growth can simply be mitigated against by increasing the number of gps. Whereas the NHS will be required to provide a wider range of services to this population including hospital services, mental health services, community services such as health visitors, sexual health, speech and language,etc.</p>	Reference to predicted number of GPs has been removed from the infrastructure plan
170	619		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>1.4 The NHS Southwark Strategic Plan 2011 – 2015 focuses on making better use of existing primary care premises and reconfiguring primary care to allow the reprovision of services from the Acute sector (including mental health) into primary care. There are plans to develop new integrated health buildings in key areas within Southwark. This will be in response to the increase demand on the existing services due to population growth in those areas and to rationalise existing services to provide care closer to people's homes.</p>	Noted.
171	619		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>1.5 Southwark PCT Polysystem Could this terms be changed to integrated primary health care centres</p>	The section on health facilities has been updated and reference to the Southwark PCT Polysystem has been removed
172	619					<p>2.0 Population growth We anticipate the three main areas of population growth requiring reprovision of new health facilities will be follows: 1)Borough and Bankside NHS Southwark has requested that the redevelopment at the northern roundabout or St George's roundabout at the Elephant &amp; Castle should include provision for a new health centre to increase the primary care services available to the population coming into Borough and Bankside and allow relocation of services from the acute hospitals. The existing primary care estate is no longer fit for purpose and is unable to expand to cope with the future health needs generated by the new developments being approved by the council. Lambeth is also approving plans for population growth in the north of the borough, which will add to the demand for local health services in Southwark. Lambeth and Southwark PCTs have jointly written to Lambeth Council regarding. I attach the following for reference "Future provision of Primary Care Services: Given the population increases, and the premises shortcomings, Lambeth and Southwark PCTs would like to see the provision and funding of two new centres, housing primary care and dental services, and would like to make a planning requirement through the</p>	Reference has been added to Borough and Bankside being an area where growth is likely to result in the need for new and/or improved facilities. We welcome further dialogue with NHS Southwark to better understand how this need can be planned for and appropriate facilities costed and delivered.

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173	619		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>Waterloo Development Framework process. The additional costs of providing NHS services (including the Children's Centre) to the increased population, should also be reflected as a planning requirement within the framework. Given the major reorganisation of Waterloo Station, the pedestrianisation of Waterloo Road, and other changes to the area detailed in the framework, further discussions involving Lambeth PCT, Southwark PCT, Waterloo Health Centre and the Mayor's Office will be required to consider the best location and size for the new primary care centres. The initial view is that two new buildings of between 1,000 to 1,500m2 for each PCT area will be required." Southwark PCT's concern is that if no site is identified at or close to the northern roundabout or St George's roundabout, then the shortcomings of the existing health care provision will impact on the availability and quality of care that can be provided. It is important for health, that sites are identified for the provision of local community health services within these major regeneration plans. No reference is made within the CIL to regarding the earmarking of potential sites. Please advise how the NHS can work with the council to secure new sites for health in these areas of growth</p> <p>2)Elephant &amp; Castle NHS Southwark has requested that a site be identified for health at the southern roundabout/Heygate Estate regeneration to increase the primary care provision. The existing services are housed in small, not fit for purpose buildings and will need to relocate into a larger integrated health facility to meet the needs of the new and existing population and allow service reconfiguration and rationalisation of the acute sector services including mental health. The existing services will not be able to cope with the amount of population growth these new developments are generating without reprovision of services to a new larger site</p>	Reference has been added to Elephant and Castle as being an area where growth is likely to result in the need for new and/or improved facilities. We welcome further dialogue with NHS Southwark to better understand how this need can be planned for and appropriate facilities costed and delivered.
174	619		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>3)Canada Water NHS Southwark has requested that a site be identified in the redevelopment of Canada Water to allow the relocation of existing services to expand to meet the increased health needs generated by new building developments in the area. 3.0 Rationalisation and reconfiguration issues Areas outside of significant population growth, ie Peckham and Dulwich are, (as previously described in the 2011 -15 commissioning plan) under review with a view to maximising the use of existing fit for purpose premises and the redevelopment of existing sites to reconfigure and expand Primary Care provision and enable services to relocate out of the main acute sectors to these new integrated centres.</p> <p>1.0 Peckham NHS Southwark is undertaking a feasibility study to look at the current community service arrangements with a view to better utilise the existing health centre buildings. The creation of an integrated centre at the existing Lister Health Centre will form part of that review. 2.0 Aylesbury health centre The reprovision of the health centre and gp practice remains a requirement when the estate is eventually redeveloped. 3.0 Dulwich NHS Southwark is leading a project looking at the health services and facilities needed in the South of the Borough. This work includes the future of the Dulwich Hospital site. There will need to be a health facility providing a range of primary and community services in support of the shift of activity out of the acute sector</p>	Reference has been added to Canada Water being an area where growth is likely to result in the need for new and/or improved facilities. Potential schemes in Peckham, Aylesbury and Dulwich are also recognised in the infrastructure plan. We welcome further dialogue with NHS Southwark to better understand how these needs can be planned for and appropriate facilities costed and delivered.
175	318		Support	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>1. Bankside Open Spaces Trust welcomes this opportunity to respond to Southwark Council's public consultation on the Preliminary Draft CIL charging Schedule. 2. Bankside Open Spaces Trust (BOST) was set up to protect and enhance the Open Spaces in Borough and Bankside. Over the last 10 years BOST have lobbied for Section 106 sums to be allocated to a string of Open space enhancement projects. These projects have grown out of 'grass roots' consultation carried out by BOST over a number of years. 3. Bankside is the neighbourhood</p>	A 'meaningful proportion' of all CIL receipts will need to be retained in the local area where new development takes place. This has been defined by Government (CLG, January 2013) as 15% of CIL receipts, capped at £100 per council tax dwelling, or 25% in areas with a neighbourhood plan.

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176	894		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>with the greatest demands for development in Southwark. The by-product of this level of development is a massive pressure on Community resources and particularly Open Space. Bankside is an area deficient in Open Space, a fact acknowledged in previous UDPs and Plans and Frameworks. 4. The principles behind CIL are no different to the principles behind the 'Planning gain' element of Section 106: i.e. a payment set aside to mitigate the impacts of the development that is paid by the developer. 5. Given the existence of a Project Bank, this has become a transparent system that can claim a number of successes and has led to lasting community cohesion. 6. CIL needs to continue this. Levy collected from Developments in the area should be allocated to projects and initiatives in the area in order to mitigate the impact of those developments. The good work carried out to date should continue. 7. Developments in the North of the Borough are already contributing massively to development in the central and southern part of the borough with offset payments in lieu of affordable housing. Those developments will derive their own CIL to mitigate their impact. 8. It is a very sensible and practical principle to keep funds levied close to the source mitigating the impact of the development transparently. This has been proved to work in Borough and bankside. 9. Southwark's 'Engine Room' has a community infrastructure which requires ongoing maintenance like all engines!</p> <p>Bankside Neighbourhood Forum welcomes this opportunity to respond to Southwark Council's public consultation on the Preliminary Draft CIL Charging Schedule. 2. Bankside Neighbourhood Forum is the proposed responsible body for the preparation of a new neighbourhood plan for Bankside, currently seeking formal designation from Southwark Council. Bankside Neighbourhood Forum aims to shape the development of Bankside for the benefit of people who live and work here by working collaboratively to develop a consensus for a neighbourhood plan. Membership is open to those who live or work in the neighbourhood and members of the Forum include residents, businesses and property developers, giving an unusually broad range of expertise and experience within one body. 3. Bankside is the neighbourhood with the greatest demands for development in Southwark, recognised in the proposed charges in the CIL Charging Schedule. It is a neighbourhood with strong business and residential communities, reflected in the make-up of the Forum and in the fact that each of these communities would have the opportunity to vote on the proposed neighbourhood plan. Bankside therefore offers the borough the greatest opportunities for income to support infrastructure, but that development also has direct impacts on the lives of the people who live and work here, both during the phase of construction, and once construction is complete. 4. Under the s106 process, monies from development are associated clearly with projects in the Council's Projects Bank. This has the benefit of transparency to local communities and clearly associates the mitigation of works by developers within the local area. There is concern from both residents and businesses that once that connection is broken, and CIL monies are pooled, mitigation for communities in the neighbourhood that generates that income will be lost. 5. Bankside Neighbourhood Forum therefore wishes to see future CIL monies spent on delivering infrastructure within Bankside, to mitigate the impacts of developments in the Bankside Neighbourhood Plan area. To achieve this, Bankside Neighbourhood Forum has begun to identify a list of projects, attached. This list has had input from Bankside Open spaces Trust (BOST) and Borough Babies/Mini Mints. More projects will be added to this list in future.</p>	<p>A 'meaningful proportion' of all CIL receipts will need to be retained in the local area where new development takes place. This has been defined by Government (CLG, January 2013) as 25% in areas with an adopted neighbourhood plan in place.</p>
177	894		Objection	Preliminary draft CIL charging	Preliminary draft CIL charging	<p>We welcome the opportunity that CIL can bring to support growth in the borough. However, some members of the Forum, who have extensive experience in property development, are concerned that the levy schedule as it is currently</p>	<p>The proposed CIL rates have been set at levels which take account of viability in the lowest and highest value areas of the borough and are comparable to similar areas in neighbouring boroughs. The viability evidence sets out the maximum level</p>

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				schedule	schedule	<p>proposed will lead to detrimental outcomes that could be harmful to both the economic and the social future of the borough as a whole. 7. One of the principal strengths of Bankside is the mix it offers both residentially and commercially, as well as in streetscape and style. This mix of tenures, character and size of premises actively attracts new investors and encourages many residents and businesses to stay. Bankside Neighbourhood Forum would wish to see that variety retained and actively supported across all council policies. 8. In particular the concern is that the proposed charge for residential development in zone 1 of £400/sq m will discourage new residential development in this area other than those high value and high cost schemes that are able to bear these charges. This would lead to an exclusivity and homogeneity in housing which would have the effect of making the area less, not more attractive to investors, as well as producing an increasing alienation of one part of the borough from another. In turn this could reduce the overall receipts through CIL and thus the amount of development that can be supported throughout the borough. 7. Charging authorities must strike a balance between securing funding for infrastructure projects and the potential effects of the CIL levy on economic viability. We acknowledge that reducing the CIL levy for residential development in Zone 1 will not in itself guarantee that more mixed housing is delivered by developers in this area, but we believe it is a necessary first step in keeping that possibility alive. 8. CIL is just one means the council has to support development in the area: the Neighbourhood Plan is another. By taking an holistic view across policies and plans the council can ensure that Bankside will remain competitive for the future. Retaining the unique mix of tenure, character and sizes of homes and businesses here and delivering new infrastructure funded by CIL will both support its attractiveness to investor and mitigate the impacts of that investment on residents.</p>	<p>of CIL that a range of different development site schemes located should be able to absorb. We have not proposed charges which are right up to the margin of economic viability for the range of sites which have been tested. The buffer will help to mitigate a number of risk factors (primarily the potentially adverse impact on land supply of setting the rates at a high level and 'shocking' the market) and it takes into account that economic circumstances and land values could change during the lifetime of the charging schedule. The council believes that the range of charges represent an appropriate balance between providing infrastructure to support growth, whilst ensuring that the viability of overall development across the borough. Affordable housing will still be required in accordance with adopted planning policies and developers will be able to apply for these units to be exempt from contributing towards CIL payments.</p>
178	909		Objection	Preliminary draft CIL charging schedule	General Comments	<p>Generally in charging Zone 1&amp;2 the current average S106 cost to a project is proposed to be quadrupled by residential CIL charges whilst maintaining the current affordable housing requirements. Common sense would suggest that layering significant additional 'tax' on residential development will further restrict housing supply and therefore job creation. The idea of reducing the whole convoluted S106 process to a standard charge rate that priorities spending on pre-identified infrastructure requirements is a good one. However, it is not entirely clear that it provides as much infrastructure spending flexibility as is claimed. Generally the greatest infrastructure investment needs are where charges rates will be the lowest and we are not sure that Regulation 122 actually tackles this. It has to be recognised that schemes approaching or already in the planning process will have been acquired and progressed under pre-CIL conditions. It is quite obvious that every development scheme is different and that underlying viability varies dramatically from one project to another. Introducing a larger, fixed, additional and immediate element in to the development equation is going to caused viability problems. Therefore, there has to be a robust transitional arrangement that avoids liabilities being crashed with consequential loss of development opportunities and the investment, jobs and homes that they would have provided.</p>	Noted
179	909		Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>CIL viability study by BNPP July 2012 – section 3 Methodology if we appraise policy compliant residentially lead schemes using the NPFF viability approach with proposed CIL adopted together with the requirement for 35% affordable housing, then most schemes are unviable at the 20% IRR funding levels that BNPP correctly suggest. This means that the Existing Use Values (EUV) are above the Residual Land Value (RLV) generated by the policy compliant proposed development BNPP make reference to fact that the proposed CIL will eventually bring down land values and that it is the intention to take this difference and put it</p>	<p>We have not proposed CIL rates which are at the limits of viability and we have left a margin from the maximum CIL rate which developments could absorb, to allow for change and site specific viability issues to be accommodated. The CIL charge equates to up to 5% the value of development and is therefore contingency set aside by developers. Furthermore, as the proposed CIL rates have been in the public domain since July 2012 it is considered that much of the additional costs of the proposed rates will have been absorbed by the market by the time any charging schedule is in place. The same logic can be applied to the Council's</p>

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181	362		Objection	Preliminary draft CIL charging schedule	General Comments	<p>in to Southwark infrastructure. This is understandable, but redevelopment only occurs where EUV is exceeded by RLV. In the short and medium term CIL will stop sites coming forward for redevelopment, as they won't be able to pay CIL and deliver affordable housing. This runs against the national, regional and local governments stated need for housing of all tenures. The most likely effect of CIL being implemented will be pressure on local planning policies to increase density targets or reduce affordable housing requirements</p> <p>South Bank Employers' Group is an association of major organisations in South Bank, Waterloo and Blackfriars dedicated to achieving the best possible experience for employees, residents and visitors to its area, which extends from Lambeth Bridge to Blackfriars Bridge and south to St George's Circus. The Group is a non-profit company limited by guarantee, governed by a board appointed by its members, who are listed below. South Bank Employers' Group also incorporates the South Bank Property Group which comprises the landowning members of the group itself as well as major developers active in the area. Our interest is that we wish to encourage high quality development on London's South Bank and the economic and community benefits it delivers. Our comments on the Preliminary Draft Charging Schedule are as follows: 1. We have an overall concern about viability. There are now huge expectations on development to fund infrastructure that was previously eligible for public funding. With Mayoral CIL and the high expectations of Section 106 payments and/or on site provision for affordable housing there is the risk that development will not come forward or that insufficient funds will be available for essential local mitigation. Notwithstanding the calculations by BNP Paribas which underpin the charging schedule, our concern is that the demands of Mayoral And Borough CIL will threaten the amounts available for the essential local mitigation through S106 which are required to make development acceptable in the immediate neighbourhood. Without the right resource for such mitigation, in terms of public realm, facilities for residents and employees, visitor management, there is a risk that development not be acceptable and that the growth and economic and community benefits arising from development will not be realised</p>	<p>affordable housing policy, which is a minimum of 35%, and it is generally accepted that the policy has not reduced land supply in the borough. Furthermore, one of the main areas for growth is the Elephant and Castle opportunity area. Since December 2011 development in this area have been subject to a strategic transport tariff of a similar value to that of the proposed CIL rate for that area. Since it's adoption three major developments have gained planning permission covering over 2,500 units, showing that the tariff has not stop delivery of acceptable development key to the delivery of our local plan. It is accepted that land values cannot be reduced below EUV. For schemes that have genuine viability issues, the scope for exceptional circumstances relief is extremely limited by virtue of the CIL Regulations and Government guidance. For relief to be allowed a s106 agreement must also exist on the site and the value of this must be greater than the CIL charge. In addition relief must not constitute notifiable state aid. Some schemes will be made unviable by CIL and they will have to wait until values increase; costs fall; or the landowner reduces their expectations.</p> <p>The CIL viability study has set out the maximum level of CIL which different types of development should be able to absorb. Our proposed CIL rates include a margin or buffer below the theoretical capacity of development to pay CIL. Further, the viability appraisals have factored in a number of costs and assumptions, including build costs and s106 obligations. CIL will equate to up to 5% of development costs and is therefore well within contingency set aside by developers. The buffer also provides for any actual variations in costs over and above those used in the assumptions adopted in the appraisals, such as sales rates, increase in build costs and developer's margin. The CIL charge will be the first cut and the liability to pay the levy will be taken into account in negotiating S106 payments. CIL Regulation 123 requires local authorities to set out a list of projects or types of infrastructure that it intends to fund through CIL, and therefore many of the costs for which cover had been sought through S106 contributions will be paid through CIL. S106 requirements will be scaled back to those matters directly related to a specific site, and are not set out in the Regulation 123 list. We have published our Regulation 123 list alongside the Draft CIL Charging Schedule. A meaningful proportion of CIL collected will also need to be spent on providing infrastructure in local areas to ensure that those people affected by development see some of the benefit. This allocation would be made using the community infrastructure project list (CIPL) which will be based on a revised project bank list. This would be updated every year with consultation with the community councils and planning committee to ensure it reflects local needs. DCLG have announced that local areas without a neighbourhood plan but where the CIL is still charged will receive a 15 per cent share of the revenue from development in their area, but this will be capped at £100 per council tax dwelling. Areas with adopted neighbourhood plans would not be subject to a cap on the potential value of a 25 per cent CIL share they would receive. Overall, any reduction in the proposed CIL rates would be likely to undermine the Council's ability to provide</p> <p>The Council does not wish to offer relief for Charitable Relief: investment activity as it requires the funding to support it's own infrastructure programme.</p>
182	362		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>2. We have specific concerns about: A.) how relief for charitable institutions will in practice be applied. This is a matter of concern to our cultural and educational members. They need sympathetic treatment over discretionary relief, in particular in those cases where development is undertaken to generate income to be applied to their charitable purposes, whether directly or through joint ventures.</p>	<p>We have recognised that there are two markets for student accommodation, in the borough i.e. nomination and direct-let and tested both in our viability appraisals. Rental values will vary with capital values. In areas with low capital values, rents</p>
183	362		Objection	Preliminary draft CIL charging	Preliminary draft CIL charging	<p>B.) specifically on student housing, there is a need to distinguish between student housing developments at commercial rates by commercial developers and student housing developed or sponsored for letting at below market rents by educational</p>	

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184	362		Objection	Preliminary charging schedule	Infrastructure Plan	<p>institutions. The latter should not be subject to CIL. Kings College London and London South Bank University are extremely important to Southwark and proposals in aid of their core charitable/educational purposes should be treated appropriately.</p> <p>3. We wish to flag up the following initial comments on the application of CIL and on the Infrastructure Plan. A.) the Infrastructure Plan makes no mention of the need for adequate resources to manage and maintain infrastructure. There is little point in major capital investment in public realm if there is not sufficient resource for its proper management and maintenance. This is a particular issue in the light of the intense pressure on local authority finances. It is also a matter of particular concern in the north of the borough where footfall is extremely high and continues to grow at a high rate. It is extremely important that an element of CIL is reserved to support proper management and maintenance of infrastructure to Central London standards in the northern part of the borough.</p> <p>B.) there is no mention of improvements to the public realm and pedestrian environment in Blackfriars Road in the Plan despite the fact that the Council is working on such a project with partners it should be included.</p> <p>.c) Nor is there reference to the potential for Decentralised Energy Networks beyond those that are mentioned including in Blackfriars Road.</p>	<p>will be low. Student housing providers would not charge significantly different rents from those prevailing in the local area, hence the assumed link. Given the context of the student housing and general housing markets being seen to be in competition with one another, and the requirement for each to provide affordable housing, the viability evidence for student housing is broadly similar to that general residential development and we have proposed the same CIL rate. Universities will be able to apply for charitable exemption, under the CIL Regulations, if they are the majority landowner of the development site. However, if a charitable institution seeks to provide student accommodation in association with a partner/body without charitable status, they would be liable to pay CIL.</p> <p>CIL will primarily be used to fund new infrastructure that is required to facilitate growth. Where appropriate, a proportion of CIL receipts may be set aside for revenue costs associated with the continued management and maintenance of such infrastructure. A protocol for governing expenditure will be prepared in due course.</p>
185	362		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>. Neighbourhood Allocation of CIL: it is extremely important to ensure that proceeds of development are reinvested at the right level in the neighbourhood in which the development takes place. There is a tendency to see the "wealthy areas" in the South Bank as a potential source of revenue and infrastructure investment for the rest of the borough. However, if there is not sufficient investment in public realm and community facilities in the north of the borough as well as in areas to the south the continued economic success of the north of the borough will be under threat. Comments above about revenue expenditure and management and maintenance also apply. We have seen references ranging from 5% to 40% to the "reasonable" proportion of CIL which should be allocated to the neighbourhood in which the development takes place. In our view it should be at the upper end of this range and should include provision for management and maintenance as well as capital improvements. 5. We would wish to see strong mechanisms for local consultation over the application of the neighbourhood allocation of CIL. At present the neighbourhood project bank arrangements provide only for consultation with residents through community councils. We would like to see a more formal arrangement for consultation on priorities with business and business representative organisations.</p>	<p>Whilst supported by the council, the planned public realm improvements on Blackfriars road are not required to underpin growth in the north of the borough and so have not been included in the infrastructure plan.</p>
186	362		Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>6. The Southwark- Lambeth borough boundary in the South Bank Employers' Group area is an extremely artificial one. Many of the infrastructure needs from development on either side of the boundary impact across the borough boundary.</p>	<p>The sustainability section of the infrastructure plan refers to identified schemes at the Aylesbury Estate and at Canada Water. These schemes are noted in adopted development plan documents. At present, a detailed scheme has not been worked up for Blackfriars Road, but decentralised energy networks are supported in the adopted Core Strategy and the situation at Blackfriars Road- and elsewhere in the borough- will be kept under review.</p>
187	362		Objection	Preliminary draft CIL charging schedule	General Comments		<p>Central Government has proposed a local allocation of between 15% and 25%. The Council's project bank is being updated to include S106 and CIL new infrastructure projects for the Community Infrastructure Project List (CIPL)</p>
188	362		Objection	Preliminary draft CIL charging	General Comments		<p>LBS is working with LBL on their emerging CIL rates. Each will have to be best on viability for their own charging area.</p>



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189	899	10	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>We would wish to see far closer cross borough collaboration on the prioritisation and application of planning gain than is evident at the moment, reinforced by strong local consultative arrangements about the application and prioritisation of funds arising from development</p> <p>Representations on behalf of Universities Superannuation Scheme Ltd. Introduction Drivers Jonas Deloitte is instructed by Universities Superannuation Scheme (USS) to advise on town planning matters in respect of its commercial asset at 175-179 Long Lane, Southwark. USS therefore has an active interest in the formulation of planning policy in the London Borough of Southwark. Accordingly, we set out below USS' comments on the Preliminary Draft Community Infrastructure Levy (CIL) Charging Schedule. Background USS' asset at Long Lane is located in the northern part of the Borough, on the north eastern corner of the junction of Long Lane and Weston Street. At present, it contains three warehouse buildings and associated offices, along with an area of hard standing to the rear for parking and servicing. The northern boundary of the site adjoins a parking area for a number of 3-4 storey buildings at the southern end of Leather Market. The eastern boundary also adjoins a parking / servicing area for 193197 Long Lane, which has recently been redeveloped for a mixed use scheme of between 7 and 12 storeys. Long Lane forms the southern boundary of the site and Weston Street forms the western boundary . Access to the Site is provided from Weston Street. The surrounding area mainly consists of residential uses, although commercial uses are located in some of the surrounding buildings, typically at lower floors . USS is currently undertaking pre-application discussions with officers at the London Borough of Southwark in relation to the redevelopment of the site for a mixed use residential and commercial development. We set out below comments on the preliminary draft charging schedule. Preliminary Draft Charging Schedule The long lane site is located within Zone 1 of the Cil Charging Schedule. The rates for office and residential uses in this zone are set out below for reference: Insert table here USS has reviewed a number of other charging schedules that have been adopted or are being progressed by other London boroughs and note that the proposed residential rate within this zone is generally in line with what is being proposed within other boroughs. Whilst USS has no specific comments to make on the proposed residential rate, they do request that LBS ensure that the proposed rate takes into consideration the adopted Mayoral Cil and consider the impact that both of these charging schedules will have on the viability of development. Office With regards to the proposed office and light industrial rate, USS notes that the charging schedule only proposes a charge for commercial floorspace in Zone 1. Furthermore , the schedule does not differentiate between different types and sizes of commercial floorspace. The long lane site sits on the boundary of Zone 1 and the current proposals which are being discussed with LBS include small and flexible commercial units suitable for small and medium enterprises. On this basis, USS urges the Council to consider a nil rate for small scale office space, as the current rate of £100 per sqm would make such schemes unviable. Conclusion USS is pleased to have the opportunity to comment on the emerging LBS Community Infrastructure Levy Charging Schedule and would request that the Fund continues to be updated on the programme for this document and other Local Development Documents.</p>	<p>It should be noted that Long Lane sits within proposed zone 3. A nil charge has been proposed for office space in zones 2-4.</p>
190	897	6	Objection	Preliminary draft CIL charging schedule	General Comments	<p>This Representation has been prepared by Savills on behalf of London and Quadrant. Hereafter known as 'L&amp;Q'. 1.2 This representation has been submitted to influence the emerging Community Infrastructure Levy (CIL) Charging Schedule proposed by the London Borough of Southwark (LBS). The representation is made in respect of the Preliminary Draft Charging Schedule placed for public</p>	<p>A detailed response to L&amp;Q's concerns are provided in the responses to their detailed comments.</p>

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191	897	6	Objection	Preliminary draft CIL charging schedule	General Comments	<p>consultation in the period July - October 2012. Savills' particular comments relate to the justification for the proposed rate between £50 and £400 per square metre for residential development, which will affect planned growth in the Borough (possibly 24,450 dwellings over the period 2011 – 2026 based on the adopted Core Strategy). 1.3 Savills are concerned with the approach proposed by LBS, notably with regard to the levy proposed and unjustified rate on residential development. L&amp;Q have various land holdings across the Borough, all of which are likely contribute to the maintenance and delivery of the housing land supply (to meet identified housing needs). The rate of CIL is therefore of critical importance to our clients. 1.4 Owing to the extent of our clients' concerns, the following report has been prepared to challenge the viability evidence produced by BNP Paribas Real Estate which accompanies the Preliminary Draft Charging Schedule, to outline that the residential CIL rate should be considerably reduced. There is market, delivery and cost based evidence to support Savills conclusions.</p> <p>1.5 Savills provide comment on the following: · Southwark's Community Infrastructure Levy – Preliminary Draft Charging Schedule (July 2012) · CIL Viability Study (July 2012) · Infrastructure Plan (July 2012) · Southwark Core Strategy (April 2011) 1.6 In setting the rate of CIL, Regulation 14(1) of the 2010 Community Infrastructure Levy, England and Wales Regulations (as amended) (No. 948) states that "an appropriate balance" needs to be struck between "a) the desirability of funding from CIL (in whole or in part)" against "b) the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development". The term 'taken as a whole' implies that it may be acceptable for some schemes to be rendered unviable by the level of CIL charge; however, there is a clear requirement to ensure that most developments are able to proceed. The Government provides further guidance on the meaning of the appropriate balance from paragraph 7 of the Community Infrastructure Levy Guidance – Charge Setting &amp; Charging Schedule Procedures (March 2010). 1.7 Likewise, the purpose of CIL must be to positively fund the infrastructure required to enable growth. This is clearly outlined by Regulation 59(1) which states "A charging authority must apply CIL to funding infrastructure to support the development of its area". Section 216 of the Planning Act 2008 (as amended by section 115 of the Localism Act 2011) states that "CIL regulations must require the authority that charges CIL to apply it, or cause it to be applied, to supporting development by funding the provision, improvement, replacement, operation or maintenance of infrastructure" and defines infrastructure as "(a) roads and other transport facilities, · (b) flood defences, · (c) schools and other educational facilities, · (d) medical facilities, · (e) sporting and recreational facilities, · (f) open spaces, and · (g) affordable housing (being social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008 (c. 17) and such other housing as CIL regulations may specify 1.8 There is a requirement under Regulation 123 to provide a list of "relevant infrastructure" to be wholly or partly funded by CIL. It is also possible also under Regulation 60(1) for CIL to be used to reimburse expenditure already incurred on infrastructure, a tool which could have useful implications. 1.9 Savills therefore considers that it is imperative that the evidence supporting CIL outlines an up to date, consistent and well informed evidence base of economic viability in order to test realistic scenarios against CIL rates. 1.10 It is Savills' view that the present Preliminary Draft CIL Charging Schedule fails this test. The viability information is questioned in Section 5. 1.11 Given the focus of CIL as being supportive of development, it is important that the test of viability considers those sites/ areas which are central to the delivery of the Borough's development vision (the Core Strategy). It would not be acceptable to simply dismiss some sites as being rendered unviable purely</p>	<p>The Council is proposing further evidence and clarification of it's viability tests.</p>

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						<p>because some are considered to be viable without due consideration of wider planning and corporate objectives of the Borough. There needs to be a reasonable 'viability buffer' so that development at the margins is not unduly prejudiced. Relationship with Section 106 Planning Obligations 1.12 It is also imperative that throughout the preparation of CIL that due regard is had for CIL Regulation 122 that states that Section 106 planning obligations must be: · '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' 1.13 The power to seek Section 106 contributions remains under CIL. Our clients are concerned about the scale of Section 106 contributions which will likely be sought alongside large-scale CIL rates therefore rendering the delivery of the Core Strategy unviable. 2.0 The Approach of National Policy 2.1 With regard to the preparation of Charging Schedules and supporting documentation it is important to have due regard to the available Government guidance and law, notably, the CLG Community Infrastructure Levy – an Overview (May 2011), CLG Community Infrastructure Levy Guidance – Charge Setting &amp; Charging Schedule Procedures (March 2010), CLG Community Infrastructure Levy Relief (May 2011), the 2008 Planning Act and CIL Regulations 2010 (as amended 2011). It is also important that the preparation of CIL is in the spirit of the National Planning Policy Framework (NPPF) notably that it is delivery focused. Savills' comments are based on these publications and the Regulations. 2.2 The National Planning Policy Framework (NPPF) outlines 12 principles for both plan making and decision taking, notably (criterion 3), that planning should "proactively drive and support sustainable economic growth". Furthermore, that plan making should "take account of market signals such as land prices and housing affordability". Furthermore, paragraph 19 outlines that "the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth". 2.3 Further, paragraph 174 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. This is very relevant when setting the CIL rates with regard to wider plan provisions. 2.4 In addition, the Ministerial Statement of Greg Clark (Planning for Growth) (March 2011) remains current guidance to decision makers. It has a clear 'get on with' development message and makes clear Local Planning Authorities should not impose unnecessary burdens on development. The steer from Central Government is very much angled toward facilitating development, which should have a major material bearing on the preparation of CIL and the balance applied when considering Regulation 14(1). 2.6 The Government has also confirmed through Community Infrastructure Levy Guidance – Charge Setting and Charging Schedule Procedures (March 2010) guidance on the preparation of CIL, notably: · The need for balance (as per Regulation 14) The need for 'appropriate available evidence to inform the draft Charging Schedule' (as per Schedule 212(4) (b)) of the 2008 Act) 2.7 The Guidance states at paragraph 7 that "CIL is expected to have a positive economic effect on development across an area in the medium to long term". The Government also makes it clear that it is up to Local Authorities to decide 'how much' potential development they are willing to put at risk through CIL. Clearly this judgement needs to consider the wider planning priorities; it does however seem obvious that a large degree of discretion is being afforded to the local authority in making this judgement. 2.8 The Guidance also makes clear the evidently narrow focus of the CIL Examination process permitted by the Regulations. Paragraph 9 states: "The Independent Examiner should check that: · The charging authority has complied with the required procedures set out in the</p>	

**Preliminary Draft Community Infrastructure Levy Charging Schedule Representations and Officer Responses**

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192	897	6	Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>Planning Act 2008 and the CIL Regulations; · The charging authority draft charging schedule is supported by background documents containing appropriate available evidence; · The proposed rate or rates are informed by, and consistent with, the evidence on economic viability across the charging authority's area; and · Evidence has been provided that shows the proposed rate would not put at serious risk overall development of the area" 2.9 This representation outlines concerns with the Viability Appraisal prepared by BNP Paribas Real Estate (Section 5). 2.10 In conclusion to this representation Savills comments on how the proposed approach to CIL should be amended so that it meets the forthcoming tests of Examination. Supporting Documentation 2.11 Despite the narrow Regulatory requirements of the Examination, our clients urge LBS to make clear at an early stage the supporting documentation needed to operate CIL and to make it available for input/ comment. Practically, this needs to be done prior to the publication of the next stage Draft Charging Schedule for Examination. Whilst this supporting information is not tested at Examination, this information is critical to allow for the successful implementation of CIL, notably buy-in from key stakeholders, including L&amp;Q. 2.12 The documentation should include: · Guidance on how to calculate the relevant 'chargeable development' level of CIL (cross referral to CLG guidance/ Planning Portal – location of the Notice of Chargeable Development Form – further with regard to the RICS published guidance on Gross Internal Area – and what should be included). · Guidance on liability to pay CIL/ Appeals process. · Policy for payments by instalments (based on a consideration for build out rates). · Approach to payments in kind – notably valuation process for ascertaining land value and also the potential to accept land for infrastructure as a payment in kind. · Guidance on relief from CIL and a policy on exceptional circumstances for relief from CIL. · Draft Regulation 123 list – outlines what the Council expects to be funded from CIL. · Details on what will be charged by Section 106. 2.13 Savills notes that a number of matters related to the implementation of CIL provided by the Regulations are optional. We strongly suggest that LBS permits the maximum possible flexibility available otherwise it places at risk the successful delivery of the Core Strategy. 2.14 It is not clear from the Preliminary Draft Charging Schedule documentation whether LBS proposes any discretionary exceptions/ CIL relief. However the ability of the Council to offer this could be critical to the viability of schemes and we would urge the Council to reconsider, drawing their attention to the comments of the Examiner in his report on the Mayoral CIL, where the refusal to make exceptional circumstances relief available came under particular criticism for being dogmatic, inflexible and reactive. In addition it is important that an instalment policy for the payment of CIL is proposed and that the Council considers longer timescales for the payment of this, particularly on larger schemes to avoid rendering development unviable and allowing cash flow, which is a major consideration in proposing development, to be managed.</p>	
192	897	6	Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>3.0 Planning &amp; Infrastructure Delivery 3.1 Ascertaining the level of CIL is essentially a development viability exercise and owing to this it is critical that the level of CIL is based on robust and credible evidence. The CIL – An Overview document outlines that "Charging Authorities wishing to introduce the levy should propose a rate which does not put at serious risk the overall development of their area" (Paragraph 23). It will therefore be important that the rate is based on reality and the viable level of funding towards the planned provision of infrastructure needed to deliver the development plan. It is clear from the evidence that CIL alone will not be able to fund the predicted £517 million that is said to be required for infrastructure up until 2026 (the timeframe of the Core Strategy). This makes it</p>	<p>The Infrastructure Plan is part of the evidence base for the CIL. Southwark's IP has identified an infrastructure funding gap which CIL will contribute towards meeting. The CIL viability study, which is also part of the evidence base, identifies how much funding CIL is expected to generate. This is considered proportionate for the task of preparing a CIL schedule.</p>

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193	897	6	Objection	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>more important to set the level of CIL based on what can be afforded rather than what may theoretically be desired, to reduce the risk of the shortfall being even greater. 3.2 CLG Charge Setting &amp; Charging Schedule Procedures paragraph 14 outlines that CIL should only be considered where an identified funding gap is demonstrated. The process of demonstrating this should also identify a CIL "infrastructure funding target". (Paragraph 14). The 'target' is not presently clear as it is not explicitly stated and as there is no draft Regulation 123 list yet available.</p> <p>3.3 The objectives of CIL are fundamentally to assist with the delivery of developments as CIL receipts are used towards 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 by LBS to enable the actual delivery of major infrastructure, which may require additional 'top up' funding, or LBS using its powers under the Local Government Acts (2000 and 2003) and CIL Regulations (2010 as amended 2011) to borrow money to 'forward fund' infrastructure delivery (see CIL – An Overview paragraphs 17 and 18). Savills are supportive of the necessary investment to 'unlock' and assist with developed delivery. 3.4 The Infrastructure Delivery Plan (IDP) fails to outline forecasted CIL receipts in order to be able to focus spending priorities. Wider funding sources should also be taken into account, for example, infrastructure which will be delivered through planning conditions, Section 106 or Section 278 funding as part of existing planned developments. The IDP should make the distinction between infrastructure to be funded via CIL and not the Regulation 123 list. 3.5 Furthermore, in formulating the next stage of the CIL, it would be beneficial to monitor the outcome of the recent CLG consultation regarding the potential to amend the Regulations to include Affordable Housing (consolidated Regulations are anticipated later in 2012).</p> <p>Infrastructure Plan 3.6 Southwark's Draft Infrastructure Plan (IP, July 2012) sets out a list of strategic infrastructure which is need to support growth and development in the Borough over the lifetime of the Core Strategy (2011-2016). Savills has concerns with the approach taken in infrastructure planning. 3.7 The IP currently lists Borough-wide infrastructure requirements, as well as specific requirements more focused on growth areas. Overall, the exercise in sound and robust planning should be to prioritise the delivery requirements to enable the Core Strategy objectives. Accordingly Savills question the requirement for CIL to fund the following general infrastructure needs which are not clearly linked to the growth outlined in the Core Strategy: · Primary Schools – new classrooms across the Borough · Nursery/ Reception – 712 additional places across the Borough · Southwark PCT Polysystem configuration · Dulwich Hospital Site · GP Provision – 15 required across the Borough · Southwark Sports Ground – refurbishment of existing pavilion · Herne Hill Velodrome – new pavilion · Homestall Road playing field · Storm Water Storage · Wi-Fi 3.8 There is no clear link between these infrastructure requirements and the planned growth to be delivered through the development plan. Prior to commencing the next stage draft CIL Charging Schedule, LBS should draft a Regulation 123 Infrastructure List in close consultation with key delivery stakeholders</p>	<p>Infrastructure in the IP is largely drawn from existing planning documents, including the Core Strategy, Canada Water AAP, PNAAP and Elephant and Castle SPD. The infrastructure set out in these documents reflects the levels of growth anticipated. Where necessary the infrastructure requirements identified in these documents have been updated. The IP has also been supplemented with strategic infrastructure identified in other adopted council strategies.</p>
194	897	6	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Relationship with Section 106 and Section 278 Contributions 3.9 Site specific Section 106 and Section 278 contributions will still be required post CIL adoption, as well as increased costs associated with Code for Sustainable Homes Level 4 requirements and future requirements for Level 5 towards zero carbon. The present approach of CIL risks unacceptable cumulative impacts and is hence contrary to NPPF paragraph 174. Payments in Kind/ Bespoke CIL Rule 3.10 Regulation 73(1) permits the payment of land in lieu of CIL. This is an interesting</p>	<p>The CIL Regulations state the mechanism for accepting land in lieu of CIL payments.</p>

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						<p>tool which could be proactively interpreted where the land in question is provided for infrastructure, for example for transport provision or open space. The Preliminary Draft Charging Schedule is silent on the use of payments in kind. 3.11 A number of growth areas are planned in the Borough. To enable the delivery of these, site specific measures may be required/ masterplanned, for example: · Community buildings (i.e. Schools, Health, Community Halls) · Play areas/ Open spaces · Site accesses · Roads 3.12 It would not be appropriate for these facilities to be provided to only effectively then 'pay double' through the imposition of additional CIL charges. This would potentially be contrary to both Regulations 122/ 123. An effective 'land in lieu of CIL' mechanism is essential, otherwise larger strategic development would incur disproportionate and unjustified infrastructure costs. The alternative is to consider a bespoke CIL rate for certain growth areas/ allocations to reflect that the majority of infrastructure is delivered by Section 106. 3.13 The different approach to CIL for the identified growth areas, with infrastructure pursued via both Section 106 and reduced levels of CIL has been implemented by the London Borough of Wandsworth and is being considered by other Local Authorities, for example Fareham Borough Council and Chelmsford Borough Council. 3.14 The mechanism of payments in kind must result in credible land values being agreed and offset against the levels of potential CIL receipts incurred through the chargeable development. If operated effectively the mechanism could considerably assist with development delivery. 3.15 Savills therefore encourages LBS in the supplementary reports accompanying CIL to outline a proactive mechanism and approach to permitting developers to offer land either as payment or to take into account the value of land which is retained for the use of infrastructure. It will be important to do this in order to avoid situations of 'double counting', for example where developers have increased site abnormal costs owing to site based infrastructure needs paid for through Section 106 contributions, only to have to also effectively (as a proportion of costs) pay greater CIL charges. If the mechanism is not pursued then differential rates of CIL must be considered for the growth areas to reflect the likely site specific infrastructure burden.</p>	
195	897	6	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Retrospective infrastructure 3.16 It is also important to note that CIL monies can be effectively used retrospectively towards infrastructure already committed (Regulation 60(1)). Savills suggests that LBS outlines clear 'ground rules' for the application of this, as the purpose of CIL is to support new development (i.e. be forward looking). There may however, be instances whereby development which is committed in planning terms (i.e. consented) would benefit from timely delivery of infrastructure improvements which could be commenced as capital spend in the short run against the predicted future CIL receipts. The Preliminary Draft Charging Schedule is absent on details of retrospective funding measures; our clients urge consideration of this in forming the Draft Charging Schedule.</p>	Not required by the regulations
196	897	6	Objection	Preliminary draft CIL charging schedule	Charging zones	<p>4.0 Effective Operation of CIL Geography 4.1 The proposed geographical approach to the CIL splits the Borough into four charging zones. 4.2 In formulating the Regulation 123 List, the focused set of infrastructure priorities will likely have to fund strategic improvements owing to the importance in delivering the wider Core Strategy objectives. This objective will need to be balanced against the 'meaningful proportion' required back to the local community as per the Localism Act and NPPF Paragraph 175. 4.3 As outlined in Section 3 with regard to Payments in Kind, LBS may wish to consider the alternative of setting differential rates for growth areas to avoid the risk of Section 106/ CIL 'double counting'. In this regard it is relevant to note that Wandsworth Council has set a zero rate for residential development in a small part of the Borough in Roehampton. This approach has</p>	Noted

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197	897	6	Objection	Preliminary draft CIL charging schedule	General Comments	<p>been through an Examination in Public. Savills urge LBS to adopt a similar approach in Southwark</p> <p>Payment of CIL – Instalments 4.4 With regard to the payment of CIL, the Regulations (69B(1)) and CIL – An Overview (paragraphs 45 – 48) are clear that the charging authority has the flexibility to request the timing of the charge and hence to outline the payment procedure. This flexibility extends to: · Levy payment deadlines · Instalments policy 4.5 However, the choice to impose an ‘instalments policy’ is entirely discretionary. Savills considers that it is imperative that such a policy is outlined at the earliest opportunity. This should cover: · The commencement of the instalments policy on adoption of CIL · The number of instalments that can be made by development size (£ amount and square metre amount) · The timing of payments post commencement – based on timeframes which have regard to availability of capital and average build rates The minimum development threshold which instalments would not apply (Savills suggests that this be set as low as possible) 4.6 Developers only have access to certain levels of funding throughout the construction process and this is often dependent on sale volumes, market conditions and lending criteria. The benefit of the Section 106 system (as was), was the ability to negotiate phasing of payments and if necessary renegotiate via a deed of variation. The imposition of CIL effectively removes this flexibility. 4.7 The timing of CIL payments is therefore of critical importance, particularly as the definition of chargeable development (Regulation 9) makes it clear that in instances of full planning approval the chargeable development is that entirely consented. Whilst Regulation 9(4) effectively permits a staged payment approach to outline consents (where phasing is proposed), it is normally the practice to only pursue outline (or hybrid) applications for the largest and most complex sites. The majority of planning proposals will still be submitted in full. 4.8 It will be larger schemes which generate the greatest CIL payments and as such phasing of payments should be tailored to recognise funding constraints and cash flow of such schemes. The set timescale approach would only be suitable for very small developments in which there was certainty that development would be built very quickly and the funding would be available to pay the CIL charge. Large scale development normally requires significant upfront infrastructure costs to ‘unlock’ development and the additional early burden of CIL as per the existing payment formula would therefore be very prohibitive. 4.9 It is therefore advised that any phasing of CIL payments should accord with build out rates which inform the timescales. Larger applications are in any case required to submit phasing plans with planning applications showing build rate and approximate timescales, and as such this will give LBS a level of certainty on when CIL payments can be expected without tying developers to timescales which are too immediate. 4.10 It may also be appropriate to define a threshold for much larger sites which a bespoke payment method for CIL will be agreed in writing with LBS through the application process.</p>	<p>A Mayoral instalments policy is proposed and the Council will review the effectiveness of this before considering an alternative instalment policy. It should be noted that the Mayor of London will be consulting upon their Instalments Policy, which will be the default for Southwark until such a point Southwark brings forward it's</p>
198	897	6	Objection		General Comments	<p>Relief 4.11 The Community Infrastructure Levy Relief – Information Document (CLG, May 2011) outlines the Government’s position on “exceptional circumstances” which could warrant exception from CIL (paragraph 66 onward). The first matter to note from the Regulations is that the offer of relief is discretionary on the charging authority (Regulation 55(3) (a)). As outlined, Savills consider it is imperative that LBS makes available relief from the date of the adoption of CIL, and that it clearly outlines its approach to doing so (in conformity with the Regulations). It is not clear from the supporting documentation whether LBS propose to offer relief. Clarity should be provided before the publication of the Draft Charging Schedule as well as guidance on the level of detail required for the</p>	<p>The Council is considering the merits of offering this relief.</p>

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199	897	6	Objection	Draft CIL charging schedule	General Comments	<p>required viability assessment to qualify for relief.</p> <p>CIL Regulation 122 – ‘Double Counting’ 4.12 With regard to the relationship with Section 106, the CIL Charging Schedule should be clear that ‘double counting’ of Section 106 contributions and CIL is not permitted by law. As outlined in Section 3, Savills are concerned at the inevitability for ‘double counting’ owing to the proposed level of CIL and nature/ character of the planned growth areas and level of onsite infrastructure required (and hence on-site planning conditions/ Section 106 obligations). 4.13 The key tests of CIL Regulation 122 should be outlined within the supporting documentation. In practical terms, owing to the need to publish a Regulation 123 List, it is likely that only site specific or immediately adjacent measures will continue to be funded by Section 106 (i.e. site access or immediately adjacent open space). The costs of this on-site infrastructure will however be substantial for larger scale developments. 4.14 The Government’s position on the role of Planning Obligations is clearly outlined in the Overview document at paragraphs 59 and 60, notably the statutory basis that they must be directly related to mitigating the impact of development, and that CIL payments and planning obligations do not overlap. This is also made clear in the NPPF (paragraph 204). What is clear is that Section 106 may still be sought post CIL adoption which therefore needs to be factored into viability.</p>	<p>These comments are already in law and clear. The proposed Reg 123 List and forthcoming S106 SPD (2013) will give further evidence of the separation of S106 and CIL</p>
200	897	6	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Administration Costs 4.15 With regard to administration costs, the CIL Regulations and CIL – An Overview (paragraph 11) outlines that “up to 5%” of CIL receipts can be used to administer the process. This is potentially a considerable element of funding and likely in excess of what is required. 4.16 LBS will also be in receipt of pre-application fees, planning application fees and where relevant New Homes Bonus which also needs to be factored with resourcing of planning administration. LBS should be efficient in the collection of CIL in order that the majority of funding be spent on Infrastructure.</p>	<p>Noted</p>
201	897	6	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Reviewing CIL 4.17 With regard to reviewing CIL, Savills strongly encourage LBS to proactively outline a review mechanism for CIL as part of annual monitoring (required by both the CIL and Local Development Regulations). The CLG CIL Charge Setting and Charging Schedule Guidance outlines that the Government ‘strongly encourages’ reviews to ensure that CIL is fulfilling its aim and responds to market conditions. Given the fragile state of the economy we urge LBS commences a review within 12 - 24 months. The process for undertaking the review should be outlined in the adopted charging schedule. 4.18 As outlined in Section 5 it would not be appropriate to base the CIL rate on predicted uplift in the market. The review mechanism can be used in these circumstances.</p>	<p>The CIL Regulations set the requirement for the annual review.</p>
202	897	6	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>5.0 Viability Appraisal – BNP Paribas 5.1 The proposed CIL rate has been supported by evidence produced by BNP Paribas dated July 2012. Owing to the key test of Regulation 14(1) it is important that the viability appraisal prepared is fit for purpose. It is clear that at Examination the Charging Schedule will need to be supported by “relevant evidence” (Regulation 11(1) (f)/ 19(1) (e)). 5.2 Savills are willing to meet with LBS and BNP to discuss how the viability appraisal may be improved, and notably how the proposed CIL rate can be reduced. The Requirement for a Viability Study 5.3 The requirement to justify the Charging Schedule with evidence of viability is outlined by CIL – An Overview paragraphs 25 and 26, which notably also makes reference to setting differential rates. The CLG CIL Charge Setting and Charging Schedule Guidance (2010) at paragraph 21 refers to taking an “area based approach”, further of notable importance paragraph 29 outlines “charging authorities should avoid setting a charge right up to the margin of economic viability across the vast majority of sites in their area”. 5.4</p>	<p>Noted.</p>



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203	897	6	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>NPPF paragraph 173 outlines the need for 'competitive returns'. The viability exercise must also be aimed to demonstrate the need for flexibility in seeking CIL payments. It should not be assumed that all development can afford to pay or that all development should be charged the same levy. It must also be recognised that in certain circumstances relief may be offered where viability is an issue. 5.5 The fundamental premise is that to enable delivery, sites must achieve a credible land value and provide 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. The BNP Paribas Study 5.6 The viability assessment produced by BNP is based on a series of residual valuation scenarios that models the Gross Development Value (GDV) achievable from different uses in the Borough and deducts development costs, interest costs and developer profit to arrive at a residual land value payable for the purchase of the land. 5.7 According to the viability study produced by BNP, the following charges were deemed viable across a range of residential scenarios: · Residential development in Zone 1 &amp; 2 (North): £400 per square metre · Residential development in Zone 3 (Mid &amp; South): £250 per square metre · Residential development in Zone 4 (Central): £50 per square metre 5.8 Savills has set out below the areas where the BNP study does not reflect the economics of development. The most significant areas of discrepancy relate to achievable sales values/ rates, land value assumptions and development costs</p> <p>Sales Values/ Rates 5.9 We would note that BNP have not provided any sales evidence to support their assumed sales values and have relied solely upon Land Registry data and indices. Although we are in agreement that there is a range of sales values in the Borough, we do not believe that BNP have taken into account sales values/ rates from large development schemes when appraising larger sites</p>	<p>The viability appraisals are based on valuations, viability assessments and other sources that contain sold values. These are not included in the report for reasons of commercial confidentiality. Land Registry data has not been relied upon for the appraisals; merely to assist with defining the charging zone boundaries. Furthermore, the CIL viability study tests the ability of a wide range of development types throughout the borough to yield contributions to infrastructure requirements through CIL, including large high density development sites located in the opportunity areas of Elephant and Castle and Bankside, Borough and London Bridge, the Aylesbury Action Area, Peckham Action area and the Canada Water intensification area.</p>
204	897	6	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Land Value Assumptions 5.10 BNP have tested a number of sites in order to calculate their proposed viable level of CIL by comparing an adopted benchmark land value against their residual land value for the proposed scheme. 5.11 BNP's benchmark land values are predominantly Existing Use Value (EUUV) and in some cases Market Value (MV), however it is not clear why they have used EUUV in some cases and MV in others. We would note that BNP have not provided any evidence to support their assumed EUUV/ MV. 5.12 The guidance from the RICS contained within their guidance note 'Financial Viability in Planning' (August 2012) states that when considering the value of The Development for planning purposes the 'Site value should equate to the Market Value subject to the following assumption; that the value has regard to development plan policies and all other material planning considerations and disregards that which is contrary to the development plan.' 5.13 The Market Value as defined by the RICS is 'the estimated amount for which the asset should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion.' 5.14 We would also highlight a recent appeal decision relating to the use of Market Value and the recently published RICS Guidance 'Financial Viability in Planning': 5.15 Land North of St Edmunds Terrace, NW8 5.16 'The RICS published guidance in 2012 'Financial Viability in Planning' and suggests that the market should be taken into account. Paragraph 3.4.7 goes to some lengths to state the difficulties of using the</p>	<p>The supporting information to the site appraisals is predominantly held on a confidential basis by the Council. The example provided (St. Edmund's) is an appeal on an individual scheme being taken through the planning system. It is not relevant to a test of planning policy or CIL. The document 'Viability Testing Local Plans: Advice for planning practitioners', was launched by Sir John Harman the Chair of the Housing Delivery Group on 22 June 2012. The approach in this document is recommended for use by local authorities and their consultants to plan wide viability and the community infrastructure levy. The approach taken in the RICS guidance to plan making viability and CIL is not recommended by the advice given in 'Viability Testing in Local Plans' document (pg 29). The Harman report states: "Consideration of the appropriate Threshold land value needs to take account of the fact that future plan policy requirements will have an impact on land values and landowner expectation. Therefore using a market value approach as a starting point carries a risk of building—in assumptions of current policy costs rather than helping to inform the potential for future policy." It then goes on to state that market value can act as a useful sense check. With regard to the CIL Viability Study, we confirm that some of the benchmarks used in the viability study were market values in relation to the information supplied on unconditional land sales, no consideration has been given to the nature of the sale; planning status; density; policy compliance etc, and therefore the information is not robust. We have the following comments on the land transactions supplied: - The schemes are</p>

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						<p>sales prices of comparable development sites, but concludes that the importance of comparable evidence cannot be over-stated. This is a reasonable approach.'</p> <p>5.17 Based on the above, below are some unconditional land sales which are considerably higher than the EUV/ MV assumed for the larger sites that BNP have tested. This will have a considerable effect on the surplus against the residual land value and therefore the viability of the proposed CIL rates.</p> <table border="1"> <thead> <tr> <th>Site Address</th> <th>Size (acres)</th> <th>Land Price</th> <th>£ per acre</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>Elephant and Castle Shopping Centre</td> <td>3.4</td> <td>£42,000,000</td> <td>£12,300,000</td> <td>18.11.2010</td> </tr> <tr> <td>Cantium Retail Park</td> <td>4.1</td> <td>£31,000,000</td> <td>£7,600,000</td> <td>02.03.2010</td> </tr> <tr> <td>254 – 272 Camberwell Road</td> <td>0.9</td> <td>£3,000,000</td> <td>£3,300,000</td> <td>01.03.2010</td> </tr> <tr> <td>Carpetright</td> <td>1.2</td> <td>£6,400,000</td> <td>£5,300,000</td> <td>31.03.2010</td> </tr> </tbody> </table>	Site Address	Size (acres)	Land Price	£ per acre	Date	Elephant and Castle Shopping Centre	3.4	£42,000,000	£12,300,000	18.11.2010	Cantium Retail Park	4.1	£31,000,000	£7,600,000	02.03.2010	254 – 272 Camberwell Road	0.9	£3,000,000	£3,300,000	01.03.2010	Carpetright	1.2	£6,400,000	£5,300,000	31.03.2010	<p>provided in quite different and varying locations, which means that the prevailing market values might be higher or lower than those applicable to the subject sites; - The schemes are built to different densities and building heights, meaning that average values and construction costs will vary substantially; - The quantum of commercial accommodation provided varies between the schemes, which makes analysis more complicated. The schemes will all have been consented prior to Mayoral CIL being required; - The schemes will have been consented under a different s106 SPD, which is likely to have resulted in lower s106 sums being required; - We do not know what grant funding might have been allocated to assist with the delivery of affordable at these schemes; - We do not know which schemes would have incurred abnormal costs, expensive demolition costs, extensive basement excavation etc; - We do not know what specific funding arrangements the purchasers of the sites might have in place to assist with delivery; and - We do not know whether the developers of those schemes are making a profit. Until a more considered analysis of these sales is provided, we cannot consider the four transactions as evidence. Elephant and Castle is a refurbishment scheme, so we do not understand the relevance of this transaction to development. It should also be noted that many of the EUVs set out in the viability appraisals exceed the transactions set out in the representation.</p>
Site Address	Size (acres)	Land Price	£ per acre	Date																												
Elephant and Castle Shopping Centre	3.4	£42,000,000	£12,300,000	18.11.2010																												
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205	897	6	6 Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Build/ Infrastructure Costs 5.18 BNP state that their build costs have been taken from the Build Cost Information Service (BCIS). Since the costs are taken from BCIS we have assumed that they are on a Gross Internal Area (GIA) basis, although this is not stated in the BNP Report. 5.19 BCIS build costs do not however include the costs of external works and infrastructure. According to the HCA, analysis completed by BCIS for the Housing Corporation in 2007 indicated that the average cost of external works and infrastructure on residential schemes started since 2003 was equivalent to an additional 27% of building costs, including a wide range of site specific circumstances. 5.20 Parcel infrastructure costs include those associated with preliminaries, garages, external works, connection charges, and on site roads and sewers. 5.21 Site infrastructure includes improvements to the strategic road network, the provision of on site non frontage roads, on site strategic foul and surface water drainage costs including SUDS, pump stations and rising mains, off site utility reinforcements, on site service diversions, ground remodelling and structural landscaping, Section 38 and Section 278 costs, and maintenance costs pending adoption. 5.22 BNP have only included an element of infrastructure costs, in the form of Road and Site Works, in three of their appraisals. It is not clear why they have only incorporated these costs into three appraisals and it is also not clear how they arrived at their figures. We are of the opinion that infrastructure costs are likely to be considerably higher to cover all of the items referred to above and that these costs will relate to a significant number of the sites tested by BNP.</p>	<p>Build costs are sourced from BCIS to which an allowance for external works and infrastructure has been added, but also from tenders for housing projects that the Council has procured. The Council has led numerous regeneration schemes and it has access to a wealth of information on actual build costs which it has considered alongside BCIS.</p>																									
206	897	6				<p>Code Level 4 and Zero Carbon 5.23 BNP have included an additional allowance of 6% on their build costs to meet the Code Level 4, which we are broadly in agreement with. 5.24 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 5 will be required by 2016 in accordance with the current government timetable. This</p>	Noted																									

**Preliminary Draft Community Infrastructure Levy Charging Schedule Representations and Officer Responses**

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207	897	6	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>requirement will take effect within three 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.</p> <p>6.0 Conclusions 6.1 This Representation has been prepared by Savills on behalf of L&amp;Q. 6.2 Savills are concerned with the approach adopted by LBS towards CIL, principally the proposed residential rate between £50 and £400 per square metre. It is therefore critical that the following matters are addressed before the publication of the Draft Charging Schedule: Proposed CIL Rates 6.3 BNP's Viability Assessment should be re-addressed to consider the following issues which Savills have identified within Section 5: · Sales values/ rates: We do not believe BNP have taken into account large development schemes when appraising larger sites. · Land value assumptions: EUV/ MV not appropriate based on the comparable evidence obtained. · Build/ infrastructure costs: Full infrastructure costs not included in majority of tested sites · Section 106: Inaccurate assumption based on LBS S106 calculator 6.4 Given the above, it is clear that the proposed CIL rate for residential developments of between £50 and £400 would affect the delivery of the majority of residential developments. The present approach puts the whole delivery of the Core Strategy at considerable risk and does not accord with NPPF paragraphs 173-177.</p>	See detailed responses to other representations made by L&Q. The council considers that its viability evidence shows that CIL would not put at risk overall development in the area.
208	897	6	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Planning/ Conformity 6.5 Savills urges the following items to be included within the Draft Charging Schedule: · It is imperative that a mechanism which allows Payments in Kind is included within the Draft Charging Schedule, to avoid large developments within the growth areas effectively 'paying double' through the imposition of CIL charges. An effective 'land in lieu of CIL' mechanism is essential, otherwise large strategic development would incur disproportionate and unjustified infrastructure costs. The alternative is to consider bespoke CIL rates for strategic or major development sites Instalments – Savills considers that it is imperative that such a policy is outlined at the earliest opportunity. Developers only have access to certain levels of funding throughout the construction process and the timing of CIL payments is therefore of critical importance. It is advised that any phasing of CIL payments should accord with appreciation for build out rates, in considering the time based payments. · Relief – Savills considers it is imperative that LBS makes available relief from the date of the adoption of CIL, and that it clearly outlines its approach to doing so, and the level of detail required for the viability assessment to qualify for relief. · An indication of the draft Reg 123 list should be provided with updated infrastructure evidence.</p>	See previous comments.
209	897	6	Objection	Preliminary draft CIL charging schedule	General Comments	<p>6.6 The future Examination of CIL will address four key aspects: 1. Compliance with the procedures set out in the Planning Act 2008 and the CIL Regulations 6.7 It is too early to comment on this aspect of the Examination process. 2. The charging authority draft charging schedule is supported by background documents containing appropriate available evidence 6.8 Prior to commencing the next stage draft CIL Charging Schedule LBS should draft a Regulation 123 Infrastructure List in close consultation with key delivery stakeholders including. An important input to this list will be a greater understanding of the costs of the site specific infrastructure requirements of growth areas. This is in order to outline a robust infrastructure target to be funded via CIL. 3. The proposed rate or rates are informed by, and consistent with, the evidence on economic viability across the charging authority's area 6.9 As outlined, the present evidence of BNP is an inadequate representation of the economics of development across the Borough. The considerations outlined in section 5 should be responded to, and the Viability Assessment revised</p>	The council considers that its viability evidence shows that CIL would not put at risk overall development in the area.

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						<p>accordingly. 4. Evidence has been provided that shows the proposed rate would not put at serious risk overall development of the area 6.10 The present approach of setting a residential CIL rate of £50 - £400 per square metre is likely to render a significant proportion of planned development as unviable. An analysis of actual sales and land values demonstrates this. The approach of LBS seeks to set CIL at the very margins of what is economically achievable and will result in stifled delivery. 6.11 Savills are very keen to meet with the LBS and its advisors BNP to discuss amendments to the approach taken.</p>	
210	191		Objection	Preliminary draft CIL charging schedule	General Comments	<p>During the Canada Water Area Action Plan EIP and the Core Strategy EIP officers made statements on behalf of Southwark Council that created legitimate expectations for residents and other participants. I am extremely worried that a flexible process of negotiation will be replaced by a tariff system which Southwark describes as 'modest' and 'fixed'. If the purpose of CIL is to 'support growth' then the starting point would not be necessarily fixed modestly towards the benefit of profit seeking developers. The wording is poor, and reminds me of lobbyists and lunches. While transparency might increase, it appears that substantial potential revenue will be lost and margins / profits for some developers boosted. Clearly there will be winners and losers from this policy change and the implications need to be set out more comprehensively. Any big developers and landowners that stand to save a packet? A thorough, comprehensive and careful Equalities Analysis to include protected and non protected groups might help too. The growth is against a background of needs only touched on in the draft Infrastructure Plan ("IP") where strategic infrastructure needed to support 'growth' is under funded by £517 million (Section 3.7). The IP (Section 1.3) does not take account of the substantial infrastructure requirements (needs, wants and aspirations) of any neighbourhood groups or other resident bodies and this includes infrastructure to deliver 'standards' suggested to the Council as part of the Open Space consultation (e.g. standards for swimming pool and youth club provision etc.) Southwark needs to establish factual evidence about what the various neighbourhoods and communities need, want and aspire to. A great deal of information is provided to Southwark, and to Southwark planning, that appears not to be incorporated into policy documents. The data from the Census 2011 must be brought into the analysis together with data such as the clear shunting of traffic caused by the C-charge over the last decade (e.g. the high increase of traffic using Raymouth Road) and the projected growth in vehicle ownership and ongoing sticky congestion etc. CIL has a vital role to play in helping to make sure the appalling pollutions (plural) caused by traffic in Southwark, and going through Southwark, is comprehensively tackled along with all the severe harmful disbenefits affecting residents and others proximal to roads with heavy traffic. E.g. clouds of particulate dust covering doorsteps and walls – and our roadside schools – causing serious and substantial health impacts and other social disbenefits.</p>	<p>Currently, the council uses standard charges set out in its s106 Planning Obligations SPD to pool contributions for infrastructure such as new schools places, strategic transport infrastructure, open space, leisure facilities and health facilities. From April 2014, the CIL Regulations limit the use of planning obligations where there have been five or more obligations in respect of a specific infrastructure project or a type of infrastructure. The council must bring a CIL into effect before this date if development is to continue to contribute to strategic infrastructure which is needed to support growth in the borough. S106 planning obligations will continue to play a part in delivering local site specific improvements such as public realm or transport. Affordable housing will also continue to be delivered through s106 planning obligations. The purpose of CIL is to support growth rather than mitigate impacts of specific developments, and it can be used more strategically than s106 contributions. A protocol for governing expenditure will be prepared in due course. The CIL charge will be the first cut and the liability to pay the levy will be taken into account in negotiating S106 payments. CIL Regulation 123 requires local authorities to set out a list of projects or types of infrastructure that it intends to fund through CIL, and therefore many of the costs for which cover had been sought through S106 contributions will be paid through CIL. S106 requirements will be scaled back to those matters directly related to a specific site, and are not set out in the Regulation 123 list. Our equalities analysis considered the potential impacts arising as a result of the boundaries of the charging zones and the different levels of charge that would be applicable to different types of development within these zones. In accordance with the Equality Act 2010, the analysis considers the potential impacts of the charging schedule on those groups identified within the Act as having protected characteristics. Under the Localism Act 2011, the council must identify a 'meaningful proportion' of Southwark CIL that will be spent in the local area to ensure that those people affected by development see some of the benefit. This allocation would be made using a community infrastructure project list (CIPL) which will be based on a revised s106 project bank list. This would be updated every year with consultation with the community councils and planning committee to ensure it reflects local needs. The government have announced that the meaningful proportion to be spent locally is at least 15% or 25% where an adopted neighbourhood plan is in place. Ward level statistics from the Census 2011 data have not been released. We have used up to date population estimates and projections from ONS and GLA and in the interim to understand the project population growth and need for strategic infrastructure to support this change.</p>
211	191		Objection	Preliminary draft CIL charging schedule	Charging zones	<p>The CIL Background evidence paper ("BEP") at Section 3.1.8 informs that 'boundaries of the residential zones have been informed by post code data on house prices which show average value bands and broad geographical breaks between areas (see Appendix 5 of the CIL Viability Study)'. I am not sure how drawing zone boundaries using historic residential price data helps design a system to 'support growth'. What is the house price postcode data indicating? Southwark and the Mayor have decided that 'growth' is to be concentrated into</p>	<p>The boundaries of the charging zones have been informed by post code data on house prices which show average value bands and broad geographical breaks between areas. We have also taken into account physical barriers such as railway lines and major roads. In addition the appraisals undertaken as part of this viability study have been plotted on a map to identify where developments can be considered to be most viable. Whilst we accept that there is a land value variance observable at a finer grain, defining a greater number of charging zones would</p>

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						<p>'growth areas' including areas for intensification and opportunity areas. These already mapped and decided areas will bear a disproportional brunt of any disbenefits which may well be piled on top of existing problems. Where the growth is to take place must become the key locations of impact and affect. These are therefore the areas to focus on in any analysis and study. Southwark and the Mayor have decided that "growth" is not so much of a borough wide issue and that growth is to be concentrated. If the purpose of CIL is to 'support growth' then policy needs to ensure that CIL funding is directed to locations where growth is being constructed and driven through in order to ensure that overall development, the big picture in an area, is altogether, comprehensively, sustainable and well supported with resources. And it seems to me that there is a problem with charities, offices and industrial which under the draft proposals may provide ZERO CIL to Southwark. Is Southwark going to step in and pay for the support that charities, offices and industrial are allowed to avoid? I return to this below in regards to Canada Water and the King's College proposals. Why cannot the boundaries of the zones better follow the evidence? An example if the arbitrary boundary placing the Hawksstone Estate in Zone 3. The boundary making brings into strong question Zone 4 which reduces the proposed CIL to £50 psm. South Rotherhithe Ward has areas that are some of the most deprived in the Borough and it contains residents, and their families, who also aspire to be rehoused and they will not appreciate CIL increasing the cost by £200 psm in comparison to Zone 4. I doubt South Rotherhithe is the only area that is wrongly and incorrectly and bluntly zoned and misplaced. The zones are too blunt and too crude, and in this day and age, it should be possible for a more carefully crafted zoning system. I appreciate the desire to provide a simple system however the new system should be sound, just and fair. There are areas with high percentages of private housing and low percentages of social housing, and visa versa. Putting an area, like South Rotherhithe Ward, which has high levels of social housing, into a higher CIL level area is counter productive towards creating more balanced and mixed up diverse communities. It appears contrary to the Core Strategy. I would like to see Zone 4 expanded to other areas and more carefully considered.</p>	<p>create undue complexity and potentially contentious boundaries. Our assessment of the viability evidence and decision to charge differential rates by use, we have been mindful of CIL Statutory Guidance on the difficulties of complex patterns of differential CIL rates and zones. The CIL viability study tests the ability of a wide range of development types throughout the borough to yield contributions to infrastructure requirements through CIL, including large high density development sites located in the opportunity areas of Elephant and Castle and Bankside, Borough and London Bridge, the Aylesbury Action Area, Peckham Action area and the Canada Water intensification area. We are not relying upon a small number of large sites to deliver our housing and employment targets, rather a number of sites located right across the borough. The CIL Regulations make a number of provisions, some compulsory, others non compulsory, for charging authorities to give relief from the levy. There is a difference between a mandatory exemption offered via Regulation 43 and discretionary relief offered via Regulations 44 and 45. If a claimant meets the criteria in Regulation 43(1) and (2), a charging authority must grant that claimant an exemption on its share of the land. Whereas a charging authority has the choice to make discretionary charitable relief available in its area. Also if it decides to make discretionary charitable relief available, it has the discretion to set the terms on which the relief will be granted. The process for collecting CIL requires liable person(s) to serve a Claim Exemption or Relief Form on the Collecting Authority to claim any social housing, charitable or exceptional circumstances relief they consider relevant and this is clear in the CIL Regulations. The CIL viability evidence shows that office and industrial uses are generally unviable with CIL, therefore it is appropriate to set a zero rate. CIL statutory guidance states that if evidence shows that their area includes a use of development of low, very low or zero viability, then setting a low or zero rate for that use should be considered.</p>
212	191		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>The Equalities Analysis (July 2012), Section 5, informs that: 'This relief also applies to any development that is proposed by registered charities.' What do you mean? And how does this relate to the CIL chargeable for Student Accommodation? Canada Water / Rotherhithe is an area of extensive ongoing intensification and dense development. It is an area that has high infrastructural needs (of many kinds) to support and deliver the intended change – say – just for fun £50 Million as a cost (including £10 Million for the A200). If a charity, such as King's, comes forward with a well supported proposal for a new campus how will CIL be applied? The local community are keen to know where the money is going to come from to put in place everything we need to make a sustainable, healthy, decent area. Will you treat all 'Student Accommodation' in the same way? Will you treat fairly luxury student rooms priced at £150-£200+ per week (quite often not occupied by home students) the same as room that are reasonable priced that home students can afford? One is more commercial and the other more charitable in my view. The point here is that the policy should not automatically provide the reliefs. The reliefs should be applied for and awarded on a case by case basis subject to criteria. There is no shortage of 'charities' that have substantial commercially driven operations and the benefits of charities need not be any human resident of Southwark – it could be cats, dogs or anything else. A charity does not necessarily provide any benefit to Southwark and can take up resources and produce disbenefits. There needs to be some discerning process and filter. "Any</p>	<p>We are proposing CIL rates of £400, £250 and £50 throughout the borough for all types of student accommodation. Accommodation provided directly by an institution who is a registered charity, may be able to benefit from the CIL exemption for charities, subject to the successful application for CIL Liability exemption under the criteria set out in CIL regulation 43. However, the student accommodation proposal would also need to provide 35% affordable housing provision in accordance with the Core Strategy Policy 8. If a charitable institution seeks to provide student accommodation in association with a partner/body without charitable status, they would be liable to pay CIL. The purpose of CIL is to support growth rather than mitigate impacts of specific developments, and it can be used more strategically than s106 contributions. A protocol for governing expenditure will be prepared in due course, however the money collected will be able to be used in all parts of the borough, regardless of where it was originally collected. D1 floorspace typically includes uses that do not generally accommodate revenue generating operations. Many D1 uses will be infrastructure themselves which CIL will help to provide. However, applying a modest CIL of £30 sqm to such uses (with the exception of health, libraries and education which will be zero rated) is considered to be unlikely to adversely affect the viability of such developments.</p>

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213	191		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>development"? Is that sensible? Why only registered charities? What about organisations that have charitable objects, non profit making and extremely important for the local community? Such as Youth Clubs, Resident's Halls, day centres and nurseries etc. Again, there needs to be some flexibility for social enterprises that are not profit seeking, that might be substantially voluntary, and possibly more worthy of CIL relief than any particular 'registered charity'. If the remains of Canada Water do not produce the CIL expected because the area is developed by charities and office development, will Southwark pick up the bill for the 'support' needed for the growth all around us? I will send in an additional comment tomorrow and submit this for now within the deadline.</p> <p>Development as a definition includes refurbishment and therefore 'new development' might also include forms of refurbishment. And 'new development' that as demolition of ageing property and it's replacement. New development should not be confused with additional provision. We may have a new swimming pool at Elephant &amp; Castle planned however we need additional facilities elsewhere where yet more growth is planned. I think there needs to be some thought about what 'new development' might be and it's definition. Charities (and other organisations privileged by the proposals for CIL relief) should not be given the certainty that their development will benefit from relief. Much more thought and care needs to be given to charities (and others) acting in a commercial mode. We do not need CIL relief handed to what are essential those faking and using a charitable veneer to gain privileges from Southwark that has it's own people to consider. What benefit will the charities new development bring to the people and environment of Southwark? What disbenefits? Who benefits? Charities and the other organisations proposed to have CIL relief are becoming more and more commercial. Housing Associations are also reported to be behaving more commercially. It would help support growth in Southwark to provide more homes for social rent to local Southwark residents rather than give CIL relief on homes for London wide residents earning 50,000, 60,000 or £70,000 a year. There are a whole host of Southwark residents on average London salaries, minimum wages, London Living wage etc. who desperately need homes and including those who stand no chance of social housing for ages – if ever. And those who cannot afford to pay transport costs and commute and so on.</p>	<p>CIL will be paid primarily by owners or developers of land on any new build - that is a new building or an extension - if it has 100 sqm of gross internal floor space or involves the creation of one dwelling even when that is below 100 sqm. The gross floorspace of any existing buildings on the site that are going to be demolished may be deducted from the calculation of the CIL liability. Similarly the gross floorspace arising from development to the interior of an existing building may be disregarded from the calculation of the CIL liability. The deductions in respect of demolition or change of use will only apply where the existing building has been in continuous lawful use for at least six months in the 12 months prior to the development being permitted. We have included additional explanation in the supporting background evidence document Development proposed by an organisation who is a registered charity, may be able to benefit from the CIL exemption for charities, subject to the successful application for CIL Liability exemption under CIL Regulation 43. The process for collecting CIL requires liable person(s) to serve a Claim Exemption or Relief Form on the Collecting Authority to claim any social housing, charitable or exceptional circumstances relief they consider relevant and this is clear in the CIL Regulations. The Council's planning policy approach towards affordable housing is to secure the maximum reasonable amount of affordable housing when negotiating on private residential and mixed use schemes with regard to a number of factors including financial viability. The Council has set proposed residential CIL rates which take into account the need to provide affordable housing as a s106 planning obligation.</p>
214	191		Objection	Preliminary draft CIL charging schedule	Charging zones	<p>Residents from all over Southwark need more housing opportunities and not just in the new proposed residential zone in the central area of the borough, around Aylesbury estate, Burgess Park, Peckham and Old Kent Road. Southwark residents on average and lower incomes who cannot access social housing any time soon (if ever), in all areas, however they are constructed, would like to benefit from more housing options in their neighbourhood made more affordable by lower CIL rates e.g. the £50 per sqm for residential property rate. The real principles behind this new zone need to be extended to other areas because that is the right, fair and equitable thing to do. For 'all' residents. Section 3.2.1 states: "CIL Regulation 13 allows the charging authority to introduce charge variations by area, by different use and by area and use, if this is supported by development viability evidence. Where adopting charge variations by area, it is crucial to ensure that charge variation boundaries are drawn on viability evidence and not policy or administrative boundaries." 3.1.8 allows tells us that the boundaries of the residential zones have also been informed by broad geographical breaks between areas – indeed, so are administrative boundaries informed by geographical breaks. It will be interesting to explore that data and see if the new proposed residential zone in the central area of the borough is justified and sound with regards to the viability evidence and what other areas and charges might also be justified and</p>	<p>The boundaries of the charging zones have been informed by post code data on house prices which show average value bands and a comparison of values achieved in neighbouring geographical areas. In addition the appraisals undertaken as part of this study have been plotted on a map to identify where developments can be considered to be most viable. We have also taken into account physical barriers such as railway lines and major roads which broadly accord with what are considered to be the different viability areas to establish what are considered to be reasonable CIL boundaries. Whilst we accept that there land value variance is observable at a finer grain, defining a greater number of charging zones would create undue complexity and potentially contentious boundaries. In our assessment of the viability evidence and decision to charge differential rates by type of development, we have been mindful of CIL statutory guidance on the difficulties of setting complex patterns of differential CIL rates and zones. Government guidance advises that charging authorities should take a strategic view across their area and should not focus on the potential implications of setting a CIL for individual development sites within a charging authority's area. Regulation 14 recognises that the introduction of CIL may put some potential development sites at risk. It is for charging authorities to decide what CIL rate, in their view, sets an appropriate balance between the need to fund infrastructure,</p>

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						<p>made sound by constructing various readings of the viability evidence that have not brought forward as proposals yet. What else can we see in the tea leaves? Including changing the key assumptions of the viability evidence such as the developer profit which many charitable and non profit making organisations might not require. I welcome the new proposed central residential zone for another reason. It shows that zones can be created where there is a will to do so and therefore a zone could be created to raise CIL and ensure extremely viable projects in an area make an appropriate full maximised contribution. The new proposed zone in the central area of the borough, around Aylesbury estate, Burgess Park, Peckham and Old Kent Road creates an argument for the creation of other zones. Here's how it might work - Stage one - draw the boundary to suit by steering consultants towards the required boundary and selecting / arranging viability evidence as necessary. Essentially what the Council pays the consultants to do. Stage two - state blandly that "Many of the development sites tested in the area had much higher values which would justify a higher CIL levy. The average CIL generated by the viable sites is £xxxx per square metre." (Could be £1,000+, who knows). Stage three - state glibly that "The council currently negotiates around £xxx per square metre through s106 agreements" [note: make this as HIGH as possible by being selective because nobody ever checks]. And state " In this area, developments should be able to absorb a CIL of £xxxx per square metre (including the Mayoral CIL) which is higher than the current rate. Job done. The same approach and recipe used to provide a benefit to wards of the proposed central residential zone (a lower CIL to attract social housing providers) can be used to ensure CIL contributions from high viability projects in all areas are maximised and best value for the Council achieved. And if overall best value for the proposed residential zone in the central area of the borough required a particular CIL reduction then it is fair to suggest that CIL increases might be necessary elsewhere. Clearly land owners with highly viable projects in the proposed residential zone in the central area of the borough, around Aylesbury estate, Burgess Park, Peckham and Old Kent Road will be overjoyed by the proposal for a £50 CIL in that area. There is something very crude and blunt about all of this and increasing the viability of some projects in an area by allowing other more viable projects to increase developers profit above that which might be reasonably expected and at the potential cost of the community does not feel like a sensible approach or optimal solution.</p>	<p>and the potential implications for the economic viability of development across their area.</p>
215	191		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>The report states at 3.1.7 that "in all areas, the viability of student housing would be broadly similar to general residential development. Therefore student housing would be charged at the same rate as residential development." There appears to be various kinds of student housing emerging ranging from student's sharing homes often built and intended for families (perhaps £100 per week each) through to pretty luxurious blocks with extensive communal areas that are charging sums like £250 per week. Why should a student housing provider that is operating in a way that is clearly business like, profit seeking and in way that is not recognisably charitable be given the privileged of a £50 CIL (at most) or possibly, as a charity £0 Zero rate? There is something very wrong in student housing and residents are cottoning on that the world of student housing and educations is changing very fast. It is well known that the applicant for student housing are playing on notions and sentiments of providing housing for home students who are having to borrow huge sums of money when a great many of these new rooms end up rented to international students at high rates – a practice that is better viewed on a commercial basis as any hotel or Travelodge might be.</p>	<p>Two markets for student accommodation have been identified in the borough, nomination and direct-let. Nomination schemes are let at reduced rent levels by universities (circa £128 per week), which require cross subsidy from university resources, and are identified as being unviable. The universities will be able to apply for charitable exemption, under the CIL Regulations, if they are the majority landowner of the development site. However, if a charitable institution seeks to provide student accommodation in association with a partner/body without charitable status, they would be liable to pay CIL. The direct-let market is let at private sector rent levels and are able to generate sufficient surplus residual values, even after allowing for 35% of proposed floorspace as affordable housing, to absorb a maximum CIL of up to £1,549 per square metre exclusive of Mayoral CIL. Rents for direct let student accommodation must have regard to rents for alternative accommodation in the private rented sector. If rents are significantly higher than alternative accommodation the take up of student units could be adversely affected with students choosing to live in privately rented accommodation. Given the context of the student housing and general housing markets being seen to be in competition with one another, and the requirement for</p>

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216	191		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>If the purpose of CIL is to support growth in Southwark then is it justified to subsidise all registered charities and all new developments by charities (and others who qualify for the proposed £0 Zero relief)? What is the opportunity cost? What is the projected cost of lost CIL? Can such generosity be afforded? When charities become major project applicants might not substantial CIL revenue be lost? If an area is swamped by applications from schools, charities, industry, office and so on, how much CIL will be lost and what kind of checks and balances will be put in place to ensure a balanced mix and profile of applications come forward? Is there going to be some kind of tally or quota? How will Southwark fair is there is a flood of applicants who claim relief? How will the funding gap be closed and will it widen? Has this all be modelled and scenarios run? I would not make a CIL tariff that gives any new development the certainty of a relief to zero. I would make all reliefs available by application which should be justified transparently as part of the planning application process. There needs to be some mechanism, some check, to filter out new development that is not desirable (e.g. it brings to the community net disbenefits when carefully considered). So... for BEP 3.2 Proposed CIL rate and charging area table: "Development used wholly or mainly for the provision of education as a school or college under the Education Acts or as an institution of higher by a predominantly publicly funded organisation" What is a predominantly publicly funded organisation these days? What mechanism is going to be put into place to determine if a planning applicant meets the criteria? What about mixed use developments? Do you mean the "publicly funded organisation" organisations now being funded by young people borrowing money and international students? Are not many schools and colleges that are run on a commercial basis? Publicly funded organisations are now deeply involved in partnerships and commercial ventures too. Why indirectly subsidise the commercial partners of "publicly funded organisations"? Relief from CIL should be carefully considered and some flexibility of approach is required. "Development used wholly or mainly for the provision of any medical or health services by a predominantly publicly funded organisation, except the use of premises attached to the residence of the consultant or practitioner" Comment repeated as above. "Except the use of premises attached to the residence of the consultant or practitioner" needs some explanation since it seems that if new development premises exceeding a certain size are attached to the residence of a "consultant" or a "practitioner" a CIL charge will be made. And yet a run of the mill private office would get full relief? Why penalise the provision of medical or health services by those who are not publicly funded organisations and not registered charities? Do not medical and health service professionals also create employment and provide extremely useful services that support growth? Relief from CIL should be applied for and some flexibility is required. "Public libraries" What is a 'public library' these days? A library made available to the public? The Council has been forced to close libraries because of central Government cuts. Community groups starting libraries or taking over libraries are not always registered charities but very useful at supporting growth and communities. So are you going to charge such a group CIL? I think you need a definition of a public library. If King's build a huge library and Canada Water and allow the public to free access to the library – e.g. a day ticket – are you going to give them CIL relief for that library building? Or do you mean a public library that lends resources out to the public for free? Relief from CIL should be applied for and some flexibility is required. "Sports and leisure</p>	<p>each to provide affordable housing, the viability evidence for student housing is broadly similar to that general residential development and we have proposed the same CIL rate.</p> <p>The CIL Regulations make a number of provisions, some compulsory, others non compulsory, for charging authorities to give relief from the levy. There is a difference between a mandatory exemption offered via Regulation 43 and discretionary relief offered via Regulations 44 and 45. If a claimant meets the criteria in Regulation 43(1) and (2), a collecting authority must grant that claimant an exemption on its share of the land. The process for collecting CIL requires a liable person(s) to serve a Claim Exemption or Relief Form on the Collecting Authority to claim any social housing, charitable or exceptional circumstances relief they consider relevant and this is clear in the CIL Regulations. No changes are proposed to the nil charge proposed for public libraries, health and education because these uses are do not include revenue generation operations, and many of these uses will be infrastructure themselves which CIL will help to provide. However, the preliminary draft charging schedule sought to make distinct charges for health and education floorspace which is predominantly publicly funded. The CIL Regulations do not allow charging authorities to vary levies on the basis of a funding mechanism. Having considered the issue, the council is proposing to apply a nil charge to all education and health floorspace. The preliminary draft charging schedule sought to exempt public sports facilities. As in the case of health and education space, on reflection we do not consider that the CIL Regulations would allow this. Most other facilities, cinemas, bingo halls, sports facilities etc, replace existing space and provided the existing space had been in use, would not be CIL liable. Where some additional floorspace is provided, the appraisals suggest that a modest levy would not impact significantly on viability. To reflect this situation, the council is proposing to reduce the CIL charge for "all other uses" from £50 p/sqm to £30 p/sqm</p>



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217	191		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	centres made available to the public at equivalent rates to local authority sports and leisure centres" What does "equivalent rates" mean in practice? Which local authority do you mean? You have not specified Southwark. Presumably, rates appropriate for CIL relief would be those that the public, all the public, can afford. Therefore this would include discounts such as those currently available for the unwaged e.g. Fusion and Southwark. It would not be appropriate for an organisation to look for the highest rates charge by local authority sports and leisure centres in the UK and then claim 100% CIL relief on that basis only to provide charges that are not affordable to someone on Job Seekers Allowances for example. Sometimes Southwark's draft policies are very carefully worded and we only find out later on, in practice, when it is too late, that the wording was very important indeed. Relief from CIL should be applied for and some flexibility is required.	Government guidance advises that if the evidence shows that an area includes a use of development of low, very low or zero viability, charging authorities should consider setting a low or zero levy rate for that use. The CIL Viability Study demonstrates relatively poor viability at the current time for industrial and warehousing uses. It is considered that the infrastructure funding benefits from seeking the collection of a nominal / modest level of CIL charge on such developments would be outweighed by the likely additional risk placed upon these forms of development through additional costs. It is important to ensure that Southwark maintains a range of employment sectors to promote a sustainable economy. The CIL Charging Schedule will need to be kept under review and it may need to be amended in the future to account for changes in viability.
218	191		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	"Industrial and warehousing (B2, B8)" if "appraisals suggested that industrial and warehousing developments are largely unviable" then why encourage the use of land for non viable use and why not compulsory purchase the land and ensure it is put to a more viable use as quickly as possible. Would that not produce more CIL for longer leading to more sustainable growth? There needs to be some careful consideration that the new industrial and warehousing development contributes to sustainable growth that is appropriate, positive and beneficial. Clearly, it would not support sustainable growth to give blanket relief to all industrial and warehousing (B2, B8) applications because some intended uses may provide employment however could be damaging for Southwark, particular groups and particular neighbourhoods. Relief from CIL should be applied for, justified and some flexibility is required. For example, Westminster's refuse lorries hurtle around the A200 gyratory in a way that is really a disbenefit to my locality. I am sure Westminster are very happy with the arrangement however there is no reason why this kind of new industry (and Westminster) cannot pay full whack towards CIL.	The preliminary draft CIL schedule sought to apply three charges for retail space based upon size of development. After further consideration of the CIL Regulations and the potential difficulties of distinguishing viability solely by floorspace size, we have proposed to make the schedule more robust by providing a more detailed description of those uses which would attract the higher CIL rate of £250 per square metre, namely supermarkets and shopping centres which have on-site parking facilities. The higher charge is justified on the basis of increased viability of these types of development All other retail space would have a charge of £125 per square metre. Of the sites tested, all of the 14 viable developments tested should be able to pay this charge and on that basis, the proposed charged should not put development at risk. We are also proposing to amend the charging schedule to delete the nil charge for affordable retail space on the basis while the affordability of the space affects viability, it is not in itself a distinct type of retail provision. Affordable retail space is only a requirement in large retail developments at Elephant and Castle. The testing indicated that any costs associated with affordable space should be absorbed within the overall retail element of the development and therefore this change should not put such development at risk. The process for collecting CIL requires liable person(s) to serve a Claim Exemption or Relief Form on the Collecting Authority to claim any social housing, charitable or exceptional circumstances relief they consider relevant and this is clear in the CIL Regulations. It is important to ensure that Southwark maintains a range of employment sectors to promote a sustainable economy, which includes industrial and warehousing land and floorspace. We have an evidence base which supports the protection of some industrial and warehousing land in the borough

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219	191		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>new applications and uses for the land that are viable and reconsider land use classes, targets and categorisation etc? If CIL is to 'support growth', to help make growth be sustainable, then surely it is not intended to subsidise business activities that are not in themselves viable? So why allow ventures low and zero CIL rates? Isn't CIL intended to support growth that is viable? High quality viable projects are likely to generate more sustainable decent long term quality jobs than a blanket CIL relief subsidy of industrial and warehousing new development (for example). Locations of viable new development coming forward for development need CIL for support. What do you want? Do you want quality full time jobs that endure? Or do you want part time work at minimum wage regardless of what might could be better put in place? It is not only about planning for real, it's getting real! Getting real, that money is tight and infrastructures in areas of high growth must be delivered and all businesses and most ventures need to make a contribution of some kind. If industrial and warehousing projects are not viable (as BNP Paribas seem to suggest) then perhaps they should go elsewhere so that Southwark can use land to house our residents, encourage more viable / beneficial alternatives and better provide for ventures that are viable without £0 CIL relief as an incentive. Get the land off the non-viable projects and get it back into viable use producing CIL.</p> <p>"Residential (C3) and student housing" In my view the zone 4 needs to be changed / extended into other areas and some mechanism to create zone 4 pockets within other zones. The Zone 4 rate of £50 psm I think needs to be benchmarked against proposed CIL rates of other nearby equivalent authorities and the specific affordability for Southwark residents considered. Student Housing – this seems to be a mess. Why not charge all genuine affordable (to home students) student accommodation (which by definition is not mega bucks per week) £50 psm CIL in all zones, and charge more commercial mode "Student Housing" the same higher rate in all zones? If a provider of "student housing" has a business plan to charge £230 per week for student accommodation, for example, then why should they not be hammered in whatever zone the application is located? Hammered because their business is viable, they plan to make a lot of money (e.g. asset values etc.), and the CIL is needed to support the growth they generate. If a provider of "student housing" is planning to rent rooms at an affordable rate, say £90 a week, and that encourages education and independence of our young Southwark people then CIL relief is appropriate because it's a contribution to supporting sustainability in Southwark for Southwark people. You seem to be in danger of handing CIL subsidies to those who aims are more a kind of sustainable exploitation rather than those whose aims are to make a genuine contribution to the people of Southwark and wider London. And why are you prepared to charge a privileged low £50 CIL rate for a student housing development in Zone 4 but will charge £250 - £400 CIL rate per sqm for accommodation provided for local residents including young people (or young couple) in other Zones? If our young people want to bring forward innovative housing ideas that are equivalent to the communal style of housing provided by student housing providers then why not offer them a £50 CIL rate in all zones to give those who have no hope of social housing (for a very long time, if ever) some opportunity? Any kind of hostel etc, that might not be a registered charity, should also give a low or zero rate. Non-student accommodation provision for local people at a price they can afford is so important and there seems to be plenty of lobbying on behalf of universities for halls of residents and not much lobbying for other accommodation for non students who cannot access social housing. Why is that? Southwark needs to send a clear message that housing for all kinds of local people is a priority, and that local people are important too. CIL is a means to support sustainable growth in Southwark by</p>	<p>and our planning policies reflect this. However, the CIL Viability Study demonstrates relatively poor viability at the current time for industrial and warehousing uses and that is the reason why we have proposed a zero CIL rate for these uses. Government guidance advises that if the evidence shows that an area includes a use of development of low, very low or zero viability, charging authorities should consider setting a low or zero levy rate for that use. The CIL Charging Schedule will need to be kept under review and it may need to be amended in the future to account for changes in viability.</p> <p>The boundaries of the charging zones have been informed by post code data on house prices which show average value bands and a comparison of values achieved in neighbouring geographical areas. We have also taken into account physical barriers such as railway lines and major roads which broadly accord with what are considered to be the different viability areas to establish what are considered to be reasonable CIL boundaries. Whilst we accept that there land value variance is observable at a fine grain, defining a greater number of charging zones would create undue complexity and potentially contentious boundaries. In our assessment of the viability evidence and decision to charge differential rates by type of development, we have been mindful of CIL statutory guidance on the difficulties of setting complex patterns of differential CIL rates and zones. Our Core Strategy encourages a range of different housing types to be provided in the borough, including student housing. The direct-let student housing market is able to generate sufficient surplus residual values, even after allowing for 35% of proposed floorspace as affordable housing, to absorb a maximum CIL of up to £1,549 per square metre exclusive of Mayoral CIL. Rents for direct let student accommodation must have regard to rents for alternative accommodation in the private rented sector. Given the context of the student housing and general housing markets being seen to be in competition with one another, and the requirement for each to provide affordable housing, the viability evidence for student housing is broadly similar to that of general housing and we have proposed the same CIL rates in the proposed charging zones.</p>

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220	191		Objection	Preliminary draft CIL charging schedule	General Comments	<p>providing innovation housing solutions for our residents who cannot access social housing or student housing. If Southwark is going to subsidise the public-private accommodation for students in Zone 4 then why not give the same level of subsidy to accommodation for local young people in all areas of Southwark too. The CIL for a development that provides accommodation for all those moving out of Council accommodation should be zero in all areas. We need to do everything we can to ensure the Council's own social housing accommodation is better allocated and utilised to help support sustainable growth. The current housing offers to encourage under occupiers to move from their home are completely inadequate. CIL can help schemes to come forward in all areas to encourage movement by providing the right accommodation in the right place.</p> <p>An up-to-date development plan : Canada Water Area Action is clearly not up to date and Canada Water needs a 'zone' for itself to ensure that this location in sustainable and appropriately intensified (and the affects / impacts in wider areas carefully mitigated / improved). CIL rates could then be set for Canada Water CWAAP area / wider area and have careful and thorough regards to evidence and information provided by the CWAAP area and information provided by Borough level sampling. The viability of projects in the CWAAP area needs to be more carefully and specifically considered to ensure that all new development pays appropriate CIL to support growth and change / improvement in the CWAAP area and surrounds. A stream of positive news is reported by developers including reports of margins expanding to 17-20%+. See for example <a href="http://www.cnplus.co.uk/news/business/barratt-sets-sights-on-17-per-cent-margin/8636154">http://www.cnplus.co.uk/news/business/barratt-sets-sights-on-17-per-cent-margin/8636154</a>. article where Barratt's is paying off it's debts. "Barratt is planning to double its operating margin and is on track to clear its debt "by 2015 if not earlier", the firm has told CN." Over 1000 homes at Canada Water no doubt helped! Homes built all around us, but not for us. And that does leave people in the locality rather annoyed. And I hear flats in the new tower are selling well – selling airspace is very profitable. The background report states at 2.1.2 that "The Core Strategy plans to accommodate an additional 24,450 new dwellings in the borough and to stimulate its economic development and growth through the provision of 80,000sqm of shopping and leisure floorspace and 425,000-530,000 business floorspace". Why 425,000-530,000 business floorspace is office space outside Zone 1 appears unviable? What the report does not state is that this 'growth' is not evenly distributed around the borough and is clumped in specific areas. And therefore issues of sustainability arise at several local levels and not just at the borough level or London region.</p>	<p>The Canada Water AAP was adopted in 2012 and is up to date and in general conformity with the National Planning Policy Framework. The boundaries of the charging zones have been informed by post code data on house prices which show average value bands and a comparison of values achieved in neighbouring geographical areas. In addition the site viability appraisals have been plotted on a map of the borough to identify where developments can be considered to be most viable. Whilst we accept that there may be a land value variance observable at a fine grain, defining a greater number of charging zones would create undue complexity and potentially contentious boundaries. In our assessment of the viability evidence and proposal to charge differential rates by type of development, we have been mindful of CIL statutory guidance on the difficulties of setting complex patterns of differential CIL rates and zones. We appraised several sites within the Canada Water action area comprising of a range of different types of developments which have informed the creation of the four charging zones. Developers' profit needs to be assumed in viability appraisals. While profit levels were typically up to around 15% of completed development value at the peak of the market in 2007, banks now require schemes to show a higher profit to reflect the current risk. The viability appraisals have indicated that the viability for office schemes varies between areas across the borough. The majority of office accommodation in the borough in recent years has been concentrated in the Central Activities Zone and higher rents have been achieved on good quality office space in this location. Elsewhere in the borough, the appraisals have demonstrated that office development is largely unviable at current values and only low rents are achieved which affects viability. Therefore, our evidence would not support a charge for offices in areas outside of zone 1. The CIL regulations are clear that a review of a CIL Charging Schedule is appropriately undertaken when circumstances have changed. If at a point in time the market for office uses is seen to be improving through our monitoring we will need to consider whether the change is sufficient to reassess the viability and potentially amend the Charging Schedule.</p>
221	191		Objection	Preliminary draft CIL charging schedule	General Comments	<p>The background reports at 2.3.1 states "The CIL Regulations specify that in setting their levies, charging authorities must strike a balance between the desirability of securing funding for infrastructure and the potential effects, taken as a whole, of the imposition of CIL on the economic viability of development across their areas" Areas – plural, and vague if the plural belongs to local authorities or areas that local authorities are comprised of. This suggests to me that analysis must be completed at different levels within a local authority, exploring particular areas and the whole. And how 'areas' are constructed becomes extremely important. Southwark Planning has referred to a plethora of "areas" over time and the public can never be sure about the subject. So I think there is some explaining to be done about how the areas of the CIL Viability Study (July 2011) were put together (the</p>	<p>The boundaries of the charging zones have been informed by post code data on house prices which show average value bands and a comparison of values achieved in neighbouring geographical areas. In addition the site viability appraisals have been plotted on a map of the borough to identify where developments can be considered to be most viable. Development sites were appraised throughout the borough to ensure that we obtained a spread of values. Whilst we accept that there may be a land value variance observable at a fine grain, defining a greater number of charging zones would create undue complexity and potentially contentious boundaries. In our assessment of the viability evidence and proposal to charge differential rates by type of development, we have been mindful of CIL statutory guidance on the difficulties of setting complex patterns of</p>

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						<p>boundary making) and the criteria and principals employed to get that done. I suspect that on closer examination the construction will be less objective and more subjective than is currently being made out. 2.3.1 continues that "The overarching aim of CIL is to enable the delivery of growth. It is therefore important to avoid risking too much development at the margins of economic viability, by setting the CIL charge up to the maximum viability of an area." What area is that? So constructing the 'area' becomes crucial to ensuring the local authority carries out its duties and ensures it gets best value and deal for itself and for us. I am not sure what jargon 'maximum viability' means. But I do expect the Council to construct areas (and a CIL system) that gets the best deal for the people of Southwark – and not developers and their associates who appear extremely influential in many different ways. And the currently proposed zones lump together areas (localities / places) with very different risks and characteristics and therefore the consequence is that extremely viable projects will not pay their fair share towards enabling the delivery of sustainable growth. The solution to changing the viability for marginal projects located in the same area as viable projects is not to let the viable projects off cheap! And leave more money in the hands of the land owners and developers on a hope (perhaps a whim) that more marginal developments will come forward. You just don't know what the marginals will decide, the more viable projects are likely to go ahead. Banking and finance factors and constraints might have a higher impact than CIL. The opposite might be proposed, that the more viable projects need to contribute (one way or the other) more money towards marginal projects that have a positive impact on sustainability. But then I wonder what is the cause of marginal projects located in the same area as viable projects? Is that you've got your areas wrongly set up? Can you not come up with something more smart given all the data and information the Council collects and the huge investment made in collecting and processing it. If CIL is not intended to mitigate affects caused by a particular development, and if CIL is intended to support growth more generally, then CIL will necessarily have to be invested in the specific areas that the Mayor of London and Southwark have determined for growth and therefore the borough level statistics on intended growth, the whole, are not particularly useful or informative. We don't want to charge £350 psm in Zone 3 at Canada Water when more specific evidence might suggest a much higher rate is appropriate. Why would a local authority charge £350 psm in a defined area of intensification and high density when a higher rate might be doable? And the higher the CIL rates claim so the 'cost' of giving £0 zero CIL relief looks expensive.</p>	<p>differential CIL rates and zones. Furthermore, the CIL statutory guidance advises that charging authorities should take a strategic view of viability. There will always be variations in viability between individual sites, but viability testing should establish the most typical viability position; not the exceptional situations. The viability study sets out ranges of CIL levels that the majority of different types of development should be able to absorb and provides recommendations as to appropriate CIL levels for those different types of development, which include a margin or buffer between the maximum rates that the study indicates are viable for the majority of development schemes. The proposed CIL rates are relatively conservative, and we have proposed a buffer between the maximum capacity of development to pay CIL. There is sufficient margin to allow for some variation in the level of costs incurred by developers, or the amounts payable under s106 obligations and the CIL viability study demonstrates that the viability of development is unlikely to be materially affected by the CIL rates. In particular, the introduction of CIL for new housing will not make a material difference to the already existing level of risk to the achievement of the target of 35% affordable housing delivery, whereas a reduction in the proposed CIL rate would be likely to undermine the Council's ability to provide finance for critical strategic infrastructure in the borough. As such, the Council takes the view that in setting the proposed CIL rates in the Draft Charging Schedule the Council has aimed to strike an appropriate balance between the desirability of funding infrastructure from CIL and the potential effects of the imposition of CIL on the economic viability of development across the borough</p>
222	191		Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Why charge £0 Zero for office space at Canada Water that is by location clearly viable? 3.1.15 states that "Outside the north of the borough, there is unlikely to be considerable amounts of office development and rents are unlikely to be appreciably higher than rents for existing space. A levy of £0 per square metre for office space would therefore be justifiable. This would also be consistent with the approach taken on the tariff in the Elephant and Castle SPD." I have no comment on the Elephant and Castle SPD! But I do comment on the nonsense that the north of the borough area where office development is subject to a CIL charge has been reduced to Zone 1 as mapped. And the rest of the north along the river? Has no viability? Or a tall office block in the middle of Dulwich? How did this decision come about? Who was involved and who influenced it? The value of the views and outlook alone towards London Bridge, St Pauls and Canary Wharf add many thousands of pounds to the value of properties (see the Maydew House report!) It is, frankly, completely crackers that a £0 Zero rate for office space has been proposed for the Canada Water by including Canada Water in the tariff for a wider incoherent Zone 3. The viewing corridor sets a value as does the £billions invested</p>	<p>The Viability study appraisals have indicated that the potential for commercial schemes to be delivered varies between areas across the borough. The majority of office accommodation in the borough in recent years has been concentrated in the Central Activities Zone and higher rents have been achieved on good quality office space in this location. Elsewhere in the borough, the appraisals have demonstrated that office development is largely unviable at current values and only low rents are achieved which affects viability. Therefore, our evidence would not support a charge for offices in areas outside of zone 1. The CIL regulations are clear that a review of a CIL Charging Schedule is appropriately undertaken when circumstances have changed. If at a point in time the market for office uses is seen to be improving through our monitoring we will need to consider whether the change is sufficient to reassess the viability and potentially amend the Charging Schedule. The purpose of CIL is to support growth rather than mitigate impacts of specific developments, and it can be used more strategically than s106 contributions. A protocol for governing expenditure will be prepared in due course. The CIL charge will be the first cut and the liability to pay the levy will be taken into</p>

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223	191		Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>into transport infrastructure such as the ELL and Jubilee Lines. More information should be collected to determine an appropriate rate which ensures all new CWAAP area office development makes a significant and substantial contribution to supporting the high level of growth in the CWAAP core area and its surrounds. And in my view all new office development needs to make a CIL contribution to the local authority and the community where the development is located, even if the contribution is small. Such as paying towards trees or something. Southwark expects residents on extremely low incomes to hand over a substantial percentage of income for costs that cannot be avoided, such as cleaning charges for tenants in Southwark housing. Ventures (or any kind) that aim to come to Southwark to do business, make money and benefit themselves should also make a contribution towards our community beyond providing employment. If new developments at Canada Water do not provide money to support growth then funds from Southwark and other sources will have to be used (including the proceeds of any sale of freehold land owned by the Council) and that will leave less money form much need projects elsewhere. At Canada Water / Rotherhithe Area CIL will be necessary to support growth and also payments by specific developments to mitigate adverse affects and impacts in the wider area.</p> <p>At 2.3.3 the report states that "We have prepared a CIL viability study. The study methodology compares the residual land values of a range of developments on sites throughout the borough to their value in their existing use. If a development incorporating a given level of CIL generates a sufficient positive land value higher than the existing use land value, then it can be judged that the proposal could be implemented and is viable." It was in one Paribas study that the existing use of green space was set at £1! And the financial assumptions were rather disagreeable. The assumption is that a profit is to be made and yet we see CIL relief proposed for all manner of organisations that might not, should not, have profit as a primary objective. What market intelligence? I look forward to reading it. The pragmatic approach is to use intelligence to more carefully explore the projects constructed to be at the margins of economic viability and rethink the sense of allowing the most viable and profitable projects to pay less in unlikely hope that a lower CIL rate will help the projects at the margins of economic viability will be developed. Owners of projects at the margins of economic viability celebrate banking their developers profit by paying less CIL and owners of viable and extremely viable projects will not believe it's Christmas. Perhaps another solution is for the local authority to compulsory purchase the land which is being held up by a projects at the margins of economic viability and for the local authority to sell the land onto an organisations better placed to develop it more effectively within constraints. I have not examined the viability analysis documents in detail yet. So perhaps I missed something. I would have expected a careful additional attention and weighting on the areas identified by the Mayor of London and Southwark for high levels of growth and lots of new development. Isn't there a danger that the viability of high growth, high margin and high profit areas will be under cooked if a borough wide approach is used? This could lead to bumper profits for some schemes? CIL might not be 'modest' for some areas where land owners and their development partner margins grow fat. I see no reason why they would pass on any windfall CIL to home buyers. Barratt's intention is clearly to pay off their own debts and not pass on CIL relief! So the price of the flat will not reduce whatever rate of CIL is charged. Reduce CIL and into whose pocket will the benefit from the relief go? Already there is substantial doubt that Southwark, and the community, are getting a fair deal from the Canada Water developments. A library that goes double over budget does not help – and amazingly someone let it</p>	<p>account in negotiating S106 payments. CIL Regulation 123 requires local authorities to set out a list of projects or types of infrastructure that it intends to fund through CIL, and therefore many of the costs for which cover had been sought through S106 contributions will be paid through CIL. S106 requirements will be scaled back to those matters directly related to a specific site, and are not set out in the Regulation 123 list. It is anticipated that CIL spending would be considered alongside the council's capital spending programme and will not be the sole means of funding for strategic infrastructure projects. In addition, under the Localism Act, the council must identify a 'meaningful proportion' of Southwark CIL that will be spent in the local area to ensure that those people affected by development see some of the benefit. This allocation would be made using the community infrastructure project list (CIPL) which will be based on a revised project bank list. This would be updated every year with consultation with the community councils and planning committee to ensure it reflects local needs. The government have announced that the meaningful proportion to be spent locally is at least 15% or 25% where an adopted neighbourhood plan is in place.</p> <p>We have followed CIL statutory guidance in adopting a strategic and area-wide based approach when testing development viability to inform charge setting. The viability study tests the ability of a wide range of development types and sizes throughout the borough to yield contributions to infrastructure requirements through CIL and the inputs into the viability appraisals are derived from market comparable information, industry standard benchmark data and the consultant's experience and knowledge in the development sector. The existing use value for each site is determined by the existing building and local market rents for the relevant property type. Details of the benchmark land values, and the assumptions in arriving at each value, are provided for each development in the appendices to the viability study. A number of development sites were selected, located within the Opportunity Areas, Intensification area, and action areas and consider we have adequately taken into account the potential impact of CIL on the delivery of our regeneration areas. Under the Localism Act, the council must identify a 'meaningful proportion' of Southwark CIL that will be spent in the local area to ensure that those people affected by development in the area see some of the benefit. This allocation would be made using the community infrastructure project list (CIPL) which will be based on a revised project bank list. This would be updated every year with consultation with the community councils and planning committee to ensure it reflects local needs. The government have announced that the meaningful proportion to be spent locally is at least 15% or 25% where an adopted neighbourhood plan is in place. The CIL Charging Schedule and its evidence will be examined by an independent inspector to determine whether we have fulfilled the requirements of the CIL Regulations.</p>

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224	191		Objection	Preliminary draft CIL charging schedule	EqIA	<p>happen (laminated shelving too, should be solid wood for £14M+). It's not just getting CIL, it's also how it's spent. Why use only BNP Paribas? Are they not the same outfit that valued green spaces at £1 in a viability report conducted a while back? I say "only", because something as important as CIL should not be left solely to the usual bunch of Officers and consultants whose early policy making tends to follow the same pattern which involves having a conversation with themselves. I am told that close working relationships are important to Southwark and clearly there are times when someone with a more distant relationship (less clientism) might come in and check things over. Someone who is not on a trajectory towards working for a land owner / developer etc. in the future or an organisation that is part of a bank that makes money from property development etc. Someone, or an organisation, that has no hope of benefitting from being involved other than their professional fee.</p> <p>Equalities Analysis (July 2012): The Equalities Analysis ("EA") document appears incomplete and fails to explicitly show how information as evidence (rather than Officer / consultant opinion) 'highlights' impact. The potential impacts (positive and negative) of the CIL proposals on 'protected characteristic' residents have not been adequately assessed. Contradictions and tensions are not identified or are ignored. For example, it is considered positive for minorities to set a zero rate for social housing while at the same time setting a zero rate for industrial / office space and "to any development that is proposed by registered charities." What will happen if an area, such as the remains of Canada Water, is developed primarily by charities and office / industrial providers in the future? Charities and education ventures not just building the odd block but building a campus village? Do not your CIL relief proposals begin to look costly? Have you costed scenarios? Jobs in new developments are not necessarily provided to local residents (or even London residents) and the positive benefits claimed for CIL seems to come with no evidence to support it. Or, that jobs will be carried out by local people sustainably over an extended period of time. It would be more sensible to set a CIL rate for offices and industry and then find a way to rebate (or support) those new developments when they actually deliver and employ local people over an extended period of time. The benefit of CIL relief should be provided when the development actually provides what was held out to the community. Not before. CIL relief on delivery should be the rule, not upfront. No relief on the basis of spin and promises that too many times are never delivered. Just as planning consent should not be given on the back of trumped up danglings of jobs balanced off against poor design and low quality – there is nothing much sustainable about that. Southwark has also made a commitment to assess equality impacts wider than required by law. Impacts on the poor, vulnerable and those living in deprivation should also be carefully considered. Impact on non human's can also be carefully considered including animals, wildlife and the natural environment. There needs to be a much wider consideration of "equalities" and an appreciation of how issues and matters are related. CIL might help provide and improve green spaces and green infrastructure and therefore a whole host of positive benefits could be generated across groups with protected and non-protected characteristics however this sense is absent from the analysis. It might take a different level of appreciation to connect green spaces, dogs as therapeutic pets and wellbeing (e.g. reduction in depression). And green spaces, hedges and trees in a similar way. And because Southwark is proud of it's association and history with health provision it is so disappointing to see so much planning policy devoid of this type of thoughtful caring intelligence. Planning Policy in Southwark needs a radical overhaul and it seems to be stuck in a way of doing things and a groupthink mind-set that produces draft policy that is disappointing.</p>	<p>We note the comments on the Equalities Analysis. It is difficult to attribute the proposed CIL charge to specific impacts on the groups identified in the Equality Act 2010. Possible impacts may arise at the point when new or improved infrastructure is actually delivered; they would not arise directly as a result of the charging schedule itself. However, the introduction of CIL should, in principle, benefit all groups by contributing to the delivery of strategic and local infrastructure and helping to achieve more sustainable development. It is anticipated that CIL spending would be considered alongside the council's capital spending programme and will not be the sole means of funding for strategic infrastructure projects. It is unlikely that future development in the Canada Water action area would be primarily driven by charities and office/industrial providers. Our Core Strategy sets out targets for new homes, jobs and shopping/leisure floorspace for the Canada Water action area. The Canada Water Area Action Plan requires a mix of development on proposal sites, to ensure that our objective of promoting mixed and sustainable communities is achieved. The CIL Regulations make a number of provisions, some compulsory, others non compulsory, for charging authorities to give relief from the levy. To qualify for a mandatory charitable exemption under CIL Regulation 43 development proposed by charitable institutions will need certain criteria. The viability study demonstrates relatively poor viability at the current time for office and industrial uses. It is considered that the infrastructure funding benefits from seeking the collection of a nominal / modest level of CIL charge on such developments would be outweighed by the likely additional risk placed upon these forms of development through additional costs. This would risk some land not coming forward for development, and we have therefore proposed a zero CIL rate in response to the current local economic circumstances. The purpose of the Infrastructure Plan (in the CIL charge setting context) is to identify a range of infrastructure projects which are needed to support the development set out in the Core Strategy, and to set out costs of this infrastructure and likely funding sources, to identify whether there is an infrastructure funding gap which CIL could help to fill. CIL Regulation 123 requires charging authorities to set out a list of projects or types of infrastructure that it intends to fund through CIL, and therefore many of the costs for which cover had been sought through S106 contributions will be paid through CIL. S106 requirements will be scaled back to those matters directly related to a specific site, and are not set out in the Regulation 123 list. We have published our Regulation 123 list alongside the Draft CIL Charging Schedule. The council must also identify a 'meaningful proportion' of Southwark CIL that will be spent in the local area (as required under the Localism Act 2011). This will ensure that those people affected by development see some of the benefit. This allocation would be made using the</p>

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						<p>CIL positive impacts are also lost and left unspecified. Southwark contains 'growth areas', areas of intensification and opportunity. Southwark faces a huge challenge of delivering what Southwark's various communities need (as distinct from what they want) and the latest draft Infrastructure Plan comes with an enormous funding gap despite the Infrastructure Plan list not being the 'communities' list but one assembled and edited by Council Officers and others which cuts the identified need greatly. Southwark will find out what it's various communities need, want and aspire towards when it asks them. Once that is done properly and the results taken and used to make coherent thoughtful well considered policy then Southwark might be in a better position to determine a CIL tariff and the relation of CIL to s106 for specific sites located in any particular area. The Equalities Analysis (July 2012) would be greatly improved by Officers / consultants working with residents of the community (of protected and non protected characteristics) from the areas identified for greatest growth, change and scheduled for most new developments, areas already identified as areas of intensification and opportunity areas etc. Equalities Analysis (July 2012) would be greatly improved by the authors showing that they are aware of, and understand, the challenges of delivering sustainable development that is beneficial and positive over longer periods of time. For example, major roads running through Southwark are the cause of various pollutions that severely impact on residents living and working proximal to the roads. Negative health affects are well known including respiratory conditions and reduce lifespan. Southwark's congested and polluting roads have substantial and well documented impacts which can be fed into Equalities Analysis (July 2012) and CIL could be analysed to be a positive impact over several protected characteristics and other non protected characteristics that the Council says it cares about and respects. Doubling the levy at particular points risk the situation of application bring forward phases to avoid (possible evade) paying CIL. A shopping centre might come forward in four phases of 2,499 sqm to provide nearly 10,000 sqm and thereby avoiding £125 per sqm (or £1,250,000). What are you going to do to prevent avoidance and evasion of CIL? 2,500 sqm is the threshold identified in the National Planning Policy Framework which many smart minds will be busy trying to avoid and get around. I have written this pretty much off the top of my head and in a short time so I expect this comment may contain errors, poor format and typos and if any clarification is needed please let me know. I have not had a chance to look at all files for this consultation yet. It may be useful for ALL the information and data used by the Council and it's consultants to be made available online so that residents and interested parties can see if the evidence leads them to the same proposals, or maybe some alternatives.</p>	<p>community infrastructure project list (CIPL) which will be based on a revised project bank list. This would be updated every year with consultation with the community councils and planning committee to ensure it reflects local needs. The government have announced that the meaningful proportion to be spent locally is at least 15% or 25% where an adopted neighbourhood plan is in place. The CIL charge for liable developments will be calculated at the time planning permission is granted. The trigger for payment is the commencement of development, although depending on the amount of the charge, payments may be phased according to the Council's Instalments Policy. We will issue a Liability Notice alongside the planning Decision Notice. The Liability Notice says how much CIL is payable. It is the responsibility of the person(s) who will pay CIL to serve an Assumption of Liability Notice on the Council prior to the commencement of development. If this does not happen, the charge automatically defaults to the owners of the land and penalty surcharges may apply. Prior to the development commencing, we must be served with a Commencement Notice stating the date when the development will commence. We then issue a Demand Notice for the CIL payment in accordance with our Instalments Policy. If a Commencement Notice is not received, penalties apply and full payment is due immediately. An instalments policy will be proposed and consulted upon in 2013. Representations and consideration of the affect of any Instalments Policy can be considered then. It should be noted that the Mayor of London will be consulting upon their Instalments Policy, which will be the default for Southwark until such a point Southwark brings forward it's own.</p>
225	906	17	Objection	Preliminary draft CIL charging schedule	General Comments	<p>1.0 Key Point Summary 1.1 These representations have been prepared by DP9 and Strutt &amp; Parker on behalf of British Land and Aviva Life and Pensions Limited ("Aviva"). Both British Land and Aviva are principal landowners within the Canada Water Intensification Area / Action Area (as designated within the London Plan (2011) and the LB Southwark Core Strategy (2011)). 1.2 Both British Land and Aviva share the LB Southwark's planning policy and development objectives for the Canada Water area. However, as these representations demonstrate, the LB Southwark proposed Community Infrastructure Levy ('CIL') Preliminary Draft Charging Schedule ('PDCS') poses potentially serious risks to the viability and deliverability of these objectives. 1.3 The key headline points set out in these representations are, as follows: a) The starting point of DP9 and Strutt &amp; Parker's review of the PDCS is the assumption that the LB Southwark (the 'Charging Authority') has determined that the schedule of CIL rates contained in the PDCS reflects an appropriate balance between helping to fund necessary infrastructure</p>	<p>It should be noted that the Canada water AAP is also part of the council's development plan.</p>

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						<p>and the potential effects on the economic viability of development across its area. The basis of the review has been the PDCS and its supporting evidence base. b) In determining the nature of development to be assessed DP9 and Strutt &amp; Parker have taken this to mean the development which underpins the relevant up-to-date Development Plan. This is consistent with the independent examinations of Charging Schedules to date. c) In the context of the above, these representations have focused on ascertaining the robustness and reasonableness of the BNP Paribas ('BNPP') Viability Study and the extent to which this has considered the effect of setting CIL rates on the viability of development upon which the Development Plan is dependent. d) The Development Plan in this instance is the adopted London Plan (2011) and the adopted LB Southwark Core Strategy (2011). The Development Plan objectives and policies are focused on the delivery of new homes and economic growth. Underpinning this aim are the designated Opportunity Areas and Intensification Areas. e) Having reviewed the PDCS and associated Viability Study it is DP9 and Strutt &amp; Parker's considered opinion, on behalf of British Land and Aviva, that the Charging Authority is not yet in a position to strike – with any degree of robustness or accuracy – what it appears to be, in accordance with the Community Infrastructure Levy Regulations, an appropriate balance between: 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 The potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area. f) This is because the content and quality of evidence produced by the Charging Authority in support of the PDCS is insufficient to meet the above tests. These representations raise fundamental concerns regarding the evidence base upon which the PDCS is based, specifically the BNPP Viability Study. g) The evidence does not take full account of the likely burden of all planning policy and regulatory costs that fall upon development. Most importantly, in relation to a number of inputs and assumptions, it does not reflect the 'normal circumstances' under which development is delivered or judged to be viable.</p>	
226	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>h) The approach and methodology of the Viability Study is directly at odds with the recently published RICS 'Financial Viability in Planning' (August 2012) guidance document. Most fundamentally, this means the Viability Study does not reflect the usual workings of the market and is one of the key reasons why the Charging Authority's current evidence base does not align with the 'normal circumstances' of development. This is a fundamental concern to British Land and Aviva as it would appear to mean the PDCS is based on a flawed starting point: if the basis of how development viability has been assessed is unreliable, then this casts significant doubt over the robustness of the proposed charging rates.</p>	<p>The document 'Viability Testing Local Plans: Advice for planning practitioners', was launched by Sir John Harman the Chair of the Housing Delivery Group on 22 June 2012. The approach in this document is recommended for use by local authorities and their consultants to plan wide viability and the community infrastructure levy. The approach taken in the RICS guidance to plan making viability and CIL is not recommended by the advice given in 'Viability Testing in Local Plans' document (pg 29). The Harman report states: "Consideration of the appropriate Threshold land value needs to take account of the fact that future plan policy requirements will have an impact on land values and landowner expectation. Therefore using a market value approach as a starting point carries a risk of building –in assumptions of current policy costs rather than helping to inform the potential for future policy." It then goes on to state that market value can act as a useful sense check. The approach we have adopted is entirely consistent with this statement.</p>
227	906	17	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Evidence of the London Borough of Southwark's record in recent years regarding the nature and extent of Section 106 obligations which have been secured, including specifically in relation to affordable housing, would suggest that the rates set out in the PDCS are unsustainable and must pose a serious risk to development. DP9 has undertaken an analysis of Section 106 Agreements entered into for schemes over the course of the past two years. On average, the total value of Section 106 Agreements is estimated over this period to have been of the order</p>	<p>Not all S106 include an open book appraisal and only a few of those have a review once the scheme is built to show actual costs and values. The viability testing is sufficient for the Council to have the view it will not affect development over all in the borough.</p>



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228	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>of £73 per sqm for residential use and £107 for non-residential uses. This is substantially below the PDCS proposed rates and against a context of schemes delivering below Development Plan targets for affordable housing delivery. The PDCS and supporting evidence proposes that development on average can afford to contribute substantially more than it has been to local infrastructure (through CIL and any residual Section 106) and, at the same time, deliver affordable housing in accordance with local planning policy. Given the majority, if not all, of the assessed Section 106 Agreements would have derived from open book independent financial appraisal, the only conclusion that can, therefore, be drawn is that the Charging Authority is satisfied that the viability of development has substantially improved. This is not the case as the market toughens and securing development finance becomes harder.</p> <p>m) It is unclear from the evidence base what assumptions the Charging Authority has made about the Section 106 costs that would normally be expected for future development. The BNPP Viability Study refers to a standard rate of £1,000 per unit which is unjustified other than a reference to the same charge in Poole and Bristol. This is clearly inadequate consideration of a vitally important development cost. Simply because Poole and Bristol CIL Charging Schedules have recently been through public examination, this is wholly insufficient justification to copy the same rate for LB Southwark: that is unless the Charging Authority is convinced that the nature of development in Southwark is akin to that in Poole and Bristol. British Land and Aviva urge the Charging Authority to take a more serious, realistic and justified approach to the likelihood of future Section 106 costs. A cautious approach is recommended because the CIL Regulations are clear that Section 106 (and planning conditions) are to remain the primary means of mitigating the direct impacts of development. The residual Section 106 costs for strategic developments underpinning the Development Plan are very likely to be substantially more than the assumed £1,000 per unit rate.</p>	<p>The assumptions are set out in BNPP report, including policy compliance, expected values and S106 expectations.</p>
229	906	17	Objection	Preliminary draft CIL charging schedule	General Comments	<p>2.0 Introduction 2.1 These representations have been prepared by DP9 and Strutt &amp; Parker on behalf of British Land and Aviva. Both British Land and Aviva are principal landowners within the Canada Water Intensification Area / Action Area (as designated within the London Plan (2011) and the LB Southwark Core Strategy (2011)). 2.2 British Land has an interest in the Shopping Centre Site, where planning permission for a 15,000 sqm retail extension has recently been granted, and the Harmsworth Quays site, recently vacated by the Daily Mail Group. Aviva has an interest in the Leisure Site and has secured outline planning permission for the comprehensive redevelopment of the site for residential and leisure uses. In total, the developable area of the combined assets is in excess of 16 ha and represents the heart of the Canada Water Intensification Area / Action Area. The deliverability and viability of these sites will have a direct impact on the LB Southwark's aspirations for the area and the wider objectives of the Development Plan. 2.3 Both British Land and Aviva share the LB Southwark's planning policy and development objectives the Canada Water area. However, as these representations demonstrate, the LB Southwark proposed Community Infrastructure Levy (CIL) Preliminary Draft Charging Schedule ('PDCS') poses potential serious risks to the viability and deliverability of these objectives. 2.4 These representations are made following a thorough review of the PDCS, and its supporting evidence base, by DP9 and Strutt &amp; Parker. They also draw on the experience of considering the Draft Charging Schedules of other Charging Authorities. They have been prepared in the context of the relevant tests set out in the Community Infrastructure Levy Regulations, namely: "In setting rates (including differential rates) in a charging schedule, a charging authority must aim to strike</p>	<p>We have commented on each of Strutt and Parker's concerns.</p>

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230	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>what appears to the charging authority to be 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.” (Regulation 14) 2.5 The starting point of DP9 and Strutt &amp; Parker’s review of the PDCS is the assumption that the Charging Authority has determined that the schedule of CIL rates contained in the PDCS reflects an appropriate balance between helping to fund necessary infrastructure and the potential effects on the economic viability of development across its area. The basis of the review has been the PDCS and its supporting evidence base. 2.6 The Charging Authority’s evidence includes a Viability Study undertaken by BNPP (July 2012) and an Infrastructure Plan (July 2012). These representations focus primarily on the Viability Study. Essentially, this is because it is the document which underpins how the Charging Authority has sought to understand the effects of CIL on the economic viability of development. Whereas, whilst the Infrastructure Plan is useful, and is assumed to form the basis of the list of infrastructure projects referred to in Regulation 123, there is no requirement for the Regulation 123 list to be published and examined at the same time as the Charging Schedule. Unfortunately this means that, at this stage, developers have no definite or reliable knowledge about the nature of infrastructure that will be funded through CIL. 2.7 Attached at Appendix 1 is a report prepared by Strutt &amp; Parker analysing in detail the BNPP Viability Study. Importantly, it must be read alongside the representations set out below and supports the various concerns of British Land and Aviva at this stage. 2.8 Attached at Appendix 2 is an analysis by DP9 of recent Section 106 Agreements. 2.9 These representations are divided into two parts. The first, and main, part of the representations provides general comments in relation to the PDCS and its evidence base. The second part provides observations specifically concerning the Canada Water area. 2.10 The representations are set out overleaf.</p> <p>3.0 General Comments Unreliable Evidence Base  3.1 The analysis undertaken by Strutt &amp; Parker (Appendix 1) casts substantial doubt over the reliability of the PDCS evidence base, specifically the BNPP Viability Study. This is because of a number of seemingly flawed assumptions and inputs that, when combined, propose that the evidence base does not represent the ‘normal circumstances’ of development across the Charging Authority’s area.  3.2 The main reasons suggesting that the Viability Study is unreliable and does not reflect the usual workings of the market are, as follows: The basis of the Viability Study is ‘CUV plus a premium’. This approach and methodology is at odds with the RICS recommended use of Market Value within their ‘Financial Viability in Planning’ guidance document. In other words, the Viability Study has not been carried out in accordance with more commonly used methodologies or acceptable professional standards. Strutt&amp; Parker see no justifiable reason for not undertaking an evidence base in accordance with the RICS guidance. The best available and most appropriate evidence has not been used. No recent land transaction evidence has been taken into account. This would be useful and relevant insofar that it would indicate what willing buyers and willing sellers actually transact at. Strutt &amp; Parker recommend that the Viability Study is benchmarked against the local land market. The only sensitivity scenarios considered assume growth in residential values. This sits uncomfortably with the current challenging economic climate and prolonged related difficulties in bring forward development – especially development associated with strategic brownfield sites (such as the Opportunity</p>	<p>The methodology used for undertaking the study is consistent with the advice in the guidance document Viability Testing Local Plans (2012). This document states that its methodology is also appropriate for testing CIL. The council considers that the assumptions used in the viability appraisal, including s106, affordable housing quantum and values etc. are robust. The council considers that the sample of sites tested is sufficient to provide a good overview of the likely impact of CIL on development. The council has tested a range of uses. There is no assumption that cross subsidy will be available for individual uses, which represents a worst case scenario. The council has now provided the information sought in paragraph 3.5.</p>

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231	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>and Intensification Areas) because of their typically substantial upfront infrastructure costs. A lack of clarity / justification over the meaning and derivation of Benchmark Land Values, profit rates, housing values, build costs, exceptional costs. A series of overly optimistic assumptions, including, inter alia: value growth; profit; Section 106 costs; affordable housing quantum and values; and potentially, build costs. Underestimated future Section 106 costs (see paragraphs 3.19-3.26). Surpluses generated by the net saleable area of hypothetically proposed residential development significantly distorts upwards the relevant CIL rate given this is charge on GIA (i.e. a bigger area). Inadequate sampling of sites relative to the amount and complexity of development anticipated to come forward (especially to provide comfort / confidence in relation to the effect of CIL on strategic development sites that underpin the Development Plan, such as Canada Water). A number of significant issues in relation to BNPP's financial appraisals. Of particular concern, and relevant to the objectives of the Development Plan, is the fact that the Viability Study has given no consideration to mixed use schemes. No account is made of the need, in reality, of residential development to effectively cross subsidise non-residential uses in order for development to accord with Development Plan policies and site allocations.</p> <p>3.3 The combined effect of the above suggests that the Charging Authority cannot currently ascertain with any robustness whether or not there is a sufficient margin of viability for the proposed PDCS rates to be achieved without putting development at serious risk.</p> <p>3.4 British Land and Aviva propose that all of the points raised by Strutt &amp; Parker in their report need to be urgently considered by the Charging Authority and recommend more thorough realistic evidence is compiled. British Land and Aviva are willing to assist the Charging Authority in this respect.</p> <p>3.5 (NB Not all the evidence underpinning the Viability Study and, therefore, the PDCS has been made available. On 4th October 2012 DP9 wrote to LB Southwark requesting copies of 'live' versions of appraisals used to produce the Viability Study because these enable an understanding of underlying assumptions e.g. development timetables. DP9 also requested clarification in relation to BNPP's use of Site Benchmark Values. To date, LB Southwark has not responded to this request.)</p>	<p>The council has tested a number of sites in the Canada Water action area and taken into account reasonable s106 requirements, as well as other requirements including affordable housing. The council considers that the outputs of the appraisals reflect the circumstances and requirements at Canada Water.</p>
231	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Lack of Consideration of Strategic Development (the Opportunity Areas and Intensification Areas)</p> <p>3.6 A key starting point in applying the CIL Regulations rate setting tests is an understanding of development across the Charging Authority's area. In DP9 and Strutt &amp; Parker's opinion, this ought to be derived from the relevant up to date Development Plan. This is consistent with the approach taken to the examination of CIL Charging Schedules to date.</p> <p>3.7 The Development Plan in this instance is the adopted London Plan (2011) and the adopted LB Southwark Core Strategy (2011). The Development Plan objectives and policies are focused on the delivery of new homes and economic growth. Underpinning this aim are the designated Opportunity Areas and Intensification Areas. Policies 2.13 and 3.3 of the London Plan are clear in highlighting the importance of these areas to accommodating significant new housing, commercial and other development.</p> <p>3.8 The BNP Paribas Viability Study is broad brush and does not adequately address and define the "normal" circumstances associated with development as far as development in LB Southwark is planned over the period of the Development Plan. In other words it has not properly considered the effect of CIL on the most important strategic development sites allocated within the Development Plan: the</p>	<p>The council has tested a number of sites in the Canada Water action area and taken into account reasonable s106 requirements, as well as other requirements including affordable housing. The council considers that the outputs of the appraisals reflect the circumstances and requirements at Canada Water.</p>

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232	906	17	Objection	Preliminary draft CIL charging schedule	Charging zones	<p>Opportunity and Intensification Areas. A number of development appraisals are included within the Viability Study, but it is unclear how these relate the real life circumstances associated with the deliverability and viability of the strategic development sites. It is important that the viability of the Opportunity and Intensification Areas is properly considered, especially because development in such areas tends to experience viability considerations different when compared to the remainder of the Charging Authority's area. Opportunity and Intensification Areas typically are located on large complex brownfield sites, experiencing substantial enabling development costs.</p> <p>3.9 In setting CIL rates the Charging Authority must be primarily concerned with the safeguarding of the Opportunity Areas and Intensification Areas against serious viability risk. This ought to be the underlying objective of viability assessment in the circumstances of LB Southwark.</p> <p>3.10 Adequate consideration of the Opportunity Areas and Intensification Areas is critical owing to the role these areas play in delivering LB Southwark housing targets (in combination the Opportunity and Intensification Areas within LB Southwark amount to a minimum of 8,400 new homes to be delivered over the Plan period).</p> <p>3.11 British Land and Aviva are concerned that the Charging Authority is unable to draw any clear or reasonable conclusions as to the risk posed to the Opportunity and Intensification Areas and, therefore, the Development Plan on the basis of the BNPP Viability Study.</p>	<p>The CIL rates are based on the viability appraisal outputs. The charging zone boundaries have been informed by these outputs, by plotting the outputs on a map to identify where developments can be considered to be most viable, in combination with Land Registry data at sub-postcode level. We have also taken into account physical barriers such as railway lines and major roads. Whilst we accept that there is a land value variance observable at a finer grain, defining a greater number of charging zones would create undue complexity and potentially contentious boundaries. Our assessment of the viability evidence and decision to charge differential rates by use, we have been mindful of CIL Statutory Guidance on the difficulties of complex patterns of differential CIL rates and zones.</p>
233	906	17	Objection	Preliminary draft CIL charging schedule	General Comments	<p>Unjustified Definition of Charging Zones 3.12 The evidence is unclear in explaining how the actual proposed rates and associated geographical zones have been arrived at. The zones do not appear to relate logically to any of the economic viability considerations explained in the BNPP Viability Study. They would also appear to bear no resemblance to existing value profiles across the Borough or planning policy designations which is concerning given designations associated with, for example, Opportunity Area, Intensification Areas, and Actions Areas will have an important bearing on viability. 3.13 British Land request clarification from the Charging Authority on this matter given it is fundamental to the basis of the PDCS.</p> <p>Lack of Consideration of historic Section 106 obligations 3.14 The Charging Authority does not appear to have considered the rates set in the PDCS with recent historic Section 106 obligations that have been secured. Clearly, whilst this need not be deterministic of the appropriate level for CIL, it would be a useful indicator of the reasonableness of proposed CIL rates and, importantly, their likely effect on development viability. This is particularly the case as many developments within the Charging Authority's area would have recently been the subject of thorough independent viability assessment in accordance with Development Plan policies. Should the CIL rates be set at a level substantially higher than historic Section 106 obligations then this would raise very serious questions as to assumptions made by the Charging Authority and would require a robust evidence base to justify the inference that development can afford to contribute and pay more. 3.15 Attached at Appendix 2 is an analysis undertaken by DP9 to understand the value of recent Section 106 Agreements and to arrive at an average per sqm floorspace sum. 3.16 The analysis poses serious questions over the reasonableness of the rates set out in the PDCS. This is because, from a sample of Section 106 Agreements entered into over the last two years, the average per sqm sum achieved is of the order of £73 per sqm for residential use and £107 per sqm for non-residential use. This is substantially below the PDCS proposed rates. In addition, it is important to note that the recent track record of</p>	<p>The assessment is based on current not historical viability as previous permissions land values, sales and costs would all be from different times.</p>

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234	906	17	Objection	Preliminary draft CIL charging schedule	General Comments	<p>affordable housing delivery in below the Development Plan target level (wholly for reasons of viability). 3.17 In conclusion, the analysis of recent Section 106 Agreements highlights that the Charging Authority is proposing that development on average can afford to: Contribute substantially more than it has done recently towards infrastructure (over and above sums achieved through a process of negotiation and viability testing associated with Section 106 Agreements). Achieve local planning policy targets for affordable housing provision. The BNPP Viability Study assumes affordable housing policy is achieved, which is surely the correct assumption insofar that it would be at odds with the Development Plan were the Charging Authority to assume affordable housing policy were to be sacrificed in order to deliver CIL rates (unless that is, of course, the LBS is proposing to amend its Core Strategy affordable housing policy in parallel to its Charging Schedule taking effect). Mitigate the effects of development and enter into Section 106 Agreements as necessary (NB the Charging Authority should assume this could potentially continue to equate to a substantial development cost, see paragraphs 3.19-3.26 below). 3.18 British Land and Aviva do not consider this sustainable as this can only mean that the viability of development has substantially increased and can accept additional taxation / cost. No evidence has been put forward to suggest this is the case and notion of additional cost burden on development sits uncomfortably with the central theme of economic growth advocated by the National Planning Policy Framework. Overall, there is a very strong case for the Charging Authority to be more cautious in its approach to setting CIL rates.</p> <p>Uncertain Relationship between PDCS and future Section 106 obligations 3.19 The future relationship of CIL rates to Section 106 obligations is clearly important in the Charging Authority coming to an understanding as to the future viability of development across its area. The likely need for developments (especially those developments that are critical to Development Plan delivery targets) to commit to significant items of infrastructure under Section 106 should be fully taken into account in setting CIL rates.</p> <p>3.20 It is unclear from the evidence base what assumptions the Charging Authority has made about the Section 106 costs that would normally be expected for future development. The BNPP Viability Study refers to a standard rate of £1,000 per unit which is unjustified other than a reference to the same charge in Poole and Bristol. This is clearly inadequate and a surprising lack of consideration for such an important potential cost. Simply because Poole and Bristol CIL Charging Schedules have recently been through public examination, this is wholly insufficient justification to copy the same rate for LB Southwark: that is unless the Charging Authority is convinced that the nature of development in Southwark is akin to that in Poole and Dorset.</p> <p>3.21 (NB it would appear to be a significant oversight that the only assumed Section 106 relates to residential development. A key objective of the Development Plan – especially associated with strategic development (Opportunity Areas and Intensification Areas) – is mixed use. It is wholly inappropriate for the Viability Study to in any way suggest that non-residential use will not require to mitigate its impacts through Section 106).</p> <p>3.22 The inference of the assumed £1,000 per unit rate is that Section 106 will be scaled back significantly once the Charging Schedule comes in to effect. It is the considered opinion of the British Land and Aviva, on the advice of DP9 and Strutt &amp; Parker, that this is at odds with the future 'normal circumstances' associated with how development will be delivered and a more cautious approach to the 'scaling back' of Section 106 should be assumed. This is because: Section 106 (and planning conditions) are to remain the primary means of mitigating the direct</p>	<p>This will be clarified in the BNNP updated report and in the background evidence paper. After CIL has been adopted, Section 106 will be scaled back to cover site-specific mitigation only. Both Southwark and other London councils have estimated the Section 106 obligations that will remain, resulting in a figure of £1,000 per unit.</p> <p>Section 106 obligations will continue to be negotiated on a case by case basis and there is clearly a relationship between CIL, Section 106 and affordable housing. The commercial appraisals have been updated and these now include an allowance for Section 106 obligations.</p> <p>Section 106 will cover site mitigation only, not community infrastructure.</p>

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						<p>impacts of development (it is worthy of note in this regard that the statutory tests for Section 106 planning obligations set in Regulation 122 are in effect the same as those that were provided in guidance in Circular 5/2005). Because Section 106 continues to be the means through which direct impacts are mitigated, it follows that Section 106 commitments to infrastructure do not automatically legitimise a reduction in CIL. CIL is not intended to secure the mitigation of impacts from individual developments, so that Section 106 obligations which are necessary for a development (whether by way of money or infrastructure) have little to do with CIL. A charging authority should not normally assume that CIL is the appropriate way to provide infrastructure which is likely to be necessary for the development of individual sites or groups of up to 4 sites. Apart from risking double charging for such infrastructure, such an approach also runs risks for the robustness of planning decisions which approve development without securing a commitment to the provision of necessary infrastructure on the assumption that it will be provided through CIL. Planning permissions would be more secure if any necessary commitments were the subject of binding Section 106 obligations i.e. no material change to current circumstances. The terms of Regulation 123 make it possible for authorities to continue to seek pooled payments towards a particular infrastructure project, or type of infrastructure from up to five developments. This is to cover the position, for instance, where a small number of developments collectively trigger the need e.g. for a new local school. Such payments remain legitimate under Section 106 – even if CIL is being charged more generally for “education” – and can be useful in enabling developments to come forward hand in hand with necessary infrastructure. There are limited circumstances in which CIL can be paid in kind through land or infrastructure. Regulation 73 allows for the payment in kind of CIL but only through the provision of land and the Regulation specifically excludes such arrangements if the land is provided under the terms of a Section 106 obligation.</p> <p>3.23 The likely need for developments to commit to significant items of infrastructure under Section 106 without offsetting or relief should be fully taken into account at the CIL setting stage and an assessment of the extent of this infrastructure should form an integral part of the CIL rate setting. This is especially the case for strategic sites – Opportunity Areas and Intensifications Areas – where typically significant investment in infrastructure is required to both enable and mitigate development. Due to the points set out above, a broadbrush assumption that infrastructure will almost now wholly be paid for through CIL – as opposed to Section 106 – is inadequate and dangerous to the overall deliverability of the Development Plan.</p> <p>3.24 The lack of clarity between CIL and Section 106 within the evidence base, is of serious concern and is potentially a significant risk to the future viability of development. The conclusion drawn, at this stage, is the proposed CIL rates would result in a significant net additional cost to development and that LBS assume, therefore, that development can sustain more cost when economic market conditions remain fragile.</p> <p>3.25 British Land and Aviva ask that the Charging Authority provide clarity on this matter. The Charging Authority should not make unrealistic assumptions about the extent to which Section 106 will be reduced as a result of CIL.</p> <p>3.26 As a final point on this matter, British Land and Aviva are concerned that the inference of the Viability Study is that the Charging Authority will be able to flex Section 106 should, on a case by case basis, development be unviable taking into account CIL. This is directly opposed to Regulation 122: because Section 106 obligations will be required for matters which are ‘necessary’ to make development</p>	

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235	906	17	Objection	Preliminary draft CIL charging schedule	General Comments	<p>acceptable in planning terms, the Charging Authority must not assume that those obligations can be easily flexed to make development viable. Likewise it would also be wrong to assume that CIL could be easily flexed given the limited scenarios where a developer may benefit from exceptional circumstances relief or payment of CIL in kind.</p> <p>4.0 Canada Water Intensification Area / Action Area 4.1 British Land and Aviva fully support LB Southwark's planning and development objectives for Canada Water Intensification Area / Action Area. 4.2 In the context of the representations set out in Part 1, British Land and Aviva are concerned that the Development Plan objectives for the Canada Water Intensification Area / Action Area could be put at serious risk due to the effect of the proposed PDCS rates. 4.3 As already highlighted in these representations, large strategic sites are important to the delivery of national, regional and local policy objectives. In London the Opportunity and Intensification Areas underpin the London Plan and Borough housing targets. They tend to show particular viability considerations – especially relating to infrastructure needs, Section 106 costs and other key development costs. Particular care, therefore, needs to be taken in considering the possible impact of CIL on the delivery of development within such areas. 4.4 British Land and Aviva do not think, on the basis of current evidence put forward by the Charging Authority, that such care has been given to the Canada Water Intensification Area / Action Area. It is not evident from the BNPP Viability Study whether future development objectives and policies (as set out in the London Plan, Core Strategy and Area Action Plan) for Canada Water would be seriously put at risk by the proposed CIL rates. 4.5 It is clear from regional and local planning policy that the Canada Water Intensification Area / Action Area is important in relation to the overall development of LB Southwark. In this context, it is surprising that the impact of CIL on the development viability of Canada Water – as well as the designated Opportunity Areas - does not appear to have been fully considered. 4.6 It is appreciated that in preparing CIL a Charging Authority cannot take onboard the many different circumstances associated with all development sites within its area including abnormals. But, the Canada Water Intensification Area / Action Area clearly warrants thorough assessment in its own right to ensure the Charging Authority can make a judgment as to whether the rates in the PDCS are justified and reasonable. 4.7 It is British Land and Aviva's opinion that the various key issues raised in Section 3.0 of these representations need to be considered and addressed in order to then allow the viability risk posed by CIL to be considered more specifically in relation to the Canada Water Intensification Area / Action Area (as well as the designated Opportunity Areas). Further work and evidence needs to be compiled by LBS in order to robustly move forward to the next stage of CIL production.</p>	<p>The council considers that the proposed changes are based on robust available evidence and that the balance has been struck between the desirability of funding infrastructure with the impact of CIL on the viability of development across the borough.</p>
236	906	17	Objection	Preliminary draft CIL charging schedule	General Comments	<p>5.0 Conclusion and Way Forward 5.1 British Land and Aviva are concerned that the Charging Authority has prepared its PDCS on the basis of unreliable and inappropriate evidence. Because of this, the conclusion drawn at this stage – following a review by DP9 and Strutt &amp; Parker – is that the Charging Authority is not yet in a position to judge whether the proposed PDCS would risk the economic viability of development across its area (i.e. the Development Plan). The PDCS does not yet form an appropriate basis for applying CIL. 5.2 Further viability assessment work must be undertaken prior to publication of the Draft Charging Schedule – this to focus on defining and testing the 'normal circumstances' of development. In particular, this requires urgent attention to the following matters as raised in these representations: Reliability of evidence base – including all points raised in Appendix 1 of these representations. • Consideration of strategic</p>	<p>The council has proposed a meeting with British Land and Aviva to discuss their concerns. The council considers that the proposed changes are based on robust available evidence and that the balance has been struck between the desirability of funding infrastructure with the impact of CIL on the viability of development across the borough.</p>

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						<p>development underpinning the delivery of the current Development Plan (the Opportunity and Intensification Areas).                      • Definition and justification of the proposed charging zones.                      • Consideration of findings set out in BNPP Viability versus scheme specific viability studies associated with recent Section 106 and affordable housing negotiations.                      • Relationship between proposed CIL rates and future Section 106 costs.                      • The balancing of Section 106 and CIL.                      • Strategic sites v the Opportunity and Intensification Areas.                      5.3 It is only once the above matters have been properly considered can conclusions be drawn as to the implications of CIL rates on the deliverability of the Development Plan, including the Canada Water Intensification Area / Action Area specifically.                      5.4 Overall, British Land and Aviva propose that a far more considered and cautious approach to setting CIL rates is required. This would fit far better with the Government's aspirations and objectives for encouraging economic growth which underpin the recently published National Planning Policy Framework.                      5.5 British Land and Aviva are willing to aid the Charging Authority, as consultees and major stakeholders, in further viability analysis prior to publication of any further CIL Charging Schedule.                      5.6 British Land and Aviva would like a meeting to be arranged with relevant representatives of the Charging Authority and their advisors in order to discuss each of the key points raised in these representations.                      5.7 British Land and Aviva reserve the right to provide further representations and evidence at subsequent stages in the preparation of the Charging Schedule, including public examination.</p>	
237	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Appendix 1 Strutt &amp; Parker Review of BNP Paribas Viability Study Dear Sirs, COMMUNITY INFRASTRUCTURE LEVY ("CIL") - LONDON BOROUGH OF SOUTHWARK ("LBS"). REVIEW OF BNP PARIBAS ("BNPP") REPORT DATED JULY 2012. 1.0 SUMMARY 1.1 You have asked us to review the CIL Viability Study prepared by BNPP (dated July 2012). 1.2 As you know, we have already discussed a number of general concerns we have with the potential LBS CIL and we understand that DP9 will be incorporating these within a wider representation to LBS. 1.3 As such, this letter focuses on specific concerns we have with BNPP's report. 1.4 We understand that you are; acting for some major land owners in Southwark, that some of their land holdings are in the Canada Water area, and that some of their more significant sites have residential led re-development potential. 1.5 This report focuses on what BNPP have said with respect to potential residential development although we have also made some comment regarding other considered forms of development including; office, hotel, student accommodation (which BNP have combined with residential), retail, industrial, 'other' and mixed-use. 1.6 We appreciate that carrying out an exercise to identify a sustainable CIL charging schedule is not easy but, our conclusion is that we do not believe LBS has been provided at this stage with a sufficiently robust report to progress a potential CIL charging schedule that it could be confident would not pose a serious risk to the viability of development. 2.0 BNPP REPORT - SPECIFIC ISSUES (n.b. please refer to BNPP's report) 2.1 BNPP's Section 1.2:- 2.1.1 BNPP say they have used 'CUV plus a premium' as their Benchmark Land Value ("BLV") driver. The BLV is fundamental as it is the figure used to determine whether development is viable or not. However, BNPP's approach is at odds with the RICS who recommend the use of Market Value (subject to caveats) within their "Financial Viability in Planning" guidance notes (August 2012). 2.1.2 The RICS say:- "To date, in the absence of any guidance, a variety of practices have evolved, which are used by practitioners to benchmark land value. One approach has been to exclusively adopt current use value (CUV) plus a margin or a variant of this, i.e. existing use value (EUV) plus a premium. The problem with this singular approach is that it does not reflect the workings of the market as land is not released at CUV</p>	<p>The document 'Viability Testing Local Plans: Advice for planning practitioners', was launched by Sir John Harman the Chair of the Housing Delivery Group on 22 June 2012. The approach in this document is recommended for use by local authorities and their consultants to plan wide viability and the community infrastructure levy. The approach taken in the RICS guidance to plan making viability and CIL is not recommended by the advice given in 'Viability Testing in Local Plans' document (pg 29). The Harman report states: "Consideration of the appropriate Threshold land value needs to take account of the fact that future plan policy requirements will have an impact on land values and landowner expectation. Therefore using a market value approach as a starting point carries a risk of building –in assumptions of current policy costs rather than helping to inform the potential for future policy." It then goes on to state that market value can act as a useful sense check. The approach adopted in the CIL Viability Study is entirely consistent with this statement. All of the studies mentioned take current use value plus a premium as their starting point for benchmark land value. The viability consultant has taken a consistent approach on benchmark land values for the last ten years. Where a site has an existing building that generates an income (or is capable of generating an income), the capital value of that building has been used as the basis for a current use value. Some sites have been cleared and, in agreement with the Council, purchase prices were used where these sites were previously in Council ownership. 20% has been adopted as a premium as this reflects the average level adopted in applicants' toolkits submitted to the planning authority. It is a widely accepted upper end of the range. Clearly, on a live scheme, the premium would need to reflect site-specific circumstances.</p>



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238	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>or CUV plus a margin (EUV plus). "The margin mark-up is also arbitrary and often inconsistently applied in practical application as a result". "It is for each surveyor to decide on the appropriate procedure to follow in any professional task. However, where members do not comply with the practice recommended in this note, they should only do so for good reason. In the event of a legal dispute, a court or tribunal may require them to explain why they decided not to adopt the recommended practice". 2.1.3 The RICS published their guidance on this subject in August 2012 although BNPP were aware of its existence in draft before July 2012. If BNPP are now following the RICS's guidance, we assume that this means that their entire report needs to be reviewed. It is possible that 'CUV plus a premium' is the same 'number' as Market Value (subject to caveats) but a review (and evidence to support any conclusions) is required. Without this, we believe that BNPP's report may be seriously flawed for this reason alone. 2.1.4 If BNPP are not now following published RICS guidance on this subject (and we suspect that they are not), we need them to justify this. However, it is our considered opinion that the RICS guidance needs to be followed. We doubt that there is a sound reason to depart from it in this case, bearing in mind that the RICS is an independent professional body that has had viability and valuation at its heart for decades, and who have consulted widely on this topic. 2.1.5 Over different planning policy periods in the past, BNPP appear to have changed their advice on what should drive BLVs. This has included one or more of the following; EUV, AUV, EUV plus a premium (sometimes fixed, sometimes varied), CUV, CUV plus a premium. 2.1.6 Publicly available documents with different BNPP approaches on this can be ascertained from (for example):- · Affordable Housing Policy Viability Study – prepared for London Borough of Lambeth – October 2009 – BNP Paribas. · Affordable Housing Viability Study – prepared for London Borough of Tower Hamlets – September 2009 – BNP Paribas. · Affordable Housing Economic Viability Assessment – prepared for London Borough of Wandsworth – August 2009 – BNP Paribas. · Impact of the Affordable rent tenure on the viability of developments in Southwark - prepared for LBS – November 2011 – BNP Paribas (where BNPP used EUV plus 15% across several considered sites). · Affordable Housing Economic Viability – prepared for London Borough of Newham – July 2010 – BNP Paribas. 2.1.7 This implies that BNPP has provided inconsistent advice and casts doubt over their approach in this instance. 2.1.8 Lastly, although BNPP indicate that they have used CUV plus a premium as their BLV driver, it appears from Appendix 2 (5th column from the right – 'Basis of EUV') that they have in fact used different drivers per scheme. This is not only inconsistent but we see no justification for such a confused approach. Where BNPP have used CUV plus a premium (e.g. Site 6 – where they have used a 20% premium), there is no justification for that choice of premium. Why have they used 20%? On Site 18, they even appear to have based their BLV on a previous sale price of that site.</p> <p>2.2 BNPP's Section 1.3:- 2.2.1 Developers do not only use residual appraisals to assess what they should pay for land. They use several methods in parallel. Not least, they also consider land transaction evidence as these are indicative of what willing buyers and willing sellers transact at. 2.2.2 BNPP barely appear to have taken any account of real world land transaction evidence. Because of this, we are very concerned that the BNPP report is unrealistic and does not take into account the normal circumstance of development. 2.2.3 BNPP need to take available market information on land transactions into account, demonstrate that they have done so, and revise their report as a consequence. For example, they could obtain land transaction evidence from data sources such as MOLIOR, the Land Registry and/or agents.</p>	<p>In the context of CIL setting, it is considered that the use of actual land transactions are fundamentally misleading as a means of assessing viability of a planning policy. This was accepted at the Mayoral CIL examination. Market transactions will always (or should be) based on current planning policy requirements; they are of no assistance to a local 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 requirements, 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</p>

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						<p>approach that the RICS guidance note recognises as legitimate. It states: "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..."</p> <p>The guidance 'Viability Testing Local Plans: Advice for planning practitioners', which was launched by Sir John Harman the Chair of the Housing Delivery Group on 22 June 2012; also recognises this approach as legitimate, with this guidance being directly relevant to planning policy testing. Transactions are helpful in guiding a developer on where their competitors might be pitching their offers. However, it is entirely unhelpful for the purposes of assessing a planning policy. There are too many factors to control for. For transactions to be of any assistance to the Council, the following information in relation to transacted sites would need to be established:</p> <ul style="list-style-type: none"> <li>-Were the schemes policy compliant or did they offer levels of affordable housing at less than the required percentage;</li> <li>- The location of the sites will vary, meaning that prevailing market values might be higher or lower than those applicable to the subject sites;</li> <li>- The schemes will be built to different densities and building heights, meaning that average values and construction costs will vary substantially;</li> <li>- The quantum of commercial accommodation provided varies between the schemes, which makes analysis more complicated. The schemes will all have been consented prior to Mayoral CIL being required and these costs will not be included;</li> <li>- The scheme will have been consented under a different S.106 SPD, which is likely to have resulted in lower S.106 sums being required;</li> <li>- Historic sites may have received allocations of grant to assist with the delivery of affordable at these schemes;</li> <li>- The schemes could have incurred abnormal costs, expensive demolition costs, extensive basement excavation etc;</li> <li>- There may have been specific funding arrangements for the purchasers of the sites might have in place to assist with delivery; and</li> <li>- We would need to determine whether any of the developers of these sites actually made a profit</li> </ul> <p>The weakness of this approach advocated is that historic transactions will only tell us whether or not an existing planning policy is viable on a particular site. It is of no assistance in helping a planning authority determine whether a new or amended policy might be viable. Land values should not be treated as an immovable object and the assumption that planning policy must flex accordingly should not be made. If this approach were widely applied, schemes would provide no mitigation measures to address their impact on the communities in which they are located.</p>	<p>approach that the RICS guidance note recognises as legitimate. It states: "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..."</p> <p>The guidance 'Viability Testing Local Plans: Advice for planning practitioners', which was launched by Sir John Harman the Chair of the Housing Delivery Group on 22 June 2012; also recognises this approach as legitimate, with this guidance being directly relevant to planning policy testing. Transactions are helpful in guiding a developer on where their competitors might be pitching their offers. However, it is entirely unhelpful for the purposes of assessing a planning policy. There are too many factors to control for. For transactions to be of any assistance to the Council, the following information in relation to transacted sites would need to be established:</p> <ul style="list-style-type: none"> <li>-Were the schemes policy compliant or did they offer levels of affordable housing at less than the required percentage;</li> <li>- The location of the sites will vary, meaning that prevailing market values might be higher or lower than those applicable to the subject sites;</li> <li>- The schemes will be built to different densities and building heights, meaning that average values and construction costs will vary substantially;</li> <li>- The quantum of commercial accommodation provided varies between the schemes, which makes analysis more complicated. The schemes will all have been consented prior to Mayoral CIL being required and these costs will not be included;</li> <li>- The scheme will have been consented under a different S.106 SPD, which is likely to have resulted in lower S.106 sums being required;</li> <li>- Historic sites may have received allocations of grant to assist with the delivery of affordable at these schemes;</li> <li>- The schemes could have incurred abnormal costs, expensive demolition costs, extensive basement excavation etc;</li> <li>- There may have been specific funding arrangements for the purchasers of the sites might have in place to assist with delivery; and</li> <li>- We would need to determine whether any of the developers of these sites actually made a profit</li> </ul> <p>The weakness of this approach advocated is that historic transactions will only tell us whether or not an existing planning policy is viable on a particular site. It is of no assistance in helping a planning authority determine whether a new or amended policy might be viable. Land values should not be treated as an immovable object and the assumption that planning policy must flex accordingly should not be made. If this approach were widely applied, schemes would provide no mitigation measures to address their impact on the communities in which they are located.</p>
239	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>2.4 BNPP's Section 2.9:- 2.4.1 BNPP say that their study reflects existing planning policies in the saved Southwark Plan. However, we cannot see how they have reflected, for example, the varied affordable housing tenure split requirements across the Borough and/or the spatially varied residential mix policies set out in Core Strategy Policy 7. Equally there is no evidence to suggest that the area based policy designations – Opportunity Areas and Intensification Areas, for example – have been taken into account. 2.4.2 The appraisals in BNPP's</p>	<p>In setting its CIL rates, the Council has had regard to a range of appropriate available evidence, including viability studies that focus solely on opportunity areas (for example, the Elephant and Castle OAPF/SPD viability study). We do not agree that affordable housing tenure splits have a significant impact on the overall outcome, particularly in high value areas, where the 'gap' between market housing and affordable housing is significant. The mix follows the requirements of Core Strategy Policy 7. We would note, however, that the mix in this policy can be</p>

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240	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Appendix 4 suggest that the values assumed per square metre for affordable housing on each site are such that pre-existing planning policies have not been taken into account (i.e. the affordable housing value variations do not seem to reflect the policy based affordable housing tenure variations). 2.4.3 Clarity is needed regarding exactly how BNPP have reflected existing planning policies within their affordable housing and private residential values within their appraisals in Appendix 4.</p> <p>2.5 BNPP's Section 3.3 and 3.5:- 2.5.1 In Sections 3.3 and 3.5, BNPP move from talking about using CUV plus a premium (see BNPP's Section 1.2) to a need to exceed 'existing use value'. Although these terminologies sound similar, they are potentially different. 2.5.2 This confusion concerns us as all of BNPP's viability appraisals revolve around one of these key BLV drivers. Indeed, based upon the very limited information in Appendix 2, it appears that BNPP have not used a consistent approach as some BLVs appear to be based upon EUV, some based upon CUV plus a premium and some based, potentially, on indicative land values per acre (but with no justification or source references for those assumptions). 2.5.3 BNP provide a definition of EUV at the foot of page 14 although this is not sufficiently detailed. For example, does BNPP's definition of EUV allow for physical intensifications of existing uses? 2.5.4 A lack of clarity around what BNPP have used to arrive at their BLVs causes us serious concern. We consider this fundamentally undermines the reliability of the Viability Study.</p>	<p>applied flexibly, having regard to site specific circumstances and other considerations.</p> <p>The CIL Viability appraisals have used existing use value. This is explained in section 4 'Development Appraisals' and the assumptions in arriving at each value are provided for each development in Appendix 2 of the study. For the avoidance of doubt, the report does not refer to the RICS Red Book definition of Existing Use Value. Footnote 14 states that "For the purposes of this report, existing use value is defined as the value of the site in its existing use, assuming that it remains in that use. We are not referring the RICS Valuation Standards definition of 'Existing Use Value'. This means the value of the existing building assuming that its existing use continues in exactly its current form. The approach taken to arriving at benchmark land values depends upon the status of the site – as noted above, where a site has an existing building that generates an income (or is capable of generating an income), we have used the capital value of that building as the basis for a current use value. Some sites have been cleared and, in agreement with the Council, purchase prices were used where these sites were previously in Council ownership.</p>
241	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>2.6 BNPP's Section 3.4 (3rd bullet point):- 2.6.1 BNPP have chosen the lowest profit target from their own cited range. Surely a mid-point choice of 22.5% would demonstrate a more balanced and reasonable approach? Again, in our opinion, BNPP are being too optimistic. 2.6.2 BNPP's narrative regarding profit is also confused. Although they say banks require a 20-25% IRR as a key hurdle rate, they actually use a different measure of profit in their appraisals in Appendix 4. 2.6.3 BNPP make reference here to 3 potential measures of profit and, whilst they say that their 'appraisal summaries provide reference to all three measures', their appraisals in Appendix 4 do not appear to do this. Within all of the appraisals in Appendix 4, they only insert profit (on residential – for example) as a percentage of GDV at fixed rates of 20% for private and 6% for affordable. 2.6.4 The profit rates used by BNPP, especially with respect to the affordable units, do not appear to be logical or justified. With respect to their 6% on affordable (which BNP appear to fix regardless of affordable housing tenure splits differences which present different risk profiles), why would a developer borrow at over 6% to only receive a 6% return on GDV (where the GDV is also likely to be less than cost)? BNPP should be asked by LBS to qualify this as it does not appear sensible. 2.6.5 In numerous publically available viability reports produced by BNPP (for LBS and elsewhere), they do not appear to have a consistent approach on the subject of profit as indicated, for example, by:- a) Impact of the Affordable Rent Tenure on the Viability of Developments – prepared for L.B. Southwark - November 2011. BNP said:- "developers are currently required by lenders to target profits of 20% on private housing gross development value" plus "the affordable housing element will attract a developer's profit of 6% of cost, in line with the GLA toolkit benchmark". b) Payments in Lieu of On-Site Affordable Housing – Viability Testing – prepared for L.B. Southwark – March 2011. BNP said:- "developers are currently required by lenders to target profits of 20% on GDV". c) Elephant and Castle: SPD/OAPF: S106 Tariff Development Viability Study – prepared for L.B. Southwark – December 2011. BNP said:- "The minimum generally acceptable profit level is currently around 20% Internal Rate of Return". d) Affordable Housing Viability</p>	<p>20% is the level of profit assumed by developers in viability appraisal submitted in support of planning applications in Southwark and across London. Some appraisals assume lower levels of profit. We do not consider 20% to be optimistic, it is entirely reflective of current market expectations. The viability appraisals assume 20% on private housing GDV. This is clear in the appraisals at Appendix 4. The sales risk for a developer is whether or not they can secure a bulk sale of the affordable units to a Registered Provider; the tenure mix is irrelevant to this risk profile. The Registered Provider may well take a view on the risk of certain tenures, but this is accounted for in their discount rate and pricing to the Developer. The risk for the Developer does not increase if, for example, a scheme has a very high proportion of shared ownership units which need to be sold on to individual leaseholders. This risk is borne entirely by the RP. In any case, a 6% profit on affordable housing is entirely reflective of market practice. These assumptions are all consistent. A very large scheme (e.g. Battersea Power Station or Stratford City) would be measured on the basis of IRR. Profit hurdles on a majority of schemes are measured on a percentage of GDV, in line with our approach.</p>

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242	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Assessment – London Borough of Southwark – January 2010. BNP said:- “The minimum generally acceptable profit level is around 20%” of GDV (by implication of earlier text) “while the banks will require some riskier schemes to show a higher profit level, of perhaps up to 25%”. 2.6.6 In conclusion, BNPP’s over-optimism, lack of logical justification and confusion about profit(i.e. another key assumption in viability appraisals) needs addressing before, in our opinion, LBS and stakeholders can have any confidence in BNPP’s report.</p> <p>2.7 BNPP’s Section 3.7 – 3.14:- 2.7.1 As mentioned earlier, we are concerned that BNPP have made no mention of what was, as at July 2012, advanced draft RICS guidance on this topic or any other normal approaches to assessing viability. 2.7.2 We see no justifiable reason for not now heading RICS guidance.</p>	<p>The document ‘Viability Testing Local Plans: Advice for planning practitioners’, was launched by Sir John Harman the Chair of the Housing Delivery Group on 22 June 2012. The approach in this document is recommended for use by local authorities and their consultants to plan wide viability and the community infrastructure levy. The approach taken in the RICS guidance to plan making viability and CIL is not recommended by the advice given in ‘Viability Testing in Local Plans’ document (pg 29). The Harman report states: “Consideration of the appropriate Threshold land value needs to take account of the fact that future plan policy requirements will have an impact on land values and landowner expectation. Therefore using a market value approach as a starting point carries a risk of building –in assumptions of current policy costs rather than helping to inform the potential for future policy.” The report then goes on to state that market value can act as a useful sense check. The approach adopted in the CIL Viability Study is entirely consistent with this statement.</p>
243	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>2.8 BNPP’s Section 4.4:- 2.8.1 BNPP indicate that LBS’s affordable housing policy requires 35% subject to viability. However, this again demonstrates BNPP’s overly optimistic slant on appraisals assumptions and existing policies. The policy actually says – ‘at least’ 35%. As all of BNPP’s appraisals assume 35% affordable housing, they are again adopting potentially over-optimistic assumptions which, when combined with their other optimistic assumptions, lead to unsustainable and potentially damaging recommendations.</p>	<p>We do not agree that the assumptions are optimistic. They are informed by what currently happens in the market and the assumptions made by developers in live situations. In practice, schemes in the borough provide 35% affordable housing, or a lesser proportion. The Council understands that they need to strike a balance between affordable housing and CIL and levels in excess of 35% may not be possible in combination with CIL. That is a judgment for the charging authority to make alone.</p>
244	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>2.9 BNPP’s Section 4.5 – 4.7:- 2.9.1 This section of BNPP’s report provides very little justification for their assumed affordable housing values. 2.9.2 Bearing in mind BNPP’s comments about their approach to social rented accommodation, it is not clear why, for example, they adopt different social rented values £p.s.m. in their appraisal of Site 2 (£1,695 p.s.m. - see BNPP’s Appendix 4) compared to their appraisal of Site 28 (£1431.60 p.s.m.). The value of social rented should not vary to this extreme by location unless the mix of affordable units is significantly different (which is not clear from BNPP’s report) as the value is driven by Target Rents which are not particularly affected by location within the Borough. 2.9.3 Based upon our experience (market and/or academic) and previous negotiations with BNPP on other projects, both of these social rented value assumptions (i.e. £1431.60 or £1,695 p.s.m.) also seem excessively high for this type of tenure (without grant) and, without further evidence, we dispute them. 2.9.4 There does not appear to be any justification for the affordable values or approach adopted and we therefore recommend that BNPP are asked to clarify this.</p>	<p>The values adopted for affordable housing are based on the results of an appraisal model that the viability consultant has used for five years and has been tested against hundreds of schemes where Registered Providers offers have been received and producing accurate results. This model calculates the gross rent for each unit type and nets off management, maintenance and funding costs. Site 2 is in a central SE1 area. Market values for these areas are high, resulting in high target rents and relatively high capital values.</p>
245	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>2.10 BNPP’s Section 4.9 – 4.10:- 2.10.1 We would hope to see a lot more justification from BNPP for their build cost assumptions. 2.10.2 Two short paragraphs do not provide sufficient justification or explanation as, looking at the source BCIS data, we cannot see any link between this and the build costs assumed by BNPP per scheme (i.e. within their appraisals in Appendix 4). 2.10.3 We cannot tell from BNPP’s report whether they have added a sufficient amount (or any amount) to the generic BCIS rates to reflect:- · Most or many hypothetical or real developments in Southwark will need basements. · BCIS data excludes</p>	<p>The build costs are based on BCIS data, as noted in the viability report. Rates for individual schemes were discussed with the Council and, where necessary, tender prices that the Council has received were used instead. Some of the tender prices were lower than BCIS costs, so the appraisals may overstate costs. External costs were added onto BCIS as an additional cost. Additional allowances were included for CSH level 4 and BREEAM excellent.</p>

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246	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	costs related to 'externals' (albeit these are relevant to most schemes). 2.10.4 Also, we cannot ascertain why BNPP have adopted a residential build cost rate of, for example, £1754.52 p.s.m. on Site 28a and £1,400 p.s.m. on Site 13a. This may be because they have assumed different scheme concepts (e.g. low or medium rise vs a tower) but we cannot tell. 2.10.5 In conclusion, we believe BNPP need to provide a lot more justification and explanation of their build cost assumptions.	The review of the GLA Toolkit cautions against following default figures and ignoring site specific circumstances.
247	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	2.11 BNPP's Section 4.1.1:- 2.11.1 We believe that the development industry generally assumes and experiences professional fees at around 12%, not 10%. 2.11.2 Although we have some reservations about the GLA's Toolkit software, we note that the default professional fee percentage therein is 12%. 2.12 BNPP's Section 4.14:- 2.12.1 We understand that DP9 has concerns regarding Section 106 cost assumptions, but we make some comment here too. 2.12.2 Another way of reading BNPP's report is that the CIL charges they have recommended for consideration by LBS are only sustainable if Section 106 and Section 278 costs are capped at an average of £1,000 per unit (for residential orientated schemes). 2.12.3 This is an extremely significant and serious assumption by BNPP, but wholly unjustified. What, on average, does £1,000 per unit comprise? How has it been arrived at? Has it been informed by the LBS Infrastructure Plan? Why has a potential range not been considered given the variation of nature and type of development? Why is it assumed that only residential development would pay Section 106 costs? 2.12.4 Worryingly, BNPP's only explanation for the £1,000 per unit assumption appears to be because that is the assumption made in Poole and Bristol. We do not accept that it is any way robust that the assumption in Poole and Bristol be copy and pasted to the circumstances of LBS. The balance of Section 106 and CIL is vitally important to the overall viability of development and we urge LBS to undertake a more thorough, serious and appropriate analysis. The assumed rate of Section 106 must be firmly based on local evidence and analysis stemming from the Development Plan and Infrastructure Plan. Unless, that is, LBS can confirm development coming forward across their area is the same as in Poole and Bristol?	This is a rate adopted by many other central London boroughs and is regarded as reasonable for testing purposes. It was also agreed by the Council as being a reasonable proxy for sums which have been previously collected and likely sums to be sought after CIL is adopted. There is no evidence that s106 sought after CIL is adopted will be higher than this. The CIL charge will be the first cut and the liability to pay the levy will be taken into account in negotiating s106 payments. CIL Regulation 123 requires local authorities to set out a list of projects or types of infrastructure that it intends to fund through CIL, and therefore many of the costs for which cover had been sought through s106 contributions will be paid through CIL. S106 requirements will be scaled back to those matters directly related to a specific site, and are not set out in the Regulation 123 list. We have also undertaken a sensitivity analysis of a number of sites showing the impact of increasing the s106/s278 charges on residential appraisals. This analysis shows that should a slightly higher s106/s278 contribution be required per units, it is considered that this would be able to be absorbed without a large impact on the viability of schemes. This is set out in the CIL Viability Study. The viability appraisals have now incorporated a notional allowance of £30 sqm for commercial schemes s106/s278 costs. This figure is in line with levels of contributions sought on schemes through the s106 SPD toolkit.
248	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	2.13 BNPP's Section 4.16 – 4.19:- 2.13.1 We have already made comment on BNPP's approach to profit above.	Noted
249	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	2.14 BNPP's Section 4.20:- 2.14.1 We are not convinced that BCIS data does effectively include, on average, for decontamination, flood risk mitigation and other abnormal costs as these are usually treated as exclusions in construction tenders. If these issues are known about, they are usually costed separately. 2.14.2 This needs further investigation as we would expect exceptional costs to affect most developments in Southwark to a greater or lesser degree.	Build costs are sourced from BCIS to which an allowance for external works and infrastructure has been added, but also from tenders for housing projects that the Council has procured. The Council has led numerous regeneration schemes and it has access to a wealth of information on actual build costs which it has considered alongside BCIS. With regard to exceptional costs, for the purposes of this exercise, it is not possible to provide a reliable estimate of what exceptional costs would be, as they will differ significantly from site to site. The analysis therefore excludes exceptional costs, as to apply a blanket allowance would generate misleading results. An 'average' level of costs for decontamination, flood risk mitigation and other 'abnormal' costs is already reflected in BCIS data, as such costs are frequently encountered on sites that form the basis of the BCIS data sample. The built form of a building addresses flood risk etc and the cost multiplier in the BICS reflects this. Costs of dealing with abnormal ground conditions are addressed on average through piling solutions, which are reflected in BCIS.
250	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	2.15 BNPP's Section 4.21 and 4.22:- 2.15.1 As per our comments above, BNPP say they have used 'CUV plus premium' as their BLY driver in Section 1.2 of their report but then seem to say something quite different in this section. 2.15.2 Again	The approach to arriving at benchmark land values has been outlined in more detail in the revised CIL Viability report. The approach depends upon the status of the site where a site has an existing building that generates an income (or is

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251	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>this is a major concern as the choice of BLV is absolutely fundamental to determining what level of CIL is sustainable and reasonable. 2.15.3 BNPP's Section 4.22 is also mis-leading/confusing. Their assumed BLVs (and justification thereof) are not in Appendix 4 and are in fact in Appendix 2 with very little meaningful justification. 2.15.4 BNPP's justification/explanation for the BLVs they have used is inadequate.</p> <p>2.16 BNPP's Section 5.1:- 2.16.1 The full outputs from BNPP's appraisals of various developments are not in their Appendix 2. They are in Appendix 4. 2.17 BNPP's Report Appendices (particularly the appraisals in Appendix 4):- Appendix 1:- What is the justification for the proposed CIL zones? They do not reflect pre-existing planning policy zones or existing value profiles across the Borough, both of which affect viability. As such, they appear illogical. In effect, they skim across and ignore pre-existing planning policy zones.</p>	<p>capable of generating an income). The appraisals have used the capital value of that building as the basis for a current use value. Some sites have been cleared and, in agreement with the Council, purchase prices were used where these sites were previously in Council ownership.</p> <p>This has been amended in the report. The charging zone boundaries have been informed by the viability outputs, by plotting the outputs on a map to identify where developments can be considered to be most viable, in combination with Land Registry data at sub-postcode level. We have also taken into account physical barriers such as railway lines and major roads. Whilst we accept that there is a land value variance observable at a finer grain, defining a greater number of charging zones would create undue complexity and potentially contentious boundaries. Our assessment of the viability evidence and decision to charge differential rates by use, we have been mindful of CIL Statutory Guidance on the difficulties of complex patterns of differential CIL rates and zones. To derive charging zones from planning policy zones would be inconsistent with the Statutory Guidance. This approach would not be an appropriate reflection of residential or commercial sub-markets. The zones are based on viability, as required by the regulations</p>
252	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Appendix 2:- On some sites (e.g. Site 28a), BNPP appear to have applied what they believe to be the surpluses generated by the net saleable area of the hypothetically proposed private residential. However, this significantly distorts the relevant CIL charge rate upwards as CIL is meant to be charged on the Gross Internal Area ("GIA") of buildings (i.e. a bigger area). If we apply what BNPP believe to be the surplus generated on Site 28a (albeit they have calculated this surplus incorrectly – see below) to the GIA, BNPP's CIL rate would drop from £532 p.s.m. to £461 p.s.m. (i.e. a significant error which may have been replicated throughout BNPP's report). We would like BNPP to clarify what they have done with those sites that drive negative RLVs in terms of how these have impacted upon the proposed CIL charging schedule. We are concerned that the software that BNPP have used can underestimate or overestimate negative RLVs as, once an RLV is negative, ARGUS cannot deal with the potentially infinitesimal finance cost implications. If BNPP have relied upon the negative RLVs as having been accurately assessed by ARGUS (as opposed to the equivalent of £zero RLV), it is likely that they will have carried forward a significant mathematical error in arriving at their conclusions. 'Benchmark Value' column and 'basis of EUV' column – the BLVs assumed by BNPP are not sufficiently justified by the text in the column entitled 'Basis of EUV' by any reasonable assessment. Why have 'premiums' been added to some values and not to others? For example, why are no premiums added to those sites valued on a capitalisation of rateable value basis? Unless this justification is substantially expanded by BNPP, we believe that LBS and stakeholders are simply not in a position to accept the findings of BNPP's report.</p>	<p>The comment made is not correct. The maximum CIL rates have been calculated using gross internal areas, not net sales areas. The gross area as shown on the schedule at 35,280 sqm, less existing floorspace and affordable housing results in a chargeable area of 22,932 sqm. The net sales area shown in the appraisal is 29,988 sqm. Negative sites do not feature in the viability analysis of maximum CIL rates as they are unlikely to come forward during the life of the charging schedule. If they generate a negative residual land value without CIL, they tell the Council nothing about what can be afforded. The finance implications which are suggested therefore have no relevance to the analysis. Premiums have been added to existing or current use values, but not to values that reflect transactions, as this would be illogical. The Council are fully aware of the circumstances of each site and were involved in decision making on benchmarks</p>
253	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Appendix 3:- The map in Appendix 3 shows the 38 main sites that have been appraised by BNPP although, as they have split some of these down into sub sites, they have appraised 52 sites altogether. Half of the 52 sites appraised supposedly represent an adequate sample of residential and student accommodation sites where student accommodation and residential are assumed to share the same viability characteristics. First, we believe that student accommodation and residential behave very differently in viability terms and that BNPP's comment in this regard is an unjustified sweeping statement. Values and costs for these two</p>	<p>A total of 53 individual sites have been appraised in the CIL Viability Study which provides a broad representation of developments types and sizes across the borough. The number of sites for hotel, office and industrial have been increased. The Council has to balance the number of sites with the resources required to undertake such a volume of work. The CIL Statutory Guidance does not provide minimum numbers of sites to be tested. With regard to student accommodation and general housing, Our Student Housing Viability Study (2011) included testing of affordable housing levels on a range of direct let and university led schemes.</p>

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						<p>types of development are obviously different because they are physically different. Second, we are not convinced that BNPP have appraised a sufficient number of sites to constitute a representative sample. Even if one were to assume that residential and student accommodation do behave in the same way in viability terms, 25 sample sites across a large borough such as Southwark (with marked variations in terms of; residential values, development density potential, and pre-existing planning policy variations) does not seem adequate. BNPP's sample number of sites for offices, hotels and industrial/warehousing are woefully inadequate as they barely represent one site per property type per zone. In conclusion, BNPP's site sample does not represent a reasonably representative sample.</p>	<p>The study concluded that some nomination schemes are viable and can afford payments in-lieu of affordable housing (up to circa £52,000 per room), albeit at a lower level than those identified for direct let schemes (up to circa £148,000 per room). The viability of such schemes however is dependant on a number of variables. These include but are not limited to the existing use value of the site where the development is proposed; the types of rooms proposed and the rents proposed to be charged for the rooms. The study concluded that the development of all student housing will not be put at risk with the imposition of 35% affordable housing and this has been adopted in our Core Strategy. Schemes let at reduced rent levels by universities are likely to require cross subsidy from university resources to make them viable. When developed, as long as the university is the majority landowner, these schemes are likely to be exempt from paying CIL given the universities' charitable status. It is considered that student housing rents for private schemes follow similar value patterns as residential schemes in the borough. Rents for private direct let student accommodation must have regard to rents for alternative accommodation in the private rented sector. If rents in student housing schemes are significantly higher than alternative accommodation, take up of student units could be adversely affected. It is noted in the Elephant and Castle SPD/OAPF S106 Development Tariff Viability Study (December 2011) that the nomination scheme in Steadman Street could viably support a development tariff of at least £262.50 sqm, however the Heygate scheme was unviable at a development tariff at this level but was viable at £236.25 sqm. Overall, the viability evidence has demonstrated that student accommodation can support the proposed CIL rates of £400sqm, £250sqm and £50sqm (exclusive of Mayoral CIL) and indeed CIL rates in much greater excess of this level.</p>
254	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Appendix 4:- (N.B. we have formally written to LBS and requested live copies of BNPP's financial appraisals for audit, but we have not received them yet. We may have further comment when we have had an opportunity to consider these.. In particular, we would like to consider the development timescales assumed by BNPP per scheme as they have not provided the cashflow outputs sheets that can be provided via the software package they have used. We need to check that assumed development timescales are realistic as, if not, this could significantly distort development finance costs). In no particular order, we have noticed the following significant issues relating to BNPP's financial appraisals:-                      · There are no finance costs accounted for in the appraisal of Site 28a which, in our opinion, leads to an error of around £9m. Based upon our approximate replication of BNPP's appraisal using the same software (i.e. ARGUS), we estimate that correcting this error almost wipes out the surplus identified by BNPP as available for CIL. We have not checked all of the other appraisals in the limited time period we have had to consider BNPP's report but they should be asked to check through and correct any similar errors.                      · The assumed Gross Internal Area ratio to Net residential sales area is 85%. This is at the most optimistic end of the potential scale which, combined with BNPP's other overly optimistic assumptions, makes their appraisals unrealistic. We believe that 80% would be more realistic.                      · Hotels – BNPP's appraisal of the hotel scheme on Site 2b is unrealistic because, to command a £300,000 per bedroom 'value equivalent' (which appears high anyway), the GIA to room area ratio (i.e. excluding back of house and communal parts etc) would be about 40%. Although we are not hotel experts, we have spoken to some hotel specialists who have, as an example, recently sold the Hilton Southwark Hotel site in Southwark. They indicate that the approximate ratio of rooms to GIA on a hypothetical hotel on Southwark's bankside would be around 40%. On this basis, BNPP's assumption that 9406.66 sq.m. (GIA) of hotel can accommodate 256</p>	<p>Full hard copies of the appraisals were supplied to DP9, showing all details including timescales. The appraisals provide all inputs. Site 28a has been corrected. The capital value for site 2b is based on comparable transactions. 40% is likely to be based on a very inefficient built form, which most developers would seek to avoid. The student housing values are based on rents charged on live schemes in the borough. In many parts of the borough, student housing has not been developed and there is no comparable evidence. A student housing provider would not charge considerably higher rents for student housing if this 'priced the scheme out of the market' in comparison to private rented housing. We acknowledge that universities sometimes build their own accommodation. Schemes let at reduced rent levels by universities are likely to require cross subsidy from university resources to make them viable. When developed, as long as the university is the majority landowner, these schemes are likely to be exempt from paying CIL given the universities' charitable status. It is unlikely that religious centres would be built on commercial terms and the organisations building them would normally have charitable status (or could easily obtain this status if they were to embark on a development of their own).</p>

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						<p>rooms that would be worth £300,000 per room (equivalent) is not realistic as 256 suitably sized rooms could not be generated from a GIA of 9,406.66. We estimate that the number of rooms achievable would be closer to 165. If we changed the number of rooms assumed by BNPP to 165, their derived residual land value would be reduced to sub £10m. However, taking market evidence of hotel land transactions into account (i.e. something that we advocate BNPP should do throughout their report), we believe that a site with consent for a 165 room hotel (including associated leisure space) should have a Market Value of around £20m. However, this is still £8.4m below the residual land value derived by BNPP which we believe to be substantially overstated. If Site 2b is representative of BNPP's hotel appraisals, it suggests that there is a significant issue here and that the CIL charges proposed for hotels are excessive. · Student accommodation – BNPP do not appear to offer any justification for their assumed student accommodation values and, by combining their analysis of student accommodation with general residential, they are assuming that these two different property types are similar in terms of value and development cost. However, they are in fact quite different. Values and costs for these two types of development are obviously different because they are physically different. They are also subject to different construction specification standards. · In addition, some student accommodation developers are not necessarily purely commercial. For example, we understand that some Universities that build their own student accommodation (and/or procure its development) seek to cap proposed rents to the extent that it is akin to 'affordable' student accommodation. Where this is the case, it would mean that the student accommodation values assumed by BNPP are significantly inaccurate. · 'Other floor-space': BNPP's comments regarding 'other' floor-space do not reconcile with what is proposed in the draft CIL charging schedule as certain categories of 'other' have been given a £zero rating therein. We believe that the list (i.e. of £zero rated 'other') needs to be given further thought and expanded. For example, the development of religious centres often struggle even if they are given free land Negative Residual Land Values ("RLVs") per property type and mixed-use development:- BNPP have assessed the ability of each chosen property type to sustain a CIL payment. Some uses (e.g. some office, industrial and some retail) drive negative residual land values which have led BNPP to suggest £zero CIL charges for those uses. However, BNPP have not considered mixed-use schemes. If, for example, a residential led scheme in Zones 2-4 with a significant amount of office and/or industrial space (the latter potentially being proposed solely to address planning policy associated employment loss issues) is proposed, the levying of a nil charge on the office and/or industrial element may be hiding the fact that these two uses drive negative RLV to the extent that the CIL charge on the residential element should be offset as a result. Unless the CIL charge for the residential is reduced, the overall mixed-use scheme will be pushed into an unviable situation. Furthermore, where negative RLVs are produced, appraisals and/or users struggle to assess those negatives accurately as interest costs effectively become infinitesimal. As such, subject to how BNPP have treated these negatives in arriving at the CIL charging recommendations (which is not clear from their report), they may have carried forward a mathematical error as well as an approach which is likely to make mixed use development unviable.</p>	
255	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>2.18 BNPP's Assessment of Their Appraisal Results – BNPP's Section 6:- 2.18.1 For each property type, BNPP appear to have used the least viable schemes to determine what the level of sustainable CIL should be in each Zone (albeit they have worked out the CIL rates on incorrect areas as they have calculated most on the basis of net sales area as opposed to GIA). They appear to have ignored</p>	<p>The CIL rates are based on gross internal areas, and not net sales areas. The proposed rates are not set at the margins of viability. CIL will not 'blight' sites, given that the proposed rates will only equate to a modest proportion of development costs. The CIL Regulations and the CIL Statutory Guidance recognise, however, that CIL might make some schemes unviable and this is</p>



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256	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>unviable sites per property type. However, bearing in mind we have serious concerns about the BLVs they have used to determine what is and is not viable, we also think that, based upon the poor representative sample of sites that they have used, their approach to identifying a sustainable CIL level is weak. 2.18.2 For example, if a further site was picked in Zone 3 that indicated a sustainable CIL of £1, would £1 become the proposed CIL? Also, what happens to sites that are not viable based upon BNPP's analysis but which could be viable if the affordable housing content is reduced (following viability negotiations)? If a site became 'just viable' by reducing the affordable housing content, it would not be able to sustain any CIL and there may well be numerous untested sites in Southwark that are, or could be, 'just viable'. BNPP's approach will blight these sites. 2.18.3 With respect to hotels, BNPP refer to hotel values being between £152,500 and £200,000 in SE1. However, they have used a value of £300,000 per hotel room within their appraisal of Site 2b. Is this an error?</p> <p>3.0 CONCLUSIONS 3.1 We have identified many issues with the BNPP's Viability Study. The combined effect of these has led us to the firm and considered conclusion that the Viability Study and therefore LBS's potential CIL rates are unreliable. 3.2 Our main concerns relate to:- · Inconsistent approach to Benchmark Land Values (which are absolutely fundamental to assessing viability), all of which are contrary to current RICS guidance. · Consistent over-optimism regarding key appraisal assumptions such as:- · Growth (only) in residential values. · Profit. · Ratio of Net Saleable/Lettable Areas to GIA. · Likely S.106 costs. · Affordable housing policy wording. · Social rented affordable housing values. · Potentially – build costs (additional explanation/justification required). · Lack of explanation/justification as a common theme. · Errors, some of which are significant (e.g. missing out finance costs on Site 28a). · Approach to determining sustainable CIL based upon results of BNPP's financial appraisals per site. · The combined effect of the above - even though each concern in isolation should, in our opinion, put the potential CIL charging schedule on hold pending further work/consideration. 5.0 CAVEAT 5.1 None of our figures in this letter represent formal valuations and must not be relied upon as such.</p>	viewed as being acceptable by the government. The figure for Site 2b in the appraisal is correct.
257	878		Unclear	Preliminary draft CIL charging schedule	Infrastructure Plan	<p>Thanks for the meeting last week. I hope you found it useful. I mentioned that when TfL review CIL we look at any alterations to the Infrastructure (Delivery) Plans as boroughs often update the version that was prepared as part of the core strategy. We have the following comments: Camberwell TC revitalisation scheme – TfL welcome its inclusion Subject to a workable scheme and a positive business case, this will be funded in the main by TfL. Additional funding could extend the scope of the scheme. Aylesbury Public Transport – this area needs new and better quality cycle routes, as well as public transport improvements. The increase in residential development in the area is likely to cause an increase in levels of cycling, therefore it ought to be specifically identified and planned for. · 'Cycling – small scale improvements' – this seems modest and un-focused, therefore inadequate to meet the predicted increase in cycling across London. Southwark as a central/inner London borough is where London is expected to see much of the growth in cycling. Could the borough develop an aspirational cycle network, linking into the one existing and forthcoming three cycle superhighways that will pass through Southwark; and also the LCN+, with specific routes ready for the CIL to fund? As I mentioned, we were surprised not to see the Blackfriars Road urban realm improvement scheme in the IP as a potential beneficiary of CIL funds, otherwise it may not happen. Granted it is a TfL scheme, but we have been collecting a s106 pot with Southwark which will be in limbo with CIL as it stands at the moment. Rotherhithe tunnel approach roundabout improvements – I believe</p>	<p>We have responded to each of Strutt &amp; Parkers concerns individually.</p> <p>Any aspirational cycle networks for the borough should be set out in future revisions of the Transport Plan as opposed to in this infrastructure plan. Reference is made to key improvements to the cycle network in a variety of Area Action Plans and Supplementary Planning Documents. CIL could fund such improvements.</p>

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258	635	44	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Southwark want improvements here but TfL has no money for it. The borough is focussing its the CIL on their roads in the Canada Water area (which is understandable). Could the scheme be linked with the Rotherhithe local pedestrian /cycle improvements which is in the IP. Lower Road gyratory removal – TfL part funding is expected. As these are borough roads (SRN), we assume this is talking about LIP or CS5 funding. Any developer funding possible? As we mentioned at the meeting, it would be helpful if the relationship between CIL and the future of the E+C strategic transport tariff is made clear; this is fundamental for the delivery NLTH and northern roundabout 'Bus service improvements to Aylesbury estate – this would be revenue funding and therefore not eligible for CIL funding. There is a need to clarify funding for improvements at E+C National Rail station – the IP assumes DfT will pay but London Rail have said that nothing is planned as part of the Thameslink upgrade. Would St Modwen be expected to contribute as the station links directly into the Shopping Centre? I hope this is helpful. Please contact me if there are any queries regarding the above.</p> <p>4. The University understand that the delivery of student accommodation by LSBU would remain subject to the proposed CIL charge rate as the proposed use does not fall within the 'charitable purposes' exemption. It also understood that LBS do not intend to operate an exemption for 'charitable investment' within which this type of development could be considered to fall. The University note that LBS have grouped Residential and Student Accommodation within one CIL rate category with the assumption that development for student accommodation is considered still be viable with a CIL charge rate of £250/square metre. Whether or not the development is viable, the question is whether the CIL level is reasonable given the fact that the proposed level is equal to that of residential schemes which will have greater infrastructure impacts and therefore needs such as schools, etc. The BNP Paribas Student Housing Study (March, 2011) recommends that LBS recognise that the type of scheme (i.e. nomination or direct let) will have a considerable impact on the ability to make a contribution to affordable housing. Units in nomination schemes are generally charged at significantly lower rents than units in direct let schemes and this reduces their income and ability to contribute. There is no evidence provided that modelling of both nomination and direct let student accommodation schemes has been undertaken to provide evidence for the CIL rates and would request that this exercise is undertaken to inform the final charging schedule. Additionally, it would appear that only 2 schemes modelling student accommodation have been tested. Further detail of the analysis undertaken is requested. In the BNP Paribas report Elephant and Castle SPD S106 Tariff Viability Study (2011) it is recommended that LBS adopt a S106 base tariff level of £175 for both Residential and Student Accommodation. Further clarification is requested regarding the difference between the initial s106 tariff in this report and the preliminary draft CIL.</p>	<p>Our Student Housing Viability Study (2011) included testing of affordable housing levels on a range of direct let and university led schemes. The study concluded that some nomination schemes are viable and can afford payments in-lieu of affordable housing (up to circa £52,000 per room), albeit at a lower level than those identified for direct let schemes (up to circa £148,000 per room). The viability of such schemes however is dependant on a number of variables. These include but are not limited to the existing use value of the site where the development is proposed; the types of rooms proposed and the rents proposed to be charged for the rooms. The study concluded that the development of all student housing will not be put at risk with the imposition of 35% affordable housing and this has been adopted in our Core Strategy. Schemes let at reduced rent levels by universities are likely to require cross subsidy from university resources to make them viable. When developed, as long as the university is the majority landowner, these schemes are likely to be exempt from paying CIL given the universities' charitable status. It is considered that student housing rents for private schemes follow similar value patterns as residential schemes in the borough. Rents for private direct let student accommodation must have regard to rents for alternative accommodation in the private rented sector. If rents in student housing schemes are significantly higher than alternative accommodation, take up of student units could be adversely affected. It is noted in the Elephant and Castle SPD/OAPF S106 Development Tariff Viability Study (December 2011) that the nomination scheme in Steadman Street could viably support a development tariff of at least £262.50 sqm, however the Heygate scheme was unviable at a development tariff at this level but was viable at £236.25 sqm. Overall, the viability evidence has demonstrated that student accommodation can support the proposed CIL rates of £400sqm, £250sqm and £50sqm (exclusive of Mayoral CIL) and indeed CIL rates in much greater excess of this level.</p> <p>The CIL Viability Study includes further explanation of the appraisal of student accommodation.</p>
259	635	44	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Assessment of the rates Residential Development The study states that the viability of student accommodation will be broadly similar to general residential development and that a consistent CIL rate should be applied to both. There is a lack of detail regarding these assumptions. It is requested that further information is provided regarding the comparable values and yields for residential and student accommodation. Similarly, further clarity is requested regarding whether testing includes consideration of the difference in rent yields between University nomination (lower) and direct let (higher) student accommodation.</p>	<p>The CIL Regulations allow authorities to articulate differential rates by reference to</p>
260	635	44	Objection	Preliminary	Preliminary	<p>Providing high quality, affordable student accommodation in the right locations is a</p>	<p>The CIL Regulations allow authorities to articulate differential rates by reference to</p>

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261	635	44	Objection	draft CIL charging schedule	draft CIL charging schedule	<p>key priority for the University to create a sense of community in the campus area. Student accommodation will make a vital contribution to the objective for a '24 hour' central campus by creating activity and eyes on the street during day and night. In consideration of the above, LSBU would welcome an additional variation for 'Affordable Student Accommodation' within the LBS CIL charging schedule. This would be linked to student accommodation delivered by Universities or in partnership nomination between a University and a private developer at agreed lower rent rates. Any new accommodation will be linked directly with the university providing for students who attend the university and will therefore contribute directly to the local economy and vibrancy. Setting the CIL for this type of development at an equivalent rate to that for Hotels is considered appropriate and similarly could be managed by zones: Affordable Student Accommodation Zone 1 - 2 - £250 Zone 3-4 - £125 As a key service provider and stakeholder in the Borough, and in the interests of LSBU's student body, this provision would ensure that the delivery of suitable purpose built accommodation continues to meet demand at the University's preferred rates. LSBU would welcome further dialogue with LBS regarding this matter and in view of emerging development management policy relating to student housing</p>	<p>different intended uses of development provided that the different rates can be justified by a comparative assessment of the economic viability of those categories of development. We cannot consider including an 'affordable student accommodation' category because it is not in itself a distinct type of accommodation. The viability appraisals have demonstrated that direct let and nomination student development can both absorb the proposed CIL rates CIL guidance recommends that charging authorities avoid setting complex patterns of differential rates. There must be consistent evidence relating to economic viability that constitutes the basis for differences in rates for types of development. Differential rates must be set in such a way which are State Aid compliant</p>
262	895	17	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Development appraisals &amp; 5. Appraisal outputs Reference is made to an allowance for residential development to cover costs of designing to Code for Sustainable Homes (CfSH) level 4. We would seek a similar cost allowance to be applied in relation to BREEAM when testing schemes of University funded student accommodation. Reference is made to CfSH Level 4 cost adjustment of 6% attributed to §11 developments. It is assumed that this statement relates only to residential schemes. Reference is made to an allowance for commercial development to cover costs of designing to BREEAM 'very good' standard. Local policy (Core Strategy policy 13) states that development should achieve at least 'excellent' rating. The University would anticipate that the schemes included should be tested to a minimum 'excellent' level BREEAM with proportionate costs applied.</p>	<p>A BREEAM 'excellent' cost allowance has been applied to commercial schemes as per the planning policy requirement. The CfSH Level 4 assumption has only been applied to residential schemes.</p>
262	895	17	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>The following tables identify the proposed CIL rates for residential and office development in the London Borough of Southwark relative to average residential sales values and commercial rents compared to similar central London boroughs.</p>	<p>We have reviewed the proposed charge for office space and are proposing to reduce the rate. The proposed charges for residential development are informed by viability testing in Southwark. This testing demonstrates that the charges would not put at risk development across the borough.</p>

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263	906	17	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p><u>Residential</u></p> <table border="1"> <thead> <tr> <th rowspan="2">Borough</th> <th colspan="2">Average Residential Sales Values (Borough Viability Studies)</th> <th colspan="2">Proposed CIL Rate for Residential</th> </tr> <tr> <th>Minimum</th> <th>Maximum</th> <th>Lowest</th> <th>Highest</th> </tr> </thead> <tbody> <tr> <td>LB Southwark</td> <td>£3,500 per sqm</td> <td>£9,200 per sqm</td> <td>£50 per sqm</td> <td>£400 per sqm</td> </tr> <tr> <td>LB Lambeth</td> <td>£2,703 per sqm</td> <td>£10,656 per sqm</td> <td>£50 per sqm</td> <td>£368 per sqm</td> </tr> <tr> <td>LB Islington</td> <td>£4,784 per sqm</td> <td>£13,074 per sqm</td> <td>£300 per sqm</td> <td></td> </tr> </tbody> </table> <p><u>Office</u></p> <table border="1"> <thead> <tr> <th rowspan="2">Borough</th> <th colspan="2">Average Office Rents (Borough Viability Studies)</th> <th colspan="2">Proposed CIL Rate for Office</th> </tr> <tr> <th>Minimum</th> <th>Maximum</th> <th>Lowest</th> <th>Highest</th> </tr> </thead> <tbody> <tr> <td>LB Southwark</td> <td>£161 per sqm</td> <td>£269 per sqm</td> <td>£0 per sqm</td> <td>£100 per sqm</td> </tr> <tr> <td>LB Lambeth</td> <td>£161 per sqm</td> <td>£430 per sqm</td> <td>£0 per sqm</td> <td>£125 per sqm</td> </tr> <tr> <td>LB Islington</td> <td>£107 per sqm</td> <td>£484 per sqm</td> <td>£0 per sqm</td> <td>£150 per sqm</td> </tr> </tbody> </table> <p>As demonstrated above, the highest proposed CIL rate for residential development in the London Borough of Southwark at £400 per sqm is higher than the other two boroughs (£369 per sqm and £300 per sqm) despite being based on a lower maximum average residential sales value (£9,200 per sqm compared to £10,656 per sqm and £13,074 per sqm respectively). With regard to office development, whilst the maximum average office rents in the London Borough of Southwark are 63% and 55% of the maximum average office rents in the other two Boroughs, the highest proposed CIL rate for office development in the London Borough of Southwark is set at 80% and 66% of the highest CIL rate for office development in the other two Boroughs respectively. This suggests that the highest proposed rate of CIL for office development in the London Borough of Southwark is relatively high when benchmarked with maximum average office rents compared to the other boroughs. It appears from the above analysis that the rates at which CIL is proposed for residential and office development in the London Borough of Southwark are disproportionately high relative to average residential sales values and average office rents when compared with similar central London Boroughs. This implies that it would be more difficult for schemes to come forward in Southwark due to the level of CIL expected compared to sales values and office rents achieved.</p>	Borough	Average Residential Sales Values (Borough Viability Studies)		Proposed CIL Rate for Residential		Minimum	Maximum	Lowest	Highest	LB Southwark	£3,500 per sqm	£9,200 per sqm	£50 per sqm	£400 per sqm	LB Lambeth	£2,703 per sqm	£10,656 per sqm	£50 per sqm	£368 per sqm	LB Islington	£4,784 per sqm	£13,074 per sqm	£300 per sqm		Borough	Average Office Rents (Borough Viability Studies)		Proposed CIL Rate for Office		Minimum	Maximum	Lowest	Highest	LB Southwark	£161 per sqm	£269 per sqm	£0 per sqm	£100 per sqm	LB Lambeth	£161 per sqm	£430 per sqm	£0 per sqm	£125 per sqm	LB Islington	£107 per sqm	£484 per sqm	£0 per sqm	£150 per sqm	<p>The evidence used to support the proposed CIL charging schedule is up-to-date, and reflects the current economic climate. The proposed CIL rates have been set at levels which take account of viability in the lowest value areas of the borough. We have not proposed charges which are right up to the margin of economic viability for the range of sites which have been tested. The buffer will help to mitigate a number of risk factors (primarily the potentially adverse impact on land supply of setting the rates at a high level and 'shocking' the market) and it takes into account that economic circumstances and land values could change during the lifetime of the charging schedule. The CIL levels we have proposed are based on the assumption that affordable housing will continue to be delivered through the Section 106 obligations, and take full account of the costs associated with its delivery through that mechanism. The CIL viability study demonstrates that the viability of residential development is unlikely to be materially affected by the CIL rates. In particular, the introduction of CIL for new housing will not make a material</p>
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						<p>i) The BNPP Viability Study relies upon a number of overly optimistic assumptions (value growth, profit, Section 106 costs, affordable housing quantum and values, and potentially, build costs). Collectively, these suggest any 'headroom' or 'buffer' between the proposed CIL rates contained within the PDCS and maximum possible rates, is ill informed. As such, DP9 and Strutt &amp; Parker suggest that the Charging Authority cannot currently ascertain with any robustness whether or not there is a sufficient margin of viability in order to assume that site specific circumstances can be adequately addressed. It is the very strong opinion, therefore, of British Land and Aviva that a far more cautious and careful approach should be taken to the setting of rates, especially given the current and inevitably prolonged context of challenging economic circumstances. Additionally, by way of observation, any suggestion of viability 'headroom' / 'buffer' does not sit comfortably with current Section 106 and affordable housing negotiations within the Charging Authority's area. In other words, should 'headroom' / 'buffer' exist</p>																																																	

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						then surely recent developments – the majority having been independently analysed from a viability perspective – should have been able to afford more Section 106 and more affordable housing (see point (l) below). For the avoidance of doubt, British Land and Aviva believe that the rates as currently proposed will cause development to stall and result in the Council not achieving its development plan aspirations.	difference to the already existing level of risk to the achievement of the target of 35% affordable housing delivery, whereas a reduction in the proposed CIL rate would be likely to undermine the Council's ability to provide finance for critical strategic infrastructure in the borough. CIL Regulation 14 does not require charging authorities to quantify the impact of proposed rates of CIL on the delivery of affordable housing. We have proposed CIL rates in line with the CIL Regulations and on the basis of the economic viability of development, and not through reference to the existing system of planning obligations.
264	906	17	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	j) The evidence is unclear in explaining how the actual proposed rates and associated geographical zones have been arrived at. The zones do not appear to relate logically to any of the economic viability considerations explained in the BNPP Viability Study. Neither is the viability 'buffer' referred to within the Viability Study clearly justified nor the reasoning as to how rates have been set with reference to it.	The appraisals assessed a range of sites across the borough and showed broad impacts of CIL on viability in different areas of the borough. The council has used post code data on house prices to inform the boundaries. The buffer referred to in the viability study represents the difference between the proposed CIL charge and the maximum that could viably be charged. The rationale for this is explained in the guidance document Viability Testing Local Plans, June 2012.
265	906	17	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	k) Large strategic sites – the Opportunity and Intensification Areas e.g. Canada Water – have not been appropriately analysed. These sites are fundamental to the achievement of local and regional policy objectives and underpin the current adopted Development Plan (according to the London Plan the Opportunity and Intensification Areas1 within the Charging Authority's area have the potential combined capacity to deliver a minimum of 8,400 new homes and 32,000 jobs). The evidence has not considered the potential effects of CIL on these sites and has not, therefore, enabled the Charging Authority to make a robust / informed judgment on the effect of the rates set out within the PDCS on the deliverability of Development Plan objectives.	The council has tested a number of sites in the Canada Water action area and taken into account reasonable s106 requirements, as well as other requirements including affordable housing. The council considers that the outputs of the appraisals reflect the circumstances and requirements at Canada Water.
266	906	17	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	n) The best available and most appropriate evidence has not been used. No recent land transaction evidence has been taken into account. This would be useful and relevant insofar that it would indicate what willing buyers and willing sellers actually transact at.	In the context of CIL setting, it is considered that the use of actual land transactions are fundamentally misleading as a means of assessing viability of a planning policy. This was accepted at the Mayoral CIL examination. Market transactions will always (or should be) based on current planning policy requirements; they are of no assistance to a local 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 requirements, 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 guidance 'Viability Testing Local Plans: Advice for planning practitioners', which was launched by Sir John Harman the Chair of the Housing Delivery Group on 22 June 2012; the latter being directly relevant to planning policy testing.
267	906	17	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	o) Not all the evidence underpinning the Viability Study and, therefore, the PDCS has been made available. On 4th October 2012 DP9 wrote to LB Southwark requesting copies of 'live' versions of appraisals used to produce the Viability Study because these enable an understanding of underlying assumptions e.g. development timetables. DP9 also requested clarification in relation to BNPP's use	Due to an administrative error the request was not responded to until the beginning of November. We provided additional time for respondent to consider the information and adjust their response if needed. BNP Paribas Real Estate have stated that they do not issue live versions of their appraisal models to third parties due to licensing restrictions, however this does not prevent an assessment

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268	906	17	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>of Site Benchmark Values. To date, LB Southwark has not responded to this request.</p> <p>1.4 In the context of the above points, it is the strong opinion of British Land and Aviva, that the PDCS would be very likely to adversely impact development viability to the extent that the successful delivery of the Development Plan policies must be called into question. In particular, the British Land and Aviva are concerned that the proposed charging rates would frustrate the deliverability of strategic development sites coming forward within the Canada Water Intensification Area / Action Area. Should this be the case, the consequence would be a reduced ability for Development Plan targets to be met (the Canada Water Intensification Area / Action Area makes up an estimated minimum of 13%2 of Southwark's Core Strategy housing target). 1.5 Overall, a far more considered and cautious approach is required. This would fit far better with the Government's aspirations and objectives for encouraging economic growth which underpin the recently published National Planning Policy Framework. 1.6 Following DP9 and Strutt &amp; Parker's review of the PDCS, British Land and Aviva consider that important further work needs to be undertaken by the Charging Authority to ensure CIL rates are set in the knowledge that the deliverability of the Development Plan will not be put at risk. British Land and Aviva are willing to aid the Charging Authority, as consultees and major stakeholders, in further viability analysis prior to publication of any further CIL Charging Schedule. 1.7 British Land and Aviva would like a meeting to be arranged with relevant representatives of the Charging Authority and their agents in order to discuss each of the key points raised in these representations.</p>	<p>of the viability evidence as the methodology and appraisal variables have been clearly set out and full outputs provided.</p> <p>The council considers that the proposed changes are based on robust available evidence and that the balance has been struck between the desirability of funding infrastructure with the impact of CIL on the viability of development across the borough.</p>
269	897	6	Objection	Preliminary draft CIL charging schedule	Preliminary draft CIL charging schedule	<p>Section 106 Costs 5.25 BNP have included a Section 106 cost of £1,000 per unit post adoption of CIL. Based on extracting the site specific costs generated by Southwark's Section 106 Toolkit for a single two bedroom open market dwelling, indicative site specific costs generated through the toolkit for public realm, transport, employment and administration contributions amounts to £2,140. However this is based only on an 'indicative average cost' and in reality is likely to be significantly greater for larger schemes. This will have a significant impact on the sites tested by BNP and the viable levels of CIL</p>	<p>This will be clarified in the BNPP update.</p>
270	845		Objection	Preliminary draft CIL charging schedule	General Comments	<p>Thank you for allowing me to resubmit these comments, mysteriously lost in cyberspace. These are based less on the written draft than on a lucid exposition by Tim Cutts at a recent Community Council meeting. From this I understand that the proposal is to divide the borough into zones for the purposes of the Levy, and that a differential tariff will apply to new developments, higher in some zones, lower in others. The tariff would also vary between different types of development, based on so much per square foot. This seems reasonable enough. What is not acceptable - it seems to me - is the proposal that money collected from a particular development can be used to fund a project in a completely different part of the borough or put into a borough-wide pot. The former section 106 was popularly known as "community benefit" - so-called because it was used, as intended, to mitigate the negative aspects of a new development, or to compensate for them by funding or contributing towards some project of local benefit. The levy, as proposed, abandons this principle. The money will not now necessarily benefit the immediately local community at all. Their say on how the levy is spent will be further reduced. The planners will decide. This is an obvious weakness in the present proposal. It becomes more blatant still if we envisage the levy from a residential development being put towards social housing - not as part of a mixed-tenure scheme on the same site or close by, but elsewhere in the borough entirely.</p>	<p>The purpose of the levy is to fund infrastructure that is required to support growth across the borough, rather than to mitigate or compensate residents as new development takes place. However, a 'meaningful proportion' of all CIL receipts will need to be retained in the local area where new development takes place. This has been defined by Government (CLG, January 2013) as 15% of CIL receipts, capped at £100 per council tax dwelling, or 25% in areas with a neighbourhood plan.</p>

**Preliminary Draft Community Infrastructure Levy Charging Schedule Representations and Officer Responses**

Representation Ref	Objector Ref	Agent Ref	Objection/Support	Consultation Stage	Document	Details of Representation	Officer Response to Representation
271	845		Objection	Preliminary draft CIL charging schedule	General Comments	<p>This seems to me quite unacceptable because it runs counter to the principle of mixed communities and social integration and heads instead towards segregation and exclusion. The answer, I would argue, is to maintain tight boundaries within which the levy must be spent. Even a ward seems to me too large an area. I would suggest a requirement that the levy be spent within a quarter of a mile of the development in question; and that social housing funded from residential development must be on the same site or immediately nearby.</p> <p>While recognising the Levy is being driven by central government I see a major objection to the way it is being proposed for implementation in Southwark. Let me explain. The borough is being divided into zones, in some of which the Council will be able to extract a higher tariff for certain kinds of development, notably residential. At the same time the proposal would relax the requirement that the proceeds of the tariff be spent on infrastructure improvements that support the development, or mitigate its impact, or compensate for that impact by funding some worthwhile project in the locality. This is the principle behind s.106 and that's why it's usually called "community benefit." That principle is now abandoned. With the incentive of a differential tariff it means that the benefit from a development in a high-tariff zone can be creamed off and invested elsewhere in the borough where the tariff is lower. In other words the proceeds would no longer be used for the community affected by the development but go instead into a borough-wide slush fund over which local people will have no say. The planners will decide. One outcome already under consideration is that monies from the levy identified for social housing could be spent, not as part of a mixed-tenure housing development, or even somewhere nearby, but elsewhere in the borough entirely. This seems to me quite unacceptable in that it runs counter the principle of mixed communities and social integration and heads instead towards segregation and exclusion. The answer, I would argue, is to maintain tight boundaries within which money from the levy must be spent. Even a ward seems to me too large an area. I suggest a regulation requiring the money to be spent with half a mile of the development in question.</p>	Under the Localism Act 2011, the council must identify a 'meaningful proportion' of Southwark CIL that will be spent in the local area to ensure that those people affected by development see some of the benefit. This allocation would be made using a community infrastructure project list (CIPL) which will be based on a revised s106 project bank list. This would be updated every year with consultation with the community councils and planning committee to ensure it reflects local needs. The government have announced that the meaningful proportion to be spent locally is at least 15% or 25% where an adopted neighbourhood plan is in place.
272	906	17	Objection	Preliminary draft CIL charging schedule	CIL Viability Study	<p>Further to the attached copy of Tim Cutts's (LBS) e-mail to you dated 1/11/2012, we comment as follows:- 1.) Development Timescale Information:- We do not understand why LBS are unable to send 'live' versions of the ARGUS development appraisals and/or full hard copies. We have often been asked to provide these to Local Planning Authorities where they have been scrutinising viability reports in connection with planning applications. Although the additional cashflow timing information provided by LBS is helpful, it does not give a full and clear picture of the cashflows behind BNP Paribas' (BNPP's) financial appraisals. For example, what pattern of construction cost spread have BNPP adopted within each identified construction period. Are they front end loaded cost programmes or 'S' shaped curves? Are the sales front loaded, back loaded or equally spread? Based upon the information provided, we cannot tell and consider greater detail and clarity on the matter is important. As you know, we have already identified a significant financial error in BNP's appraisal for Site 28a (i.e. missing finance costs of approximately £10m) so live versions of their appraisals would enable us to carry out further analysis and advise you accordingly. Please can DP9 ask LBS for 'live' copies of BNP's appraisals and/or an explanation as to why these cannot be provided? Strutt &amp; Parker are ARGUS licence holders which is the relevant software.</p>	BNPP have stated that they do not issue 'live' versions of their appraisal models to third parties due to licensing restrictions, however this does not prevent an assessment of the viability evidence as the methodology and appraisal variables have been clearly set out and full outputs provided. We provided the respondent with full hard copies of all of the assumptions. We have contacted the respondent and will arrange access to the 'live' ARGUS model through the viability consultant, during the next consultation period of the Draft CIL Charging Schedule.
273	906	17	Objection	Preliminary draft CIL	CIL Viability Study	<p>EUVs for Sites Considered as part of BNPP's Viability Study:- As we previously identified in our letter dated 16th October 2012, BNPP appear to have a confused</p>	The approach to arriving at benchmark land values has been outlined in more detail in the revised CIL Viability report. The viability appraisals have used existing

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				charging schedule		<p>and unjustified approach to Benchmark Land Values ("BLVs"). In Section 1.2 of their CIL Viability Study (July 2012) they say they have used 'value in current use (plus a premium)'. They later refer to 'existing use value' (Section 3.3 and 3.5) and to abbreviations of EUV and CUV in their Appendix 2. EUV and CUV are not necessarily the same basis and I am not sure where CUV is in fact defined except within RICS guidance which BNPP are not following (see Section 2 of our letter dated 16th October 2012). In their additional information attached to Tim Cutts's (LBS) e-mail to you dated 1/11/2012, they refer to EUVs in the title. What happened to CUV? This confusion is of particular concern because the BLVs are absolutely fundamental to determining what is or is not viable. Turning back to the additional information table provided via LBS by BNPP, the information in this table does not provide justification for the BLVs adopted. A wide variety of Landowner Premiums are adopted with no justification for these. Can we ask for the related justification? Where some tangible justification is provided (e.g. references to previous valuations done on Site 20a), a very short note does not provide sufficient justification. For example – what previous valuation are BNP referring to, on what basis was it prepared and by whom? Furthermore, the value of residential land at £3,080,569 per hectare to which they refer sounds very low (i.e. £1.25m per acre). Have any land transactions of residential land occurred at such low levels? Even the last Valuation Office Agency 'Property Market Report' (January 2011) indicated higher residential land values per hectare in places like Croydon, Romford and Enfield ! Would it be possible for further details on the appraised sites to be provided to us if Strutt &amp; Parker sign appropriate confidentiality documents in order to review this as, otherwise, we have no way of checking whether the rateable values used or any of the assumptions adopted by BNPP are reasonable and/or correct (where fact is involved)? BNPP have provided some further information on what yields they have applied to, for example, Rateable Value, to derive their EUVs. However, clarity is needed on how they have reflected lessee covenant strength and lease terms in arriving at these yields. In all other respects, the comments we have made in our letter dated 16/10/2012 (which form part of our combined CIL representation) remain valid.</p>	<p>use value. This is explained in section 4 'Development Appraisals' and the assumptions in arriving at each value are provided for each development in Appendix 2 of the study. For the avoidance of doubt, the report does not refer to the RICS Red Book definition of Existing Use Value. Footnote 14 states that "For the purposes of this report, existing use value is defined as the value of the site in its existing use, assuming that it remains in that use. We are not referring the RICS Valuation Standards definition of 'Existing Use Value'. This means the value of the existing building assuming that its existing use continues in exactly its current form. The approach taken to arriving at benchmark land values depends upon the status of the site. Where a site has an existing building that generates an income (or is capable of generating an income), the appraisals have used the capital value of that building as the basis for a current use value. Some sites have been cleared and, in agreement with the Council, purchase prices were used where these sites were previously in Council ownership.</p>