Appendix 8 PDCS Reps & Council Responses

The council must take into account representations on the Preliminary Draft Charging Schedule (PDCS) before it publishes the Draft Charging Schedule (DCS)[1].

Subsequently, the council has had further discussions with some of those who made representations (including early engagement with local developers and the property industry[2]) in order to clarify issues and assess the extent to which it was possible and appropriate to modify any aspect of the approach to determining charging rates – these are referred to as 'Pre-DCS' consultation responses.

All of the representations received and the council's responses are detailed below and a summary of these sorted by issue is provided in Appendix 9.

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
PDCS	01.01	London Fire and Emergency Planning Authority (LFEPA)	Dron & Wright	LFEPA sites within the borough: - Hammersmith Fire Station - 190/192 Shepherd's Bush Road, W6 7NL - Fulham Fire Station - 685 Fulham Road, SW6 5UJ	Fire safety infrastructure	Acknowledge further fire safety infrastructure background in Infrastructure Plan / IPS.
PDCS	01.02	London Fire and Emergency Planning Authority (LFEPA)	Dron & Wright	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.	All uses unless otherwise stated Fire stations	There is no known requirement for a new fire station in the borough or evidence to show, if one was to be proposed, what effect the proposed CIL charge would be likely to have. It is possible for a charging authority to pass CIL onto other bodies, such as the fire service to assist in provision of facilities.
PDCS	01.03	London Fire and Emergency Planning Authority (LFEPA)	Dron & Wright	…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.	Fire safety infrastructure	Acknowledge further fire safety infrastructure background in Infrastructure Plan / IPS.
PDCS	02.01	Tuke Manton Architects LLP	-	The Government has introduced measures to encourage construction and new development. A strategy to add additional costs to planning applications will do the opposite. Surely, once a development has been constructed any additional space will either be subject to business rates or council tax. So this policy is just a further tax on development. I do not agree with this strategy in the slightest.	General viability and deliverability	This comment is about CIL in principle rather than the proposed charges.

[1] R15(7)
[2] G2:2:1:3; G2:2:2:4; G2:2:2:6

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PDCS	03.01	Highways Agency	-	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.	No comment	Acknowledged.
PDCS	04.01	Mayor's Office for Policing and Crime (MOPAC) / Metropolitan Police Service (MPS)	CgMs	... [London Plan] 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 ...	Police infrastructure	Acknowledge further police infrastructure background in Infrastructure Plan / IPS.
PDCS	04.02	Mayor's Office for Policing and Crime (MOPAC) / Metropolitan Police Service (MPS)	CgMs	…New policing facilities would therefore fall under all other uses and would be subject to a £80 per sq.m charge. 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. ... There is... no doubt that policing is 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 Viability Assessment prepared by Roger Tym and Partners (August 2012) covers residential, offices industry and warehousing, retail, hotels, student accommodation, leisure and a range of 'sui generis' uses. The Assessment does not consider emergency services or policing facilities. There is no detailed justification for where the £80 per sq.m for all other uses has come from. All all uses cover such a wide range of uses, which would have very different levels of viability. It is suggested that the Charging Schedule should include the wording 'Development by police for operational purposes' as attracting a nil rate. Such an approach has been adopted elsewhere. [Examples from other charging authorities included: Bristol Submitted DCS; Huntingdonshire CS; Brent DCS; Sutton PDCS]. For the above reasons, the MOPAC/MPS strongly recommend that, when formulated, applications for policing facilities attract a nil rate under the draft charging schedule.	All uses unless otherwise stated Police facilities	It is not clear that there are proposals for new build police facilities that would be likely to be liable for CIL; and no evidence to show how any such proposal may be prejudiced. It is possible for a charging authority to pass CIL onto other bodies, such as the police service to assist in provision of facilities. Police facilities are not exempt from the Mayor of London's CIL.
PDCS	04.03	Mayor's Office for Policing and Crime (MOPAC) / Metropolitan Police Service (MPS)	CgMs	In addition to the above, it is recommend that, when formally published, 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 van 'be used to fund a very broad range of facilities such as [inter alia] police stations and other community safety facilities' (Para 12).	Police infrastructure	Acknowledge further police infrastructure background in Infrastructure Plan / IPS.

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PDCS	05.01	Pocket	Rolfe Judd	... 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 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... to set differential tariffs for different intended uses and different zones... 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... will become uncompetitive against private developers or against Registered Providers (who are exempt from CIL). Pocket is unable to raise its sales and 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... a differential rate of £0/sqm will be set for innovative forms of affordable housing which meet the NPPF definition. ... 2.2... It is different from 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... 2.4 The GLA has confirmed that Pocket is affordable housing and we append a letter from Andrew Barry Purssell which confirms this. ... 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 the sale... ... 6.3 The scheme is for 32 units with ground floor level commercial of 310sqm. Based on Mayoral CIL of £50/sqm and the boroughs CIL of £200/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: £50/sqm Estimated Mayoral CIL owed: **£67,500** Borough CIL – Pocket Scheme Existing floorspace: 415m2 Residential GIA: 1,455,2 Net additional floorspace: 1,040m2 (excludes 310sqm of Commercial) Borough CIL Charge: £200/sqm	Affordable housing: intermediate	Amendments to the CIL Regulations in February 2014, allow the Council to introduce discretionary social housing relief for accommodation that will, if sold, continue to be available to future purchasers at 80% of market price. If the Council introduces such relief Pocket would need to show that it meets the criteria.

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				Estimated Borough CIL Payment: **£208,000** **Total CIL - £275,500** 6.4 This equates to nearly £9,000 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 the 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 £9,000 as a result of CIL would reduce the Pocket 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... and it would make it even harder for Pocket to meet boroughs income targets for intermediate housing. 6.5 ...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 CIL, however, given the demand created by other developers land values are unlikely to fall and Pocket's margins will become unviable. ... 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. ... 8.16 We would propose that the boroughs Draft Charging Schedule should set a differential rate of £0/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		
PDCS	06.01	London Play	-	We welcome the inclusion by LBH&F of children's play in the Infrastructure Planning schedule of the proposals (sections L11, 15, 16, 17 - 23 and 32 – 38) and the acknowledgement of the importance of the GLA Children and Young People's Play and Informal Recreation Draft SPG to the proposals. We also welcome the positive contribution to their health attributed to children's play in the LBH&F Equalities Impact Assessment of the proposals. London Play has worked in partnership with the Play Association Hammersmith and Fulham (PAHF) to improve children's play throughout the borough. PAHF has worked with the council from 2007 to produce a local Play Strategy which formed an integral part of the (since abolished) Children's Plan. For details see: - http://www.playassociationhf.org.uk/page/play-strategy Children's informal play in public space forms an important part of the proposals to reduce the incidence of childhood obesity in many local plans, and London Play is working with the London Health Improvement Board to ensure play is acknowledged in a pan-London strategic framework to reduce childhood obesity. The significance of free, informal play with peers in public space in building resilience to counter the increase in depression, anxiety and mental illness in young people is also now well understood, for details see http://www.londonplay.org.uk/document.php?document_id=1429 For both physical and mental health play is the prescription, and it is important to note that such play may take place anywhere in public space. Thinkers in the field have dubbed such places "playable space". We hope that this is borne in mind whenever new residential, public and recreation spaces and places are developed, as well as any proposals to restrict the speed and density of motor vehicle traffic in close proximity to residential areas (as set out in the DoT Manual for Streets). Both London Play and PAH&F will be happy to provide more information about our work and how we can help the planning department in this area if you want.	Play infrastructure	Acknowledge further play infrastructure background in Infrastructure Plan.

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PDCS	07.01	A2Dominian Group	Barton Willmore	…A2Dominion are the freehold owners of land at Queens Wharf within the London Borough of Hammersmith and Fulham. The site is the subject of an extant planning application for redevelopment to provide 81 Use Class C3 (dwellinghouses) and 676 square metres (GEA) of Class A3 (Restaurant/Cafe) Use (LPA Ref: 2012/01985/FUL). The borough should ensure the viability appraisal has been properly and robustly carried out taking account of potential fluctuations in the market including the effects of developer confidence and availability of finance…	Market fluctuations and availability of finance	Viability appraisals have been carried out properly and robustly.
PDCS	07.02	A2Dominian Group	Barton Willmore	… The borough should also ensure they have fully justified their proposal to set different area and use class charges and that the estimation of future floorspace accurately takes account of the full range of chargeable developments and the types of applications which trigger CIL payments.	Estimate of chargeable developments floorspace	This is considered to be properly justified.
PDCS	07.03	A2Dominian Group	Barton Willmore	<u>Clarity in Approach</u> It is noted from the Preliminary Draft Charging Schedule (para 1.2.13) that in addition to CIL, the Council is considering publishing a Planning Obligations SPD to set out further infrastructure contributions that, based on the Infrastructure Plan, are not to be funded by CIL. In our view this is contrary to the purpose of CIL. The Government clearly identify in Community Infrastructure Levy An Overview May 2011 that the benefit of CIL is to be a 'faster and more certain and transparent that the system of planning obligations which causes delay as a result of lengthy negotiations'. Moreover that levy rates will 'provide developers with much more certainty 'up front' about how much money they will be expected to contribute'. Introducing a further separate charging system through an SPD is entirely contrary to the intention of CIL.	Planning Obligations SPD	CIL Regulations and Guidance do not rule out the continuing use of S106 obligations, subject to legal tests and pooling limits. The S106 SPD will not now be produced in advance of CIL though an outline of the scope of future S106 is included in the DCS consultation document.
PDCS	07.04	A2Dominian Group	Barton Willmore	<u>Forecast Supply</u> In setting the CIL charge, the Council should be seeking to review all opportunities for chargeable development and associated forecast supply. It is noted from paragraph 3.5.2 that the Council have not included the potential CIL income or infrastructure costs for Park Royal or Earls Court and West Kensington. In respect of Park Royal it is stated that this is on the basis that it is unclear whether this is going ahead as it is linked to Crossrail 2 (para 3.2.1). In relation to Earls Court and West Kensington the rationale is said to be set out in the Infrastructure Plan, however, unfortunately the relevant paragraphs are not available in the version on the Council's website. The statutory development plan comprises the London Plan 2011 and the Core Strategy 2011 both of which identify Park Royal as an Opportunity Area with associated growth in housing and other uses. It is therefore appropriate for the CIL charging to include this as potential income. The Council may wish to make the case the result is cost neutral as the cost of infrastructure is not included in the assessment; however this has not been tested.	ECWKOA: CIL income Park Royal: CIL income	The Council and GLA are working to secure major regeneration of the Old Oak sidings area but the details are not yet included within the London Plan or the Local Plan. It is premature, therefore, to consider the implications for the current CIL proposals. In any event, CIL charges in the borough must be based on viability evidence.
PDCS	07.05	A2Dominian Group	Barton Willmore	<u>Financial Viability</u> The Council are seeking to adopt differing CIL rates based on both area and use. The approach is complex and we would raise whether the evidence justifies this approach as the Council identify that the Viability Assessment is strategic, not focused on specific site calculations and involves 'a high degree of generalisation' (para 4.2.2). The Viability Assessment itself identifies that the calculations will have a 'high margin of variance from an actual site specific assessment' (para 2.8). Rather the approach seems to be to rely on overage as providing the necessary flexibility and 'headroom' to account for individual site circumstances (abnormal, S106 costs etc) without any assessment as to how with would work in practice or any worked examples.	Generality of Viability Assessment	The PDCS was based on worked example appraisals. Nevertheless, additional sample appraisals have been used in the evidence base for the DCS.
PDCS	07.06	A2Dominian Group	Barton Willmore	It is noted that the Viability Assessment states at paragraph 3.18 that the CIL charge is a relatively small proportion of total development costs and that a flexible approach on other policies such as density, design quality affordable housing and public open space will allow the Council to 'adopt a bespoke approach to individual schemes'. In short these assumptions and the effect of the CIL charge has not been adequately tested and is reliant on potentially compromising scheme quality. Given the disparities in charging rates for residential development based on area, there is a need for sensitivity testing to justify this approach, not rely on overage or flexible application of policy.	Sensitivities: Density Design quality Affordable housing Public open	It is not realistic to sensitivity test the effect of all such potential factors that could affect the viability of individual schemes.

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					space	
PDCS	07.07	A2Dominian Group	Barton Willmore	We would also query the assumptions used on the examples in respect of affordable housing. For example, the Viability Assessment is based on affordable housing being 40% however it is unclear from paragraph 3.9 what tenure split has been applied. Moreover it is understood from paragraph 4.2.3 of the Preliminary Draft Charging Schedule that the above is based on an assumption of no grant. Whilst the availability of grant is a factor that impacts on scheme viability, so too will be the actual tenure product as for example the Council's preferred tenure of Discount Market Sale would not be eligible for either grant or CIL Social Housing Relief and would therefore constitute a further cost to the scheme. The Viability Assessment does not address this issue.	Affordable housing: tenure split	The tenure split assumption is set out in Appendix B of the Viability Study. Discount Market Sale can be eligible for CIL Social Housing Relief where it satisfies the criteria in the regulations. Refer to CIL Collection information note. The Council will also consider whether to introduce discretionary social relief in accordance with the February 2014 Amendments to the CIL Regulations. In CIL the viability appraisals, it has been assumed that affordable housing would not pay CIL.
PDCS	07.08	A2Dominian Group	Barton Willmore	<u>Exceptional Circumstances</u> The CIL Regulations recognise the need for flexibility and provide for social housing and charitable relief. In addition there is provision for a charging authority to introduce further discretionary relief for exceptional circumstances (Regulation 55)... ... the charging authority has the option to make provision for relief for exceptional circumstances within their charging schedule. There is no mention of this in either the Viability Assessment of CIL Preliminary Charging Schedule. We would welcome a positive commitment in this respect.	Exceptional circumstances	It is not currently proposed to introduce an exceptional circumstances policy. Such a policy is only possible if there is a S106 obligation on a development and the development cannot pay CIL. The proposed CIL charges make allowance for the possibility of such obligations.
PDCS	07.09	A2Dominian Group	Barton Willmore	<u>Instalments</u> The Viability Assessment recognises the need for CIL to be paid in instalments. We welcome the recommendation to introduce an instalments policy, however would welcome details. The 60 days from the commencement of the chargeable development default given in the CIL regulations is not always appropriate. Recognising the recession and responding by offering flexible payment options is supported.	Instalments	The Council currently does not expect that it will introduce its own instalment policy. Therefore, the Mayor of London's CIL instalment policy will apply to Mayoral and borough CIL payments.
PDCS	07.10	A2Dominian Group	Barton Willmore	<u>Review</u> There are no details of when Hammersmith and Fulham is intending to review its charging schedule and under what circumstances the Council may reduce or increase its charge. Details of this should be provided along with details of how the CIL will be monitored, particularly as a proportion of the CIL will go towards the Collecting Authority's administrative costs.	Monitoring and review	Review of the CIL charges would depend on monitoring changing market conditions affecting development, in particular, key appraisal assumptions and the viability of schemes coming forward.
PDCS	08.01	Hogarth Architects	-	Having considered the contents of the CIL charging structure, I would say that the majority of our clients will find these charges too high. If they were instead of affordable housing quotas then fine, but the two together are too big a cut. Most developers we deal with are currently happy to get a 15% return on investment. With new housing costing say £1800 psm a rise to £2250psm in our opinion is not sustainable and will lead to much less development when developers are nervous in any case. We feel that this will add to the pressure causing housing shortages and is ill considered. It will make more schemes less profitable, in a market where funding is already hard to get. The reality will be diminishing returns, and ongoing housing shortages, I think the basis of the charges are returns that are no longer typical in this climate. A serious re think is necessary I would say that a charge more equal to the mayoral charge (£50psm) is more sustainable.	General viability and deliverability	This example refers to the PDCS proposed £400/m^2 CIL charge in the south zone. In a development which provides affordable housing in accordance with policy CIL would only be charged on 60% of residential floorspace. Therefore the average impact over all floorspace would be £180/m^2. it is erroneous to compare CIL with build costs alone as there are many other development costs that need to be taken onto account in considering the

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						impact of CIL on viability.
PDCS	09.01	Tesco	GL Hearn	As a major investor and developer in Hammersmith and Fulham, Tesco have significant experience in bringing forward development including retail, residential and mixed use developments. In order to ensure that future development is viable and deliverable, Tesco are concerned to ensure that the Community Infrastructure Levy does not, in accordance with the Regulations, put at serious risk the overall development of the area. Tesco have therefore reviewed the Preliminary Draft Charging Schedule to seek to ensure that an appropriate balance has been struck between the desirability of funding infrastructure from the levy and the potential effects of the levy upon economic viability of development across the borough. Having reviewed the Preliminary Draft Charging Schedule, Tesco is concerned that the balance may not have been struck in relation to food retail and residential charges, and that the evidence may not fully justify the approach currently proposed.	All uses unless otherwise stated Food retail	No detailed evidence has been provided to support the assertion that a balance may not have been struck. The viability appraisals have been reviewed and the Council considers the appropriate balance has been struck.
PDCS	09.02	Tesco	GL Hearn	Tesco are keen to share the benefit of their significant experience to ensure that the CIL does strike the appropriate balance. Tesco would therefore welcome the opportunity to meet with you to discuss these issues in advance of the preparation of your Draft Charging Schedule, and looks forward to reviewing the Draft in due course.	Meeting	Meeting held
PDCS	10.01	Sainsbury's	Turley Associates	Lack of Evidence Regulation 11 of the CIL Regulations require charging authorities 'to demonstrate' the proposed CIL rates are informed by both appropriate and 'relevant evidence'. The Viability Report (see Appendix 4) provides only two residual appraisals for both comparison and convenience retail uses, with minimal justification given. Such lack of sampling may well put at risk retail (and other related development) within the borough, being both poorly evidenced and currently unrepresentative of local market conditions.	All uses unless otherwise stated Comparison and convenience retail	Sampling is considered to be appropriate at borough level and is representative of local market conditions.
PDCS	10.02	Sainsbury's	Turley Associates	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 the Hammersmith and Fulham 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.	Instalments	The Council currently does not expect that it will introduce its own instalment policy. Therefore, the Mayor of London's CIL instalment policy will apply to Mayoral and borough CIL payments.
PDCS	10.03	Sainsbury's	Turley Associates	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.	Exceptional circumstances	It is not currently proposed to introduce an exceptional circumstances policy. Such a policy is only possible if there is a S106 obligation on a development and the development cannot pay CIL. The proposed CIL charges make allowance for the possibility of such obligations.
PDCS	11.01	Marks and Spencers	Nathaniel Lichfield & Partners	Whilst Marks and Spencer see the Preliminary Draft Charging Schedule as being most useful in helping understand the Council's emerging position with regards to introducing the Community Infrastructure Levy (CIL) in the Borough, our client has asked us currently to refrain from commenting in detail at this initial stage, and to reserve the Company's right to comment fully on proposed CIL rates, once further critical evidence base material and other information has been published. We are given to understand that the second draft of the White City Opportunity Area Planning Framework/ Supplementary Planning Document (SPD), and the Development Infrastructure Funding Study (DIFS) for the White	WC DIFS: General	Noted

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				City Area, are both due to be released for consultation later in the year. It will be imperative that their content (and the outcomes of the respective consultations on each one) is used in turn in developing the revised proposed CIL rates in the Borough. We understand that it is currently proposed that the consultation on the Borough's Draft Charging Schedule is due to take place this winter therefore the timings should ensure that the Schedule can reflect these new elements of the evidence base for the Borough's CIL; our client considers this coordinated timing to be essential, as the content of, findings from, and consultation responses to the emerging SPD and the DIFS must all be taken into consideration and reflected fully in the Draft Charging Schedule. Marks and Spencer will therefore await the publication of the second consultation draft of the SPD, and of the DIFS, and any further information that the Council intends to form part of the evidence base for the Charging Schedule, before considering commenting in detail on the Borough's proposed CIL rates etc.		
PDCS	12.01	Aviva and Helical Bar	Jones Lang LaSalle	In the draft, the approach, the evidence base and the way in which the research has been applied are all defective and further consideration needs to be given to the Preliminary Draft Charging Schedule before it is taken any further. The principal areas of objection are as follows. <u>The Approach</u> The evidence base for assessing the Preliminary Draft Charging Schedule has been undertaken in the following three component parts: 1 The South Fulham Riverside Development Infrastructure Funding Study undertaken for this southern part of the Borough, by Jacobs, CGMS and Cushman & Wakefield. 2 The White City Opportunity Area Development Infrastructure Funding Study for this northern part of the Borough undertaken by AECOM, Drivers Jonas Deloitte and Davis Langdon. 3 The work undertaken by Roger Tym & Partners for the rest of the Borough. However, only the Roger Tym work has been used to inform the Preliminary Draft. Paragraph 2.2.5 of the Preliminary Draft Charging Schedule explains the Council's approach by stating that "any published DIFS will be able to inform future stages of the emerging Borough CIL as appropriate, for example, at the Draft Charging Schedule (DCS) stage". However, the detailed work that has been carried out in other parts of the Borough has to be taken into account now, to inform the appropriate CIL rates. Whilst charging authorities can levy different CIL rates in different parts of the Borough, this cannot simply be based on different policy areas and needs instead to be on the basis of different levels of viability. If the evidence on viability does not support a different approach being taken, then differential charges cannot be set. The evidence base undertaken for the different parts of the Borough need to be taken into account and further progress on the CIL cannot be made until all the information is available and has been considered.	WC DIFS: General SFR DIFS: General	The WCOAPF DIFS has been taken into account in part in arriving at the revised proposals affecting White City East in the DCS.
PDCS	12.02	Aviva and Helical Bar	Jones Lang LaSalle	<u>The evidence base for assessing viability</u> The Government's guidance on the "Community Infrastructure Levy – An Overview May 2011" explains in paragraph 23 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. It goes on to explain that evidence needs to be used 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. Whilst it is for the charging authority itself to decide where to strike that balance, the fundamental premise is that CIL must be set at a level that does not put at risk the overall level of development in an area. In this case, the viability research upon which the Council is relying when making this judgment, seriously overestimates the viability of development. As such, the Council is simply unable to determine where an appropriate balance lies. By proceeding with the unsound information that is before it, the Council will put at risk development not just at the margins of economic viability, but across the major regeneration sites upon which it is relying to provide its necessary housing supply. Much of the Borough's housing supply is in large sites to the northern part of the Borough.	General viability and deliverability	The DCS evidence includes appraisals of sample schemes on larger sites as well as those used for the PDCS stage.

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				Therefore, to illustrate the deficiencies in the viability work undertaken, the example provided by Roger Tym & Partners for a 50 unit scheme in the north zone is examined below.			
PDCS	12.03	Aviva and Helical Bar	Jones Lang LaSalle	1	Base land values – the single most significant factor that overestimates viability is the assumption that current land values are some £2-10 million per hectare. Even in the northern part of the Borough, development land cannot be acquired so cheaply. This range is significantly below even existing use values and as such, no land would be brought forward for redevelopment. In Appendix 4.6 in Roger Tym's assessment of the 50 unit scheme, the appraisal to demonstrate viability is based on just over £5 million per hectare. By way of comparison, the Council and the GLA's consultants, AECOM and Drivers Jonas Deloitte, who have assessed the White City area in the northern part of the Borough in considerably more detail, have advised the Council that the base land value is £9.27 million per hectare. We have pointed out previously that even this AECOM/Drivers Jonas figure is a substantial underestimate and well below the clear market evidence that exists in the area. However, even if the AECOM/Driver Jonas figure that they have provided to the Council and GLA is fed into the proposal, the profit suggested by Roger Tym in the 50 unit scheme of just over £2 million would actually be around only half a million, which would make the scheme unviable, providing an inadequate return for the risk and capital that would need to be deployed of just 4.5% profit on cost, compared with the 20% needed. As pointed out above, AECOM and Drivers Jonas underestimate significantly the base land values. Had a true land value been applied, then the appraisal would show a substantial loss. In either case, whether one uses figures supplied to the Council by AECOM/Drivers Jonas, or what is known to be the true base value, then correcting this one single factor alone shows that the 50 unit development in the northern part of the Borough would be unviable, and not able to support any levy. The viability position is worsened yet further by other over optimistic assumptions as set out below.	Land values WC DIFS	The Viability Study uses revised benchmark land values. In particular, the figure for White City East is £14M/hectare.
PDCS	12.04	Aviva and Helical Bar	Jones Lang LaSalle	2	Construction costs – an overall construction cost of £1,900 per sq m is used in the appraisal in Appendix 4.6. Whilst this figure in isolation may appear acceptable for residential development, it is an all encompassing rate and needs to include a variety of things including the provision of access, basements, public realm and landscaping. By way of comparison, a detailed cost report by specialists E C Harris has been undertaken for the 1,150 unit scheme that is the subject of an application on the former Diary Crest site that lies within the north zone. The total construction cost breaks down to £2,616 per sq m. If this more realistic figure is applied to the appraisal in Appendix 4.6, then the construction cost would be some £8.45 million compared to the £7.22 million being suggested. The use of this more realistic construction cost would on its own erode all of the profits and the scheme would result in a loss of over £1 million. This shows that by correcting just this one factor alone, the 50 unit scheme in the northern part of the Borough would be unviable, and not able to support any levy.	Build costs	The approach to cost figures is explained in Appendix A of the Viability Study. An additional 5% on costs is included for plot externals in the appraisals accompanying the Viability Study.
PDCS	12.05	Aviva and Helical Bar	Jones Lang LaSalle	3	Demolition – the allowance for demolition of just £25,000 in the appraisal in Appendix 4.6 is a nonsense. Whilst it clearly depends on the extent of any structure that needs to be demolished, £100,000-£200,000 is likely to be a much more realistic range.	Demolition	It would be expected that demolition costs would be reflected in the price paid for development sites so that they could cost less than the benchmark land value. This approach was taken in the WCOA DIFS study.
PDCS	12.06	Aviva and Helical Bar	Jones Lang LaSalle	4	Professional Fees – the illustrative proposal in Appendix 4.6 makes an allowance for just 8% for professional fees. The universally accepted allowance for all professional fees of some 12% should be made.	Professional fees	Professional fees are based upon accepted industry standards. For the DCS the rate has been increased from 8-10%.
PDCS	12.07	Aviva and Helical Bar	Jones Lang LaSalle	5	Other Fees/Costs – no allowance has been made for a range of other costs such as surveys, planning fees, Council charges, building regulations etc, all of which would be on top of the allowance for professional fees and would further undermine the viability.	Other fees	Professional fees relate to the costs incurred to bring the development forward and cover items such as; surveys, architects, quantity surveyor etc.
PDCS	12.08	Aviva and Helical Bar	Jones Lang LaSalle	6	Finance costs – although the rate of 7% is appropriate, the resultant finance costs seem to be an underestimate due to the other assumptions that will have been made on construction periods, payment dates etc, but which have not been made publically available.	Finance costs	Information on phasing of construction and sales is set out in Appendix A of the Viability Study.

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PDCS	12.09	Aviva and Helical Bar	Jones Lang LaSalle	7 Borough CIL – the illustrative appraisal makes no allowance for the suggested levy of £100 per sq m in addition to the mayoral CIL. Without such an allowance being made in the example provided (and ignoring all the errors set out above), it is suggested that a profit on cost of 20% can be achieved, with just under 17% profit on gross development value. The Borough CIL alone would erode about a tenth of the overall return and hence the CIL in isolation reduces the profits to a level below that that is required.	Profit	Revised sample appraisals for White City East are included in the Viability Study.
PDCS	12.10	Aviva and Helical Bar	Jones Lang LaSalle	8 Requirement for Other Uses Ignored – the illustrative example makes no allowance for the fact that most schemes of this size would be required to make provision for other uses as part of the overall development, which invariably require cross subsidising from the residential element, thereby reducing overall profitability.	Mixed uses	The sample viability appraisals for the DCS include large mixed use schemes.
PDCS	12.11	Aviva and Helical Bar	Jones Lang LaSalle	9 Abnormals – invariably most development sites have abnormals that have to be addressed (as distinct from the contingency allowed for in the construction cost which is normal). However, no allowance has been made in the figures that the Council is seeking to rely upon.	Abnormals	The Viability Study methodology expects that abnormal costs would be reflected in the land costs, therefore, they would effectively reduce the Benchmark Land Value. The WCOA DIFS also took this view which is clearly stated on pages 42/43. However, the Viability Study methodology allows scope for abnormal costs that are not fully reflected in land value to be absorbed from within the overage, since only a small proportion is taken for CIL.
PDCS	12.12	Aviva and Helical Bar	Jones Lang LaSalle	The concerns set out above in respect of the flaws in the viability analysis are fundamental. It is clear that the conclusions reached grossly overestimate the viability of development in the northern zone, even in the absence of CIL. It is clear that the 50 unit scheme in the north of the Borough is not viable and hence unable to support a levy. The base research upon which the Council is relying in informing the appropriate CIL rates therefore needs to be reconsidered in the northern part of the Borough; otherwise the regeneration sought by the Council will be made unviable by the rates suggested.	General viability and deliverability	The DCS evidence includes appraisals of sample schemes on larger sites as well as those used for the PDCS stage.
PDCS	12.13	Aviva and Helical Bar	Jones Lang LaSalle	<u>The Application of the Viability Analysis to the Proposed CIL Charging Rates</u> In addition to the viability concerns outlined above for residential development, the proposed charging rates for other uses have little or no research upon which to be based. The two main areas of concern are as follows: Uses within Use Class D1 – the proposed charging schedule applies a nil rate for health and education, which paragraph 4.3.1 of the Preliminary Draft Charging Schedule says "are not sufficiently viable to support a CIL payment". Other uses within Use Class D1, including a wide range of community uses are also not viable and indeed are often required as part of development proposals and form part of the "planning gain". Such community uses generate a negative value and need to be cross-subsidised. As such, it is self evident that there is no "extra" or "super" profit generated by these uses that can pay for a levy. If the provision of such onsite community facilities is to be taxed, then it is even more unlikely that they will be provided. It is requested that the Draft Charging Schedule be amended so that health and education be widened to include all uses within Use Class D1.	Mixed uses D1 uses	This comment refers to development in White City East where the DCS proposes a £0 charge for all uses.
PDCS	12.14	Aviva and Helical Bar	Jones Lang LaSalle	All other uses – the Preliminary Draft Charging Schedule suggests a charging rate of £80 per sq m for all other uses. There is simply an insufficient evidence base to justify this charge on other uses in the northern zone. Whilst the work by Roger Tym does undertake some limited viability appraisal work for specific other uses such as large scale retail and a hotel, many of the figures are again undermined by some of the assumptions made, similar to those outlined earlier in respect of the residential appraisals. Furthermore, there are a raft of other uses such as a range of leisure activities and specialist uses that have simply not been considered at all and in the absence of any analysis it cannot be concluded that a levy of £80 per sq m can be supported without harming viability to an unacceptable degree.	Other uses	The Viability Study gives further consideration to other uses.
PDCS	12.15	Aviva and Helical Bar	Jones Lang	<u>The Charging Zone</u> The detailed and specialist works that AECOM and Drivers Jonas undertook for the White City area on behalf of the	WC DIFS: Rates	The DCS sets out a revised approach to White City East.

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			LaSalle	Council and the GLA concludes that within the wider White City area, all other uses could not viably support any tariff and the Council has been recommended to adopt a nil rate. This clearly directly conflicts with the £80 per sq m being suggested in the Preliminary Draft Charging Schedule. Having undertaken this detailed work, the AECOM and Drivers Jonas findings and advice in respect of 'other uses' should be followed. Indeed, the AECOM/Driver Jonas work in White City suggests that different levels of viability do exist across the Borough and it is requested that both: (i) the rate for all other uses is reduced to nil; (ii) a separate charging zone for White City is adopted.		
PDCS	12.16	Aviva and Helical Bar	Jones Lang LaSalle	<u>Other Considerations</u> It is requested that the following two points are taken into account in respect of sub-section 5.5 of the Preliminary Draft Charging Schedule. Paragraph 5.5.1 explains that the Council has not decided whether to introduce an installment policy. In view of the fact that Hammersmith & Fulham Council has five regeneration areas, which include major sites whose redevelopment will be phased over many years, it is vitally important that payments can be made in installments. Otherwise this regeneration will not be delivered, as the larger schemes will not be able to bear all the costs up front. We ask therefore that the final CIL Charging Schedule allows for payments to be made in installments where development is to be phased.	Instalments	The Council currently does not expect that it will introduce its own instalment policy. Therefore, the Mayor of London's CIL instalment policy will apply to Mayoral and borough CIL payments.
PDCS	12.17	Aviva and Helical Bar	Jones Lang LaSalle	Second, on an entirely different matter, the final CIL Charging Schedule must explicitly allow for relief from the levy to be given in exceptional circumstances where a scheme cannot afford to pay the levy. The regulations specifically allow charging authorities the option of giving such relief, providing the CIL Charging Schedule allows for it. Given the importance of ensuring that the levy does not prevent otherwise desirable development, we ask that provision within the Charging Schedule is made to allow such exceptional circumstances to be taken into account.	Exceptional circumstances	It is not currently proposed to introduce an exceptional circumstances policy. Such a policy is only possible if there is a S106 obligation on a development and the development cannot pay CIL. The proposed CIL charges make allowance for the possibility of such obligations.
PDCS	13.01	Berkeley Group	Quod	Berkeley has several land interests in the Borough including St. George's consented developments at Chelsea Creek and Fulham Reach and the proposed development at Kings Mall, which is currently at the pre-application stage, and St James' interests at Carnwath Road and Lime Grove Mews. Together these represent over 1,500 homes in the Borough's future housing pipeline. …It is essential that the introduction of the Community Infrastructure Levy does not frustrate the development process or place an unsustainable burden on future development which would undermine the Council's ability to meet its housing target of 615 dwellings per year. <u>General Evidence Base and Approach</u> The Council appears to have broadly followed the requirements set out in "Community Infrastructure Levy Guidance: Charge setting and charging schedule procedures". The approach to infrastructure planning appears comprehensive but we believe that more use should then be made of this work in considering the viability and deliverability of key development areas. We have some concerns about the approach to viability testing as the typologies that have been assessed don't appear to reflect properly the actual development pipeline, and consequently the conclusions may be unsound. We will expand on these points further below. In general we have a concern that the Charge Setting Guidance has been taken by many authorities as encouraging relatively light-touch high level viability assessment, with infrastructure planning principally for the purposes of demonstrating a viability gap rather than a focus on supporting delivery. We believe that it is important for the local authority to give consideration to large housing and mixed use sites, which are likely to have a combination of Section 106 obligations, including site specific mitigation and affordable housing, and policy requirements as well as CIL requirements. In particular it would be helpful for both the Council and developers to understand the likely combined weight of obligations in deciding whether the proposed CIL levels are appropriate.	General viability and deliverability	The DCS evidence includes appraisals of mixed use sample schemes on larger sites as well as those used for the PDCS stage.

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				This would address references in the guidance to the need to understand implications for development plan priorities (para 7), the potential for site sampling where there may be an impact on viability (para 25), evidence of impacts on residential development, including the SHLAA and housing pipeline (para 26), and the impacts of other development costs including Section 106 and affordable housing on viability (para 28). The latter point is re-emphasised in paras 173 to 177 of the NPPF. We believe that the work undertaken to support the development of the Preliminary Draft Charging Schedule provides a good basis on which to do this but would encourage the Council, prior to the production of the Draft Charging Schedule, to engage with local house-builders and developers to address the issues arising for sites that underpin the Council's housing pipeline.		
PDCS	13.02	Berkeley Group	Quod	Infrastructure Planning Schedule We are pleased that in relation to infrastructure planning the Council has gone well beyond the minimum and provides a comprehensive assessment of likely infrastructure needs and funding sources. Our view is that in the next stage of the work this needs to work through into the Viability Assessment, and also some more explicit statements about the likely scale and scope of Section 106 and Affordable Housing contributions. It would be useful if the Council could refine the list in Appendix 2 of the Infrastructure Planning Schedule. At present Figure 3.2 of the Charging Schedule assumes approximately a 5:1 ratio of CIL to S106, which would equate to S106 being an additional 20% on top of CIL. Whilst it is appreciated that the table was principally produced for the purposes of demonstrating a funding 'gap' rather than assessing residual Section 106 requirements, it implies a relatively significant level of funding will continue to be sought from Section 106 agreements. It would therefore be useful to understand which of the items are priorities and meet the necessity test, as set out in Regulation 122 of the CIL regulations. This is of particular significance for those sites located in the "Regeneration Areas" identified in the Council's Core Strategy and for which additional policy requirements apply. Much of the information on the South Fulham Riverside area, for example, is sourced from the Delivery and Infrastructure Funding Study (2012) which has been incorporated into draft policy guidance for the area. This includes (Chapter 14) an infrastructure list which it suggests will be funded by a combination of CIL and Section 106 contributions. Given that these are clearly policy obligations with costs which should be taken into account in the Charge Setting process it would be useful for the Council to confirm the anticipated split and ensure that they are factored into the viability assessment for the southern part of the Borough.	S106 costs	The approach to future S106 is explained in the DCS documentation.
PDCS	13.03	Berkeley Group	Quod	We welcome the Council's commitment to produce a draft Section 106 SPD to be consulted on in advance of the CIL examination and believe that the work described above could usefully feed into this.	Planning Obligations SPD	Support noted. However, the SPD will not now be produced in advance of CIL though an outline of the scope of future S106 is included in the DCS supporting document.
PDCS	13.04	Berkeley Group	Quod	Viability Assessment At present we do not consider that the typologies used in the viability assessment reflect the types of developments that form the Council's housing pipeline. This is of significant concern as it is at present unclear whether the inputs to the model – on build costs, Section 106 requirements and other items – are appropriate and therefore whether the outputs from the model are reliable. … The current assessment uses only two typologies – of 10 and 50 homes - in each of the three sub-areas. The most recent monitoring report however suggests that 90% of the Council's five year supply is on developments of more than 50 homes, and over half (55%) on 10 developments with over 250 homes. We would suggest that the Council therefore needs to test at least two more typologies for larger sites – with explicit consideration of site specific Section 106 and Affordable Housing Requirements and any required 'mixed use' elements (affordable workspace, community space).	Large sites Mixed uses	The Viability Study has an expanded range of sample sites that includes two large mixed use schemes in each zone.
PDCS	13.05	Berkeley Group	Quod	The Council's policies, which place a range of requirements and obligations upon development are set out in a number of documents. These include the Core Strategy (2011) which sets out a range of additional policy requirements for each of the	S106 costs and other policy costs	The policy requirement for affordable housing is taken into account in the CIL viability appraisals.

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				regeneration areas. These include affordable housing, employment based uses as part of mixed use developments, investment in open spaces and leisure uses (including the riverside walk), high quality design standards, contributions to public transport accessibility and highway capacity and strategic and local policies in relation to carbon reductions and climate change. For the three largest Regeneration Areas the Council has undertaken assessments of infrastructure requirements and produced Supplementary Planning Documents. In the case of South Fulham Riverside this is in Draft form (March 2012). The Council has also produced a range of other Supplementary Planning Guidance and a Submission Draft Development Management DPD (July 2012), setting out detailed standards and requirements expected from developments. The combined weight of these standards and obligations means that it is likely that standard build costs will not be appropriate and that there will be a significant residual Section 106 requirement for major developments if they are to demonstrate that they are consistent with policy and have mitigated their impacts.		Appraisals for the DCS now include a 5% on cost allowance for plot externals. Appraisals now include a £1,000 per private dwelling S106 costs. However, it is recognised that in some cases there may be additional significant S106 requirements which would need to come out of the overage identified in the viability study; albeit, many S106 purposes would in future be funded through CIL. This possibility is taken into account when considering how much of the overage could fund a CIL charge.
PDCS	13.06	Berkeley Group	Quod	The Council should test the inputs to this with developers and with recent development appraisals undertaken in the Borough…	Recent/historic S106s and appraisals	The Council has carried out an examination of a large number of schemes to compare S106 with theoretical CIL and has concluded that the proposed CIL charge rate are reasonable in comparison. See DCS supporting document.
PDCS	13.07	Berkeley Group	Quod	…Our review of inputs to the model suggests, for example, that assumed build costs for apartments may be too low for the higher value areas of the Borough…	Build costs	The approach to cost figures is explained in Appendix A of the Viability Study.
PDCS	13.08	Berkeley Group	Quod	…Other assumptions need to be made explicit. For example, the source of the benchmark land values referred to in para 4.3 and subsequently used in the tables to compare to development values is not clear…	Land values	The approach to benchmark land values is explained in Appendix A of the Viability Study.
PDCS	13.09	Berkeley Group	Quod	…Similarly Section 106 assumptions could be made explicit and separated from the catch all 'site preparation and infrastructure' heading.	S106 costs	The site preparation and infrastructure heading is for costs, additional to base build costs, within the development and not S106 contributions to infrastructure.
PDCS	13.10	Berkeley Group	Quod	The Council should also use recently consented developments as appropriate available evidence to reality check its emerging rates. The proposed rates in the southern zone, assuming 75 sqm per private home, would equate to a total CIL requirement of £33,750 per home, comprising £30,000 LBHF CIL and £3,750 Mayoral CIL. If residual Section 106 obligations were one fifth of CIL, in line with the high level assumption in Figure 3.2 of the PDCS, this would equate to a further £6,000 per home, giving a total obligation of just under £40,000 per home. The viability assessment assumes that this could be delivered alongside 40% affordable housing. In comparison we have undertaken an analysis of consented major developments in the last two years in the south area of the Borough, from the Molior database, a commercial database of planning consents on major residential developments in London. These developments, comprising 1,700 homes, are delivering approximately 24% affordable housing and around £28,000 Section 106 per private home. This would suggest that the proposed CIL rates could place too great a burden on development and that they would put at risk the delivery of large developments in strategic locations within the Borough which comprise the large majority of the Council's housing supply.	Recent/historic S106s and appraisals	The presumption on residual S106 is speculative.
PDCS	13.11	Berkeley Group	Quod	<u>Conclusions</u> Without further clarity on the residual policy and infrastructure requirements and an assessment of larger site typologies it is difficult at present to form a judgement on the appropriateness of the proposed charges, but comparison to the combined affordable housing and Section 106 requirements on recent developments suggests that they could significantly add to overall burdens on development.	General viability and deliverability	The DCS evidence includes appraisals of mixed use sample schemes on larger sites as well as those used for the PDCS stage.

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				We would suggest that it is essential for the Council to undertake some additional viability assessment on larger developments to better reflect the Council's likely development pipeline, and consult with local landowners and developers on the input assumptions prior to the assessments being undertaken.		
PDCS	13.12	Berkeley Group	Quod	As important for major sites is clarity on the overall combination of likely requirements, including those from the Infrastructure Delivery Plan as well as other policy requirements. Clarity on these issues would inform the development of the revised SPD on Planning Obligations and the Council's Regulation 123 list, and the earlier this is done the better as it will allow informed response to the proposed CIL charging levels.	Planning Obligations SPD R123 List	Comment noted. An outline of the scope of future S106 is included in the DCS supporting document.
PDCS	13.13	Berkeley Group	Quod	As you will be aware there is limited flexibility in revising a Draft Charging Schedule after it has been published, and changes are discouraged prior to examinations. Therefore, if the Council is minded to undertake the additional work described above we believe that it would be useful for all parties if there is a further round of informal consultation to allow feedback prior to publication of the Draft Charging Schedule.	Meeting	Meeting held
PDCS	14.01	Greater London Authority	-	We are pleased to note that the Mayor's CIL was taken into account by Roger Tym and Partners in their Viability Assessment and subsequently in the rates proposed in your preliminary draft schedule as required by regulation 14(3) of the Community Infrastructure Levy Regulations 2010 (as amended). There are two areas in which the Viability Assessment may be open to misinterpretation. The first is in the approach taken by the consultants is establishing a "standard charge" and then looking at whether variations on this are justified in particular cases. The Regulations are clear that the correct approach is to identify the "right" level of charge for particular uses and areas. One that could be presented as establishing a baseline rate with "concessions" in particular cases could provide the basis for arguments that your proposals involved State Aids. As you may know, we faced arguments of this kind at the examination of the Mayor's draft charging schedule (it was an issue on which we took counsel's opinion), and it is clear from discussions with many in the development sector that the distinction between a differential rate and a partial exemption is not understood. You may want to discuss this presentational point with your consultants before you bring forward your draft charging schedule; I would be glad to discuss this point further if it would be helpful.	All uses unless otherwise stated	The approach has been reviewed.
PDCS	14.02	Greater London Authority	-	There are two minor points we would make on the Viability Assessment, neither of which affect the central judgement. As you know from previous discussions, it may be a little sweeping to say (para. 4.7) that no discount market sale housing can benefit from social housing relief…	Affordable housing: discounted market sale	This will be reviewed in the light of recent changes to the CIL Regulations affecting social housing relief.
PDCS	14.03	Greater London Authority	-	…And while what is said in paragraph 4.79 is true, it may be worth being clear that this has not been a consideration in setting the differential rate as it is not strictly a viability-based factor.	Health / education / industrial / warehousing	Agreed. Reference has been removed.
PDCS	15.01	Valad Europe	Indigo Planning	VALAD Europe ('Valad') is the freeholder of both Fairfax House and Grayton House which, although adjacent, are located at 461-465 North End Road and 498-504 Fulham Road respectively, within Fulham Town Centre. Valad are actively considering future options with regard to these properties given the challenging commercial property market in locations such as Fulham Town Centre. The implementation of CIL in the Borough and potential impact on the viability of any future proposals is therefore of great interest to Valad who wish to ensure that any tariff is implemented fairly and appropriately. … We have identified both of our client's properties as being marginally within the 'Central B' charging zone. We are satisfied that the Council has, in defining four geographical charging zones without undue complexity, considered economic viability and has been mindful of local conditions. Both Fairfax House and Grayton House are within Fulham Town Centre and the Fulham Regeneration Area as designated with the Council's Core Strategy (October 2011). As alluded to above, although Fulham is an outwardly successful town centre with various retail, commercial and leisure functions, it is susceptible to the challenge of more high profile town centre locations such as Shepherd's Bush (Westfield London) and the nearby Kings Road. Because of the relatively polarised social, physical and economic nature of the town centre, development would have much narrower margins of economic viability than the adjacent 'South' charge zone. Therefore we would wish to see the existing charge zone boundaries maintained as proposed	Residential Central B Zone	Support for retention of Residential South Zone charging boundary acknowledged.

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				which we note replicate the southern boundary of the Regeneration Area.		
PDCS	15.02	Valad Europe	Indigo Planning	In terms of Charge rates we welcome the zero charge in regard to Office development (Class B1a/b). This will assist the office market in Fulham Town Centre.	Offices: Central B	Support noted.
PDCS	15.03	Valad Europe	Indigo Planning	We note the charge rate of £200 per sq metre proposed for residential development (Class C3/C4/HMO/Hostel) within the Central B zone. We have reviewed the Roger Tym and Partners accompanying Viability Assessment (Appendix 3) which provides the evidence base that underpins the proposed charging schedule. As the Council has identified the Fulham Regeneration Area as a part of the Borough that requires significant inward investment to aid the regeneration and growth agenda it is our view that it would be appropriate to reduce CIL charges in such areas. There is no reference to this approach in the Viability Assessment and we contend that such an approach should be incorporated into subsequent drafts of the Charging Schedule.	Residential Central B Zone	Differential area CIL charges can only be set based on viability evidence, not on a desire to bring in significant inward investment. There is no evidence to suggest that a separate charge for Fulham Regeneration Area , as apart from the proposed Residential Central B Zone, is required.
PDCS	15.04	Valad Europe	Indigo Planning	The provision of 'live appraisals' comparing viability of residential development in a pre-CIL environment and viability of the same development subject to the CIL would have been helpful and would presumably help justify relevant proposed charge rates. In addition further justification on how overage levels have been decided, with regard to residential development would be helpful.	Recent/historic S106s and appraisals	Appraisals for live / recent schemes are confidential and cannot be provided as part of the evidence base.
PDCS	15.05	Valad Europe	Indigo Planning	<u>Calculation of CIL Charge</u> We note the reference at 5.3.2 to method for calculating deductions and the provision of the definition of an 'existing building in lawful use' which is at paragraph 40 of the CIL Regulations 2010. Cross reference to exemption provisions at 1.1.5 of the PDCS ('What development will be liable for CIL?') may be appropriate.	Cross-referencing	Will consider if necessary.
PDCS	15.06	Valad Europe	Indigo Planning	<u>Other Considerations</u> At 5.5.1 it is stated that the *'Council has not currently decided whether to introduce an instalment policy. It will consider whether to do so in the light of any decision by the Mayor of London to introduce an instalment policy for the Mayoral CIL, should the regulations allow'.* We would contend that a reasonable instalment policy should be included from the outset in the arrangements. Both London Borough's that have in place existing CIL regimes (Redbridge and Wandsworth) allow payment by instalment under 69B of the CIL (Amendment) Regulations. Any decision by the Mayor in regard to an instalment policy on the Mayoral CIL is not likely to occur soon. The Mayoral CIL Charging schedule states that '*The Mayor is having discussions with London boroughs about establishing a common approach to payment by instalments' but* provides no definitive timeframe for any adoption of an instalment approach.	Instalments	The Council currently does not expect that it will introduce its own instalment policy. Therefore, the Mayor of London's CIL instalment policy will apply to Mayoral and borough CIL payments.
PDCS	15.07	Valad Europe	Indigo Planning	We also consider that Hammersmith and Fulham should include reference to a discretionary relief in the PDCS as this will be critical to some potential occupiers. Regulation 55 (1) of the 2010 CIL Regulations allows a charging authority to grant relief (for exceptional circumstances) from liability to pay CIL in respect of chargeable development if: (a) it appears there are exceptional circumstances which justify doing so; and b) the charging authority considers it expedient to do so.	Exceptional circumstances	It is not currently proposed to introduce an exceptional circumstances policy. Such a policy is only possible if there is a S106 obligation on a development and the development cannot pay CIL. The proposed CIL charges make allowance for the possibility of such obligations.
PDCS	15.08	Valad Europe	Indigo Planning	Finally we note the amendment to the CIL regulations recently laid before Parliament which will establish special rules for calculating CIL liability for planning permissions granted under section 73 of the Town and Country Planning Act 1990 (TCPA) to 'vary' existing planning permissions. We would expect that there be reference made to these amendments in the Draft Charging Schedule.	New CIL Regulations	It is not necessary to refer to S73 provisions in the DCS.
PDCS	16.01	Chelsea Football Club	CBRE	Chelsea Football Club ('the Club') is currently the most successful of the five premier football clubs in the capital and due to its recent achievements has established itself as an international brand. With a turnover of over £210 million and employing over 500 permanent staff, the Club enjoys a role of supporting London as a world sporting centre and it also makes a significant contribution to the local and regional economies, tourism and education. Over 1,000 non-match day events are held per annum across the club's 81 event spaces.	All uses unless otherwise stated Stadium / D2	The LBHF Core Strategy supports the continued presence of the major sports venue for football and tennis, subject to the local impact of the venues being managed without added detriment to local residents. However, the Plan does not include any

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				The Club also directly contributes significantly into the local economy (quite apart from the indirect contribution via local businesses and indirect employment), as well as providing the Borough and the wider sub-region with a high profile brand to reinforce local image and character. In the 2010/11 season the Club also invested in excess of £7 million in Corporate Social Responsibility, including over £5 million of community investment and £2 million to charities. In addition, the Club's "Football in the Community" schemes and facilities had more than 850,000 participants in London and the South-East in the same year. The Club thereby is a major contributor to London's World City status and West London and the Borough's economy. Regarding CIL, the Club recognise the need for a mechanism to enable the co-ordinated collection of funds to enable the delivery of essential physical and social infrastructure required to support the delivery of regeneration across the Borough. However, the Club have concerns with regards the LBHF PDCS and associated evidence base as summarised below. <u>Charge Rate for All Development</u> The PDCS currently assumes a charge of £80 per sq m of development for all uses excluding residential, office, industrial and warehousing, health and education uses. As you are aware, the Club are considering the potential to expand their current stadium at Stamford Bridge or develop a new stadium at alternative locations locally. Based on the above categorisation, a charge of £80 per sq m would be levied on any additional stadium (Class D2) floorspace. The Roger Tym and Partners Viability Assessment prepared in support of the PDCS has not tested the viability implications of imposing such a charge on stadium development. Whilst it is accepted that is not appropriate to test the viability impacts on all D2 leisure uses (e.g. Cinemas, music venues, swimming baths etc), given the strategic importance of the Club to the London wide and local economies, it is recommended that the authorities work with the Club to ensure any CIL charge would be appropriate to enable the viable delivery of an expanded or new stadium development. If necessary, the charge for Class D2 Stadium use should be exempt or separated out and a charge level set which will not impact upon viability. The Club welcome the opportunity to work with the Borough to assess the impact of CIL on the viability of stadium development to ensure the PDCS is based upon a robust evidence base that will not compromise the Club's long term future in the Borough.	uses	development proposals which involve Stamford Bridge Stadium or Chelsea Football Club or have any policies which support redevelopment or relocation of the stadium. Accordingly, there is no basis on which to define a schemes for CIL appraisal purposes. Therefore, it is not appropriate or necessary to assess the viability of a hypothetical scheme involving the club which may be on the present site or another.
PDCS	16.02	Chelsea Football Club	CBRE	<u>Charging Zone Boundaries</u> Figure 4.5 (Proposed CIL Charging Zones) of the Roger Tym and Partners Viability Assessment sets out the proposed Charging Zone boundaries for the LBHF CIL. Figure 4.3 shows that Stamford Bridge falls within the SW6 (1) ward which is identified as falling within the second lowest value band for average sales prices for terraced houses (£790k to £1.28m). Figure 4.4 shows that the SW6 (1) ward is identified as having average flat sales prices between £440,000 to £550,000 per unit. This is compared to the SW6 (2) ward, immediately to the south of Fulham Road, where average sales values are higher at £550,000 to £660,000. Whilst part of the SW6(1) ward falls within the Central Charging Zone (where the residential charge rate is set at a lower rate of £200 per sq m of residential floorspace), the other part of the SW6(1) ward, including Stamford Bridge has been included within the South Charging Zone. Para 1.3 of the Roger Tym and Partner's Viability Assessment Report states "*it is fundamental that the evidence demonstrates different levels of viability either side of boundary line"*.	Residential Central B Zone Residential South Zone	The LBHF Core Strategy supports the continued presence of the major sports venue for football and tennis, subject to the local impact of the venues being managed without added detriment to local residents. The Plan does not include any development proposals which involve Stamford Bridge Stadium or Chelsea Football Club or have any policies which support redevelopment or relocation of the stadium. If any development proposals came forward, it is considered that residential values would have more in common with the area south of Fulham Road. The Stadium is physically separated from the central CIL zone by the District Line.

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				It goes on to state at Para 4.36 that, "*it is difficult to precisely define zones in such a way as to eliminate possible issues with any one site because it is adjacent to a boundary and therefore potentially paying a higher charge than if located on an immediately adjacent site the other side of the boundary*". Para 4.38 advises *"it was considered that the most reasonable approach was for the boundaries to be drawn down the middle of main roads, where appropriate. This rule is followed for the majority of the boundaries".* There is no evidence or explanation provided to justify the deviation of the charging zone boundary from Fulham Road to include Stamford Bridge. It is the view of the Club that the Charging Zone boundary should be revised to run along the centre of Fulham Road with the entirety of Ward SW6 (1) falling within the Central Charging Zone not the South Charging Zone as currently indicated. The Club therefore request that the Central/South Charging Zone boundary be revised and further evidence and justification provided in relation to setting of the boundary between the charging zones.		
PDCS	16.03	Chelsea Football Club	CBRE	<u>Level of Residential Charge within the 'South' Charging Zone</u> Para 4.1 of the Roger Tym and Partners Viability Assessment produced in support of the PDCS states, *"the fundamental premise is that the CIL must be set at a level that does not put at serious risk the delivery of the Core Strategy".* The proposed 'South' charging zone covers a third of the Borough, including the Club's football stadium at Stamford Bridge. At a rate of £400 per sq m for residential floorspace this would be the joint second highest proposed residential charge in the London boroughs to date. Only the riverside area within the Vauxhall, Nine Elms, Battersea Opportunity Area (VNEB OA) in LB Wandsworth has a higher proposed residential charge rate of £565 per sq m and this reduces to £265 per sq m for sites not immediately adjacent to the river. The only other location where £400 per sq m is proposed is again a small area directly adjacent to the River Thames in the northern part of the LB Southwark. Away from riverside locations, in all other boroughs, it has been recognised that the achievable residential values are likely to be lower and therefore the level of CIL is lower. The average residential CIL charge away from riverside locations across London is currently £142 per sq m. [See attached summary of residential charge rates currently proposed in other London Boroughs – See Appendix 1 for detail.] The Roger Tym and Partners Viability Report submitted in support of the PDCS recognises that values are heavily influenced by access to waterside views and the specification of development (Para 4.15). We therefore believe that the level of charge for the South Zone is significantly above what is realistic or reasonable when compared to other boroughs and areas set back from the River Thames. Whilst levels of £400 per sq m may be viable in riverside locations the Club do not consider development away from the river front is capable of supporting such levels of charge. Para 4.1.3 of the PDCS recognises Government guidance that states the charging authorities should explain "*why they consider that their proposed CIL rate (or rates) will not put the overall development across their area at serious risk*". [Para 8 of the DCLG's Charge Setting and Charge Schedule Document]. The Club do not consider sufficient justification has been provided for setting an aggregate charge across the whole of the South Charging Zone at £400 per sq m for residential. The Viability Appraisals, included within the Appendices to the Roger Tym and Partners Viability Assessment, do not test the impact of including the CIL charge on development. It is requested that further more detailed viability testing is undertaken to demonstrate the impact of a CIL charge on development.	Residential South Zone Riverside values	See previous response to this commenter. LBHF charging rates compare favourably with neighbouring boroughs. See DCS supporting document.

<table>
<tr><th>Stage</th><th>Rep #</th><th>Organisation</th><th>Agency</th><th>Representation</th><th>Issue</th><th>Response</th></tr>
<tr><td></td><td></td><td></td><td></td><td>The level of CIL in the South Zone should therefore be reviewed and reduced to ensure the viability of development is safeguarded. Alternatively, the riverside locations should be separated out from the rest of the South Zone to reflect the benefit of riverside values and a lower charge rate set for the areas away from river frontages.
…
<u>Appendix 1 - London CIL Residential Rates Comparables (October 2012)</u>
<table>
<tr><th>London Borough</th><th>Residential CIL Charge – Highest Rate (£ per sq m)</th><th>Location</th></tr>
<tr><td>Wandsworth</td><td>£575</td><td>Riverside VNEB</td></tr>
<tr><td>LBHF</td><td>£400</td><td>Southern Zone</td></tr>
<tr><td>Southwark</td><td>£400</td><td>Northern zone immediately adjacent to river</td></tr>
<tr><td>Merton</td><td>£385</td><td>Wimbledon</td></tr>
<tr><td>Islington</td><td>£300</td><td>Borough wide</td></tr>
<tr><td>Haringey</td><td>£265</td><td>West half of borough</td></tr>
<tr><td>Brent</td><td>£200</td><td>Borough wide</td></tr>
<tr><td>Barnet</td><td>£135</td><td>flat rate across all development</td></tr>
<tr><td>Croydon</td><td>£120</td><td>Borough wide excl. Croydon Town Centre</td></tr>
<tr><td>Harrow</td><td>£110</td><td>Borough wide</td></tr>
<tr><td>Sutton</td><td>£100</td><td>Borough wide</td></tr>
<tr><td>Lewisham</td><td>£100</td><td>northern tip of borough</td></tr>
<tr><td>Hillingdon</td><td>£95</td><td>Borough wide</td></tr>
<tr><td>Barking and Dagenham</td><td>£70</td><td>Barking Town Centre, Leftley and Faircross</td></tr>
<tr><td>Redbridge</td><td>£70</td><td>Flat rate across all development</td></tr>
<tr><td>Average</td><td>£142</td><td>N/A</td></tr>
</table>
</td><td></td><td></td></tr>
<tr><td>PDCS</td><td>17.01</td><td>Stanhope</td><td>Gerald Eve</td><td>…the BBC has recently disposed of the BBC Television Centre within the White City Opportunity Area which Stanhope has acquired. Stanhope is therefore now a major landowner within Hammersmith and Fulham.

We are in the very early stages of bringing forward a development proposal for the site and are therefore unable to comment in detail on the extent to which the CIL charging schedule, as currently drafted, would affect the viability of the proposal that is finally submitted for consideration to the London Borough of Hammersmith and Fulham.

Notwithstanding this, we fully support the Council's approach for adopting a lower charge for land within the White City Opportunity Area (north charging zone) as there is clearly a need to encourage investment and expedite delivery of the major sites in this area at the earliest opportunity. In this respect, we are keen to engage with the Council on viability matters concerning the emerging proposals for the BBC Television Centre and the implications that the current CIL drafting schedule may have on the overall planning proposals that may be achieved for this site.</td><td>Residential North Zone</td><td>Support for lower Residential North Zone charge acknowledged</td></tr>
<tr><td>PDCS</td><td>18.01</td><td>Natural England</td><td>-</td><td>Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

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

As such we advise that the council gives careful consideration to how it intends to meet this aspect of the NPPF, and the role of the CIL in this. In the absence of a CIL approach to enhancing the natural environment, we would be</td><td>Natural environment infrastructure</td><td>Acknowledge further natural environment infrastructure background in Infrastructure Plan.</td></tr>
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Stage	Rep #	Organisation	Agency	Representation	Issue	Response
				concerned that the only enhancements to the natural environment would be ad hoc, and not deliver a strategic approach, and that as such the local plan may not be consistent with the NPPF. Potential infrastructure requirements may include: • Access to natural greenspace. • Allotment provision. • Infrastructure identified in the local Rights of Way Improvement Plan. • Infrastructure identified by any Local Nature Partnerships and or BAP projects. • Infrastructure identified by any AONB management plans. • Infrastructure identified by any Green infrastructure strategies. • Other community aspirations or other green infrastructure projects (e.g. street tree planting). • Infrastructure identified to deliver climate change mitigation and adaptation. • Any infrastructure requirements needed to ensure that the Local Plan is Habitats Regulation Assessment compliant		
PDCS	19.01	Chelsea Harbour	Jones Lang LaSalle	<u>Extent of the Proposed CIL Charge</u> Our client supports the proposal for a nil CIL charge in respect of offices, industrial, warehousing, health, education, and affordable housing uses. Indeed, they agree that these uses are not sufficiently viable to support the provision of CIL.	Health / education / industrial / warehousing	Support noted.
PDCS	19.02	Chelsea Harbour	Jones Lang LaSalle	…we note that it is proposed to charge £400 per sq m for residential development and £80 per sq m for all other development in the south charging area where our client's sites are based. Our client is strongly opposed to this charge as it will (when taking into account the Mayoral CIL charge of £50 per sq m) affect the viability, and therefore deliverability of developments, particularly those involving a significant amount of residential floorspace. As set out in page 7 of the "CIL Viability Assessment" document, "the fundamental premises is that CIL must be set at a level that does not put at risk the overall level of development in an area". However, we consider the CIL charges proposed (particularly in the south area) would fail this test and will deter development in the borough. Clearly, this could lead to LBHF failing to meet (yet again) its housing target).	CIL charge	No change proposed to rate in South Fulham as this rate does not threaten viability.
PDCS	19.03	Chelsea Harbour	Jones Lang LaSalle	In addition, our client has a number of concerns with regards the manner in which the proposed CIL charges have been arrived at. These our outlined below: • It is unjust that areas outside of the South Fulham Riverside (such as our client's sites) may be required to contribute to the maximum level of CIL in the borough when figure 2.7 of the "Infrastructure Plan" shows that such areas are expected to account for just 1,200 units (8.3%) of the 14,400 unit housing requirement up to 2032 in the borough, and will therefore have a negligible impact on local infrastructure requirements.	Residential South Zone SFR DIFS	CIL areas determined by viability, not infrastructure need. CIL liability is based on floorspace so development in SFR would pay the appropriate proportional amount of CIL.
PDCS	19.04	Chelsea Harbour	Jones Lang LaSalle	• The "CIL Viability Assessment" does not include any indicative development appraisals for mixed use developments, which accounts for a significant number of developments in the borough. Until the impact on mixed use developments in the borough is assessed, our client does not consider LBHF can be certain that CIL charges would have no adverse impact on development viability.	Mixed uses	The sample viability appraisals for the DCS include large mixed use schemes.
PDCS	19.05	Chelsea Harbour	Jones Lang LaSalle	• The indicative development appraisals contained in the "CIL Viability Assessment" do not make any provisions for general contingency, and assume only an architect under the heading 'professional fees'. In reality, for a scheme of this size there would be numerous consultants such as a planning and transport consultant, structural engineers, heritage/flooding/daylight and sunglight consultants etc.	Contingency Professional fees	There is an allowance of 5% on costs for contingency. Professional fees in the appraisals relate to the costs incurred to bring the development forward and cover items such as; surveys, architects, quantity surveyor etc. Professional fees are based upon accepted industry standards and are calculated as a percentage of build costs.

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PDCS	19.06	Chelsea Harbour	Jones Lang LaSalle	• The residential appraisals do not set out what unit sizes are assumed. Indeed, in respect of the 50 unit residential scheme for example, 30 market apartments in the south area would have a unit price of £581,400. This seems a huge assumption considering the significance of the proposed CIL charges for development viability in the borough.	Residential values	Unit sizes are set out in Appendix A of the DCS Viability Study
PDCS	19.07	Chelsea Harbour	Jones Lang LaSalle	<u>Relief for Exceptional Circumstances</u> Section 55 of the Community Infrastructure Regulations 2010 states that *"a charging authority may grant relief ("relief for exceptional circumstances") from liability to pay CIL in respect of a chargeable development […] if it appears to the charging authority that there are exceptional circumstances for doing so; and (b) the charging authority considers it expedient to do so"*. However, as with the Mayoral CIL, the PDCS makes no allowance for relief for exceptional circumstances. Clearly, this approach runs contrary to the Government's recently announced strategy to incentivise developers to bring forward more development in the current economic climate. Indeed, the proposed approach is likely to bring about a situation where the vast majority of planning obligations for new developments cannot be negotiated. This would further compound the concerns raised over development viability outlined above.	Exceptional circumstances	It is not currently proposed to introduce an exceptional circumstances policy. Such a policy is only possible if there is a S106 obligation on a development and the development cannot pay CIL. The proposed CIL charges make allowance for the possibility of such obligations.
PDCS	19.08	Chelsea Harbour	Jones Lang LaSalle	<u>Impact on Affordable Housing Delivery</u> Expanding on the above point, if a scheme includes affordable housing then the ability to negotiate that element still exists in accordance with the national CIL Regulations 2010. However, given that the delivery of affordable housing is a key priority for LBHF, London and the UK generally, it is astounding that this could be significantly reduced through negotiation at the expense of the introduction of a non-negotiable CIL for general infrastructure.	Affordable housing	Viability assessment assumes a policy-compliant level of affordable housing can still be achieved with the proposed CIL charges.
PDCS	19.09	Chelsea Harbour	Jones Lang LaSalle	<u>Additional 'Section 106' Planning Obligations</u> Although this is an issue pertaining to CIL generally, our client is concerned that there is no guarantee that a section 106 contribution would not be proposed by LBHF in relation to infrastructure not contained in the R123 list of infrastructure projects in the borough. Indeed, we note from Figure 3.2 of the PDCS that the funding gap of approximately £1.6m is expected to comprise £405m from CIL, £1,127m from CIL for Park Royal / HS2 and Crossrail 2, and £87m from s.106. Consequently it seems likely that schemes will, in reality, be asked to contribute in addition to CIL and affordable housing. Paragraph 3.3.3 of the PDCS alludes to this possibility, which would exacerbate further the viability issues outlined previously.	S106 costs	It is possible that developments may need S106 obligations (in addition to CIL) to make them acceptable. Appraisals now include a £1,000 per private dwelling S106 costs. However, it is recognised that in some cases there may be additional significant S106 requirements which would need to come out of the overage indentified in the viability study; albeit, many S106 purposes would in future be funded through CIL. This possibility is taken into account when considering how much of the overage could fund a CIL charge.
PDCS	19.10	Chelsea Harbour	Jones Lang LaSalle	<u>Payment Instalments</u> Paragraph 5.5.1 of the PDCS states that *"the Council has not currently decided whether to introduce an instalment policy. It will consider whether to do so in light of any decision by the Mayor of London to introduce an instalment policy for Mayoral CIL, should the Regulations allow"*. Notwithstanding the Mayoral CIL, we would strongly advocate the introduction of an instalment policy in the final PDCS. Indeed, a failure to do so will clearly involve the total CIL liability (LBHF and Mayoral CIL) being required upon commencement of the development in question. This is clearly unreasonable considering that developers will not, at such an early stage in the development, be generating revenue from the sale and/or lease of floorspace.	Instalments	The Council currently does not expect that it will introduce its own instalment policy. Therefore, the Mayor of London's CIL instalment policy will apply to Mayoral and borough CIL payments.
PDCS	19.11	Chelsea Harbour	Jones Lang LaSalle	<u>Conclusion</u> In view of the above, our client urges LBHF to re-consider the CIL charges proposed in the PDCS – particularly in the south charging zone. In particular, they would ask that development appraisals be produced for mixed use	Mixed uses	The sample viability appraisals for the DCS include large mixed use schemes.

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				developments, which represent a significant proportion of development in the borough, prior to the PDCS being adopted.		
PDCS	19.12	Chelsea Harbour	Jones Lang LaSalle	However, should LBHF ultimately decide to proceed with the PDCS in its current form, then our client would fully support the Government's advice to keep charging schedules under review to take account of changing market conditions and to respond to changes in the funding gap for infrastructure required to support development. This will allow the CIL charge to be lowered in the future if, as expected, it is considered to have a negative impact on development viability.	Monitoring and review	Review of the CIL charges would depend on monitoring changing market conditions affecting development, in particular, key appraisal assumptions and the viability of schemes coming forward.
PDCS	20.01	Romulus Construction	Jones Lang LaSalle	We write on behalf of our client Romulus Construction Ltd, who is the freehold owner of land in the town centres of the Hammersmith & Fulham Borough. <u>Extent of the Proposed CIL</u> Our client supports the proposal for a nil CIL charge in respect of industrial, warehousing, health, education, and affordable housing uses. Indeed, they agree that these uses are not sufficiently viable to support the provision of CIL.	Health / education / industrial / warehousing	Support noted.
PDCS	20.02	Romulus Construction	Jones Lang LaSalle	We note that it is proposed to charge £200 per sqm for residential development and £80 per sqm for office development and all other land uses in the Central A charging area (where some of our client's land is located). Romulus is strongly opposed to these proposed changes they will have a significant detrimental impact on the viability, and therefore the timely deliverability, of otherwise sustainable development proposals. This situation is exacerbated by the Mayor's Community Infrastructure Levy, already payable at £50 per sqm on all land uses (subject to very limited exception). Taken together, and regardless of the prevailing market conditions, these changes represent a critical constraint on our client's aspirations to continue to invest in the regeneration of the Borough, and in particular the urban renewal of Hammersmith Town Centre,. Which Romulus has long promoted and with which we are currently engaged with Officers on a pre-application basis. As set out on page 7 of the "CIL Viability Assessment" document, *"the fundamental premise is that CIL must be set at a level that does not put at risk the overall level of development in an area"*. However, we consider the CIL charges proposed (particularly in the central Hammersmith area) fail this test and will deter development in the Borough. In terms of residential development the most likely outcome is a continuing under delivery of all forms and tenure of housing, in the context of the London Plan targets, and the same applies to office, hotel and other commercial land uses.	General viability and deliverability	The £80/m^2 charge for offices only applies in Hammersmith Town Centre. No evidence is provided to show that schemes could not be viable.
PDCS	20.03	Romulus Construction	Jones Lang LaSalle	i. The "CIL Viability Assessment" does not include any indicative development appraisals for mixed use schemes, which will account for a significant proportion of developments in the Borough, and in particular town centre proposals. Until the impact on mixed use development is fully assessed, our client does not consider LBHF can reach the conclusion that CIL charges would have no adverse impact on development viability.	Mixed uses	The sample viability appraisals for the DCS include large mixed use schemes.
PDCS	20.04	Romulus Construction	Jones Lang LaSalle	ii. The Council's viability assessment that forms of the basis of the proposed 'standard' charge of £80 per sqm for, amongst others, office, hotel and student housing, is based on residual land values that reflect a lack of recognition of land and development costs, and an inflated assessment of the rental value in the current market.	Other uses	No alternative assumptions are suggested by the consultee.
PDCS	20.05	Romulus Construction	Jones Lang LaSalle	iii. Further to point no.ii, the indicative development appraisals contained in the "CIL Viability Assessment" do not make the necessary provision for general contingency, and include only "architect under the heading "professional fees". In reality, schemes of this scale will require a multi-disciplinary team of consultants, covering such matters as planning, transport, structural engineering, heritage, flooding, noise and daylight/sunlight etc.	Contingency Professional fees	There is an allowance of 5% on costs for contingency. Professional fees in the appraisals relate to the costs incurred to bring the development forward and cover items such as; surveys, architects, quantity surveyor etc. Professional fees are based upon accepted industry standards and are calculated as a percentage of build costs.

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
PDCS	20.06	Romulus Construction	Jones Lang LaSalle	iv. Figure 2.7 of the "Infrastructure Plan" indicates that Hammersmith Town Centre is expected to account for just 1,000 units (7%) of the 14,400 unit housing requirement up to 2032 in the Borough, and therefore regardless of the residential charging levels it will have a negligible impact on local infrastructure requirements.	Offices: Central A	CIL areas are determined by viability, not infrastructure need.
PDCS	20.07	Romulus Construction	Jones Lang LaSalle	<u>Relief for Exceptional Circumstances</u> Section 55 of the Community Infrastructure Regulations 2010 states that *"a charging authority may grant relief ("relief for exceptional circumstances") from liability to pay CIL in respect of a chargeable development […] if it appears to the charging authority that there are exceptional circumstances for doing so; and (b) the charging authority considers it expedient to do so"*. However, as with the Mayoral CIL, the PDCS makes no allowance for relief for exceptional circumstances. This approach runs contrary to the Government's stated strategy to incentivise developers to bring forward more development in the current economic climate. Indeed, a consequence of the proposed approach is that there is little, if any, scope for applicants and developers to negotiate with the Local Authority on Planning Obligations. This compounds the concerns over development viability outlined above, and has a critical link to the ability or otherwise of residential development schemes to contribute towards the LBHF and wider targets for affordable housing.	Exceptional circumstances	It is not currently proposed to introduce an exceptional circumstances policy. Such a policy is only possible if there is a S106 obligation on a development and the development cannot pay CIL. The proposed CIL charges make allowance for the possibility of such obligations.
PDCS	20.08	Romulus Construction	Jones Lang LaSalle	<u>Payment by Instalments</u> Paragraph 5.5.1 of the PDCS states that *"the Council has not currently decided whether to introduce an instalment policy. It will consider whether to do so in light of any decision by the Mayor of London to introduce an instalment policy for Mayoral CIL, should the Regulations allow"*. Notwithstanding the Mayoral CIL, we would strongly advocate the introduction of an instalment policy in the final PDCS. A failure to do so will result in the total CIL liability (LBHF and Mayoral CIL) being payable upon commencement of development. This is clearly unreasonable on the basis that at the outset our client will not be generating revenue from the sale and/or lease of any new floorspace.	Instalments	The Council currently does not expect that it will introduce its own instalment policy. Therefore, the Mayor of London's CIL instalment policy will apply to Mayoral and borough CIL payments.
PDCS	20.09	Romulus Construction	Jones Lang LaSalle	<u>Conclusions</u> In light of the above, and on behalf of our client, we request that the Council re-considers the CIL charges proposed in the Preliminary Draft Charging Schedule – particularly those for town centre areas. Specifically, we would welcome the introduction of robust and realistic residual land valuation appraisals that underpin the assessment of scheme viability, including for mixed use developments.	Mixed uses	The sample viability appraisals for the DCS include large mixed use schemes.
PDCS	20.10	Romulus Construction	Jones Lang LaSalle	However, should LBHF ultimately proceed with the PDCS in its current form, then our client fully supports the Government's stance of keeping charging schedules under review to take account of fluctuating market conditions, and to reflect shifts in the funding gap for infrastructure required to support development. This will allow charges to be lowered if, as we fully expect, the levy has a detrimental impact on development viability and scheme implementation.	Monitoring and review	Review of the CIL charges would depend on monitoring changing market conditions affecting development, in particular, key appraisal assumptions and the viability of schemes coming forward.
PDCS	21.01	Land Securities	Chase and Partners	<u>INFRASTRUCTURE PLAN</u> 1.1 Land Securities (LS) considers that Appendix 2 – Infrastructure Planning Schedule (IPS) represents a comprehensive list of infrastructure charging items. It is considered, however, that the rationale behind how the various category and schemes is delivered. There is some variation in the delivery of specific categories, but no explanation as to how these have been arrived at.	IPS delivery columns	Explain categories in Infrastructure Plan.
PDCS	21.02	Land Securities	Chase and Partners	1.2 Reference is made to the White City DIFS, but states that this will not be produced at this stage and will be published at the second draft stage. It is therefore considered that the publication of the PDCS is premature.	WC DIFS: General	The DIFS has been published with the White City Opportunity Area Framework SPD. It has been referred to on preparing the DCS Viability Study.
PDCS	21.03	Land Securities	Chase and Partners	<u>PRELIMINARY DRAFT CHARGING SCHEDULE (PDSC)</u> 1.1 Land Securities (LS) support the provision of an indicative list of infrastructure requirements/projects to support the objectives of the Core Strategy (paragraph 1.2.8). LS also support the recognition that if an infrastructure scheme is on the list (R123 list) that a Section 106 payment cannot be negotiated separately (paragraph 1.2.10).	Planning Obligations SPD	Noted.

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				1.2 Paragraphs 1.2.13 – 1.2.15 refer to the publication of a Planning Obligations SPD that would: *"...most likely be consulted on alongside the CIL Draft Charging Schedule (DCS) and adopted at the same time as the final CIL Charging Schedule."* (paragraph 1.2.14) 1.3 A review of the Council's website and CIL consultation page does not appear to contain such a document. It is considered that if this is to inform the CIL Charging Schedule that consultation should take place in parallel.		
PDCS	21.04	Land Securities	Chase and Partners	1.4 LS support the Councils suggested review to CIL charging and that this will be done in light of changing market conditions (paragraph 1.4.1 – 1.4.2).	Monitoring and review	Support noted.
PDCS	21.05	Land Securities	Chase and Partners	1.5 Section 2 of the PDSC sets out the 'Evidence base and approach' and introduces the relevant Development Infrastructure Funding Studies (DIFS) for regeneration areas in the Borough. Paragraph 2.2.2 states: "*To satisfy the evidence base requirements in the CIL regulations, the main infrastructure planning and viability evidence base documents for the PDCS are summarised in Figure 2.3 ..."* 1.6 Figure 2.3 only refers to the South Fulham Riverside DIFS and states at 2.2.5 that the DIFS for the White City Opportunity Area is currently being prepared and will be produced at the in accordance with the next draft of the White City Opportunity Area Planning Framework in Autumn/Winter 2012. It further states that this document can inform future stages of the CIL charging schedule. 1.7 LS consider that the White City DIFS is an integral part of the evidence base for the consultation on the PDCS and that to begin consultation without it is premature. This is further supported by paragraph 4.1.2 which states: *"As set out in Section 2.2, the Viability Assessment is complimented by viability evidence base in the SFR DIFS, and may, for future stages of this emerging CIL charging schedule, be complimented by viability evidence in a White City DIFS which has yet to be published. However, the available evidence does not currently justify differential CIL charging zones for these regeneration areas."* 1.8 This suggests that the evidence base in relation to charging rates in White City is incomplete and therefore the publication of the PDCS is too early. It is considered that only until the full evidence base is available should the Council invite representations on the PDCS. 1.9 The PDCS cannot be fully assessed without the White City DIF as it does not provide a full viability appraisal for development in the area affected.	WC DIFS: General	The DIFS has been published with the White City Opportunity Area Framework SPD. It has been referred to on preparing the DCS Viability Study.
PDCS	21.06	Land Securities	Chase and Partners	1.9 … In this instance it appears that an arbitrary figure has been included for the area shown as 'North', and this is contrary to Central Government advice which states: *"... why they [the Local Planning Authority] consider that their proposed CIL rate (or rates) will not put the overall development across their area at serious risk."* 1.10 White City Opportunity Area is a strategic location for development within the London Plan. Comprehensive development is earmarked for the area (also recognised as the 'North' charging zone). There are only two charges identified for the 'North charging zone': • All uses otherwise stated £80/sqm; and • Residential £100/sqm. 1.11 It is unclear how the viability appraisal has been applied for new development coming forward and the rationale behind it. This is a strategic area where new infrastructure to support new development will be generated by CIL. However, there is not a clear explanation how the charging rates can be applied and whether they are justified for the	Residential North Zone	For the DCS stage, additional viability appraisals have been undertaken for White City East.

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				specific developments.		
PDCS	22.01	Inner North West London Primary Care Trusts	-	NHS Hammersmith and Fulham is the primary care trust for the borough. It currently discharges its duties through joint arrangements with NHS Kensington and Chelsea and NHS Westminster. NHS Hammersmith and Fulham is responsible for commissioning all of primary care services in Hammersmith and Fulham. Our public health role means that we have a role in ensuring that improvements are made against wider factors that affect health and wellbeing and health inequalities. Good housing, healthy living environments, access to health facilities and sustainability are some of the wider determinants of health that we have an interest in and these are areas that our submission will focus on. <u>Health</u> We support the inclusion of out of hospital care in the community infrastructure levy charging schedule as out of hospital care is a key priority for NHS North West London. We would like to note that the room improvements to Richford Gate Practice have now been completed (H6) as has the relocation of the North End Centre for Health and Well Being into a new facility (H7). *Cumulative Impact* The NHS Healthy Urban Development Unit (HUDU) has developed a model that predicts the future health needs based on the size and proposed use of the development. The HUDU model has been run to estimate the cumulative cost impacts for 2016 to 2032 based on 720 housing units per annum (as per Figure 2.7of the infrastructure plan). This can be seen in appendix 1. We recommend that the capital cost figure from this should be included in the plan minus: -The White City (East) facility - £1.64million - South Fulham Riverside - £4.04m - Mental health communities services – West London Mental Health NHS Trust funding gap – £2m This would give a borough wide capital cost figure 2016-2032 of £4,750,080. We recommend that this should be added as a row titled primary and secondary healthcare requirements 2016-2032 with no assumed/committed funding. The Out of Hospital costs reflect the longer term ambition to shift care closer to home and out of hospitals. We recommend therefore that annual ongoing cost should be projected forward to 2032 which would give a total of £10.6m (£520k X 20). We suggest using this cost estimate rather the HUDU model revenue cost figure below.	Health infrastructure	Acknowledge further health infrastructure background in Infrastructure Plan / IPS.
PDCS	22.02	Inner North West London Primary Care Trusts	-	<u>Transport</u> Given the Local Implementation Plan encourages cycling and walking; we feel higher priority should be given to spending linked to cycling and walking infrastructure. It is known that investment in infrastructure for non-motorised transport yields positive impacts on the environment from less pollution, as well as improving safety from the protection of vulnerable road users and improving accessibility[1]. Certain features and characteristics in urban areas are known to positively influence walking and cycling. These beneficial characteristics include pedestrian and cycle friendly site and street design. The FIA Foundation (2010) Share the Road [hyperlink provided[Sustrans (2007) Creating the Environment for Active Travel [hyperlink provided]	Transport infrastructure	Acknowledge transport infrastructure and health benefits in Infrastructure Plan / IPS.
PDCS	23.01	Asda	Thomas Eggar	<u>A KEY OBJECTIONS</u> <u>1 Concerns over financial assumptions underpinning the Viability Assessment</u> The Viability Report contains retail development assumptions that in our view are inadequate as they do not make	S106 costs	The viability methodology assumes that S106 costs (beyond the residual amount of £1000/private residential unit allowed for in the CIL appraisals) in addition to CIL will be

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				allowances for the costs involved in obtaining planning permission for the development scheme. We note Roger Tym & Partners at paragraph 3.18 states that it has 'reflected the fact that on-site infrastructure may require S106 obligations'. Appendix 4.11 of the Viability Assessment, however, does not show clearly that such S106 obligations have been taken into account in the development appraisal relating to convenience retail. By excluding the potentially large costs of obtaining planning permission and S106 contributions payable in addition to CIL (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. … Schedule 1 S.106 Agreements The types of contribution that could still feasibly be sought from a retail developer once the charging schedule has been adopted include: • Cost of site-specific highways works; including junction improvements, road widening schemes, new access roads; diversion orders and other highways works; • Cost of providing affordable retail units or payment in lieu of such provision; • Cost of extending the Council's CCTV Network or Public Transport Network to include the scheme (including the costs of creating new bus stops, real time information and providing new bus services to serve the site); • Monitoring costs of compliance with employment/ apprenticeship schemes and travel plans; • Environmental off-set contributions, to mitigate the loss of habitat or greenery caused by the scheme; • The cost of any remediation and decontamination works to be carried out by the Council on the Developer's behalf; • Payments for town centre improvements intended to mitigate the impact of the development on the town centre or neighbouring areas; and • The costs incurred by the Council of maintaining any site specific infrastructure required by the development.		taken from the overage (residual land value minus benchmark land value). Therefore, the CIL charge is set at a level that will allow a substantial amount of overage to remain for S106 and other purposes.
PDCS	23.02	Asda	Thomas Eggar	Planning Costs The cost of obtaining planning permission from the Council a development scheme can be significant. These are not limited to the Council's own fees for submitting an application and obtaining pre-application advice, but also include: • The professional costs involved in appointing consultants to prepare the application; • Legal costs involved in negotiating the underlying legal agreements; • Costs of negotiating appropriate planning conditions and obligations with the Council; • Consultation costs, particularly for larger schemes which will need to show evidence of early community engagement; and • If permission is refused, or challenged by an aggrieved third party, the costs of an appeal to the planning inspector or a judicial review challenge in the High Court.	Professional fees	Professional fees relate to the costs incurred to bring the development forward and cover items such as; surveys, architects, quantity surveyor etc. Professional fees are based upon accepted industry standards and are calculated as a percentage of build costs at 10% (increased from 8% at the PDCS stage).
PDCS	23.03	Asda	Thomas Eggar	2 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	Change of use and conversion	Amendments to the CIL Regulations in February 2014 have extended the relevant period from 12 months to 3 years. Any floorspace created in a conversion or change of use of a longer term vacant building would be liable to pay CIL as though that was new build floorspace.

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				of a building to have been in use for a six months 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 change 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. It is difficult to see how the Council can assess whether the imposition of CIL will put the majority of these schemes at risk.		However, it is not considered that this would be a common enough situation to justify viability separate assessments or provide acceptable cost and value assumptions for such assessments.
PDCS	23.04	Asda	Thomas Eggar	<u>3 Concerns about the Council's approach to setting Community Infrastructure Levy charges generally</u> 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. We accept that some superstores 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. 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 for retail development local authorities will still seek extensive site-specific commitments under the Section 106 regime in addition to CIL. Together the two charges represent a double levy for infrastructure, which is being places 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 existing s.106 commitments in respect of undelivered projects. 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.	All uses unless otherwise stated Supermarkets	CIL charges are based on an assessment of the viability of development and not on the infrastructure need arising. The Council will make clear what it intends to spend CIL on in the R123 list. CIL Regulations control the use of S106 obligations. The comments seem to be more about the CIL concept rather than LBHF's proposals.
PDCS	23.05	Asda	Thomas Eggar	<u>B KEY SUGGESTIONS</u> <u>1 Exceptional circumstances relief</u> 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 identified 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	Exceptional circumstances	It is not currently proposed to introduce an exceptional circumstances policy. Such a policy is only possible if there is a S106 obligation on a development and the development cannot pay CIL. The proposed CIL charges make allowance for the possibility of such obligations.

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				qualify for 'exceptional circumstances' relief.		
PDCS	23.06	Asda	Thomas Eggar	2 Proposed Staged Payments Policy and Phased Developments We note that the Council does not proposed to consult on a staged payments policy at this time. 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 in 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 any one 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 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.	Instalments	The Council currently does not expect that it will introduce its own instalment policy. Therefore, the Mayor of London's CIL instalment policy will apply to Mayoral and borough CIL payments.
PDCS	24.0	Ptarmigan Riverside	DP9	… Therefore, in setting CIL rates the Charging Authority must be primarily concerned with the safeguarding of the Regeneration Areas against an serious viability risk. In our opinion, this must be the fundamental underlying objective, in addition to safeguarding designated Opportunity Areas within the Borough. For any of the Regeneration Areas to be put at serious risk, would pose consequential material adverse effect on the deliverability of the Development Plan. The Roger Tym & Partners Viability Assessment explains the policy context associated with the Charging Authority's area, and on page 5 sets out the indicative housing targets as derived from the Core Strategy. It is useful that the Viability Assessment has highlighted the importance of the Regeneration Areas but it is then both surprising and concerning that the Viability Assessment does not then appear to consider or assess the effect of CIL on these areas specifically (especially since the information / material to do so is readily available to the Charging Authority). Instead, the only analysis undertaken within the Viability Assessment concerning a number of hypothetical residential only schemes (amounting to x unit scheme scenario and a x unit scheme scenario within different geographical zones). It is difficult to understand why an analysis of this nature is in anyway fit for purpose when looking at the type of development advocated by the Development Plan (i.e. the Regeneration Areas and Opportunity Areas). This is because the type of development within the Opportunity Areas and Regeneration Areas is of a much greater scale and complexity, including very different viability inputs and assumptions. The Development Infrastructure Funding Study (DIFS) for the South Fulham Riverside Area identified and costs a series of infrastructure requirements and these should form part of any viability assessment. In our strong opinion, the 'normal circumstances' of development have not been properly defined or assessed.	Large sites	The South Fulham Riverside DIFS has been taken onto account. Large and mixed use appraisals have been included in the viability appraisal for the DCS. .
PDCS	24.01	Ptarmigan Riverside	DP9	…Ptarmigan hold an interest in Albert and Swedish wharves which are located to the east of Wandsworth Bridge…	R123 list	Following revisions to CIL Regulations, a draft R123 list is appropriate evidence to

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				Ptarmigan consider both the Albert and Swedish Wharf sites offer real potential to contribute to the regeneration of the South Fulham Riverside area and the wider Borough and on this basis are currently working up plans to realise the development potential of the sites as well as the adjacent Comley's Wharf, based upon the retention of the wharf usage, alongside a residential led mixed-use development. Representations … 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.		inform the preparation of the DCS.
PDCS	24.03	Ptarmigan Riverside	DP9	Relationship with S.106 Agreements 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 given 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, clearly, would require very robust evidence to justify the inference that development can afford to contribute and pay more.	Recent/historic S106s and appraisals	The Council has carried out an examination of a large number of schemes to compare S106 with theoretical CIL and has concluded that the proposed CIL charge rate are reasonable in comparison. See DCS supporting document.
PDCS	24.04	Ptarmigan Riverside	DP9	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: it is not dealt with as a topic adequately within the Viability Assessment. We suspect that very little residual Section 106 costs have been allowed for: the blanket assumption being that Section 106 will be scaled back significantly once the Charging Schedule comes into effect. It is our opinion that this is at odds with how development will be delivered, and a more cautious approach to the 'scaling back' of Section 106 should be assumed.	S106 costs	The DCS viability appraisals have an allowance of £1,000/dwelling for minor S106 costs. It is assumed that any remaining major site specific costs would be taken from the viability study's overage (residual land value minus benchmark land value) in addition to CIL. The south zone appraisals show that there would be considerable overage remaining after CIL.
PDCS	24.05	Ptarmigan Riverside	DP9	The Roger Tym & Partners Viability Assessment which supports the PDCS is understood to be complemented by the Development Infrastructure Funding Study (DIFS) prepared to inform the emerging South Fulham Riverside Regeneration Area SPD. The DIFS Study has been prepared to understand infrastructure needs to support the identified levels of growth in the South Fulham Riverside area, and to examine the viability of mixed use developments in the area. The DIFS Study subsequently identifies a list of infrastructure requirements totalling approximately £83 million, arising as a result of the full programme of development within the Regeneration Area. It is therefore assumed that the proposed CIL charge for the South charging zone (within which Albert and Swedish Wharves are located) will cover all of the infrastructure requirements as set out within the DIFS Study, with no requirement for further S.106 contributions to be provided. However, we are unclear whether this would be the case as the Infrastructure Plan (September 2012), infers in Appendix 2 that some items, including highways improvements and the Thames Path, could be S.106 items. The implication of funding major infrastructure works under S.106 in addition to CIL contributions would have significant implications on the ability of schemes to delivery affordable housing, and such an approach requires careful consideration to fully understand its impact.	S106	The DCS viability appraisals have an allowance of £1,000/dwelling for minor S106 costs. It is assumed that any remaining major site specific costs would be taken from the viability study's overage (residual land value minus benchmark land value) in addition to CIL. The south zone appraisals show that there would be considerable overage remaining after CIL.
PDCS	24.06	Ptarmigan Riverside	DP9	One infrastructure improvement within the SFR Regeneration Area is the improvement of the junction at Carnwath Road/Townmead Road and Wandsworth Bridge Road. The Jacobs' Transport Study which supports the Draft SFR SPD identifies that the Council's preferred highways improvement scheme at this critical junction is wholly reliant on land take from Ptarmigan Riverside AW LLP interests.	Carnwath Road/Townmead Road and	The CIL Regulations permit payment of CIL in kind by a land transfer, in principle. It is not appropriate to comment on the particular case.

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				As identified in previous representations on the SFR SPD, where sites are subject to land take, this will inevitably impact upon the financial viability of redeveloping affected sites, and the level of contributions wiand affordable housing which can be delivered through their redevelopment. It is therefore requested that should land take be required from Ptarmingan's land holding as part of any junction improvement works that this be recognised as a payment in kind under S.73 of the CIL regulations or that the value of the land be taken into account in an accompanying viability assessment.	Wandsworth Bridge Road junction infrastructure	
PDCS	25.01	Capital and Counties	DP9	LETTER Overall, the representations demonstrate that the PDCS is based on inappropriate evidence. It would put at risk the viability of development and, in turn, Borough-wide Development Plan objectives. Capco consider that important further work needs to be undertaken by the Charging Authority to ensure any CIL rates are set in the knowledge that the deliverability of the Development Plan is not put at risk. This is especially the case in relation to the Earls Court & West Kensington Opportunity Area.	General viability and deliverability	Further viability work has taken place in preparing the DCS.
PDCS	25.02	Capital and Counties	DP9	Capco is willing to aid the Charging Authority, as consultee and major stakeholder, in additional viability work and analysis prior to the publication of any further CIL Charging Schedule. Capco would like a meeting to be arrange with relevant representatives of the Charging Authority and their agents in order to discuss the points raised in these representations.	Meeting	Meeting held
PDCS	25.03	Capital and Counties	DP9	REPRESENTATIONS 1.3 A summary of the key points contained in these representations is, as follows: • The starting point of our 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 our review has been the PDCS and its supporting evidence. • In determining the nature of development to be assessed we have taken this to mean the development which underpins the relevant up-to-date Development Plan. This is consistent with the independent examination of Charging Schedules to date, is in accordance with statutory guidance on CIL (CLG 'Charge Setting and Charging Schedule Procedures' (2010)), and is aligned with the National Planning Policy Framework (paragraph 175). • In the context of the above, our representations have focused on ascertaining the appropriateness of the Roger Tym & Partners Viability Assessment 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. The appropriateness of the Viability Assessment has been considered in relation to the tests for the adequacy of evidence as provided in statutory guidance. • The Development Plan in this instance is the adopted London Plan (2011) and the adopted LBHF 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 (regionally) and Regeneration Areas (locally). These resemble the strategic brownfield sites capable of achieving strategic land use change and significant new homes and of the housing targets as set out in the Core Strategy (Policy H1). Serious impacts on the viability and delivery of the Opportunity and Regeneration Areas will, therefore, have serious impacts on the deliverability of the Development Plan as a whole. • ECWKOA is designated in the London Plan (Policy 2.13 and Annex 1 (ref 8)) and makes up the majority of the Fulham Regeneration Area as designated in the LBHF Core Strategy (Policies FRA and FRA1). It is particularly reflective of the development advocated by the Development Plan (it meets key strategic objectives, inter alia: comprehensive regeneration; increasing housing supply; maximising economic growth / job opportunities; and regeneration of Council housing estates). • It is considered that the Charging Authority does not have appropriate, reliable or 'fit for purpose' evidence upon which to determine robust CIL rates and inform the Charging Schedule. Capco recognise that the test of viability is a broad one and needs to provide high level assurance that the proposed CIL rates are set at	ECWKOA: General	The DCS proposes a differential rate for ECWKOA based on a viability assessment of the whole area which takes into account values and costs assessed by DVS for the SPD appraisal.

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				a level that is compatible with the likely economic viability and deliverability objectives of the Development Plan. We are concerned that Roger Tym & Partners Viability Assessment does not provide the Charging Authority with the assurance it needs in order to not put at serious risk the Development Plan objectives. The current PDCS does not, therefore, provide an appropriate basis for the future application of CIL. We are of this opinion that the Viability Assessment is not 'fit for purpose', and contrary to statutory guidance, for the following reasons:		
PDCS	25.04	Capital and Counties	DP9	○ It has not taken proper account of the Development Plan, in particular the nature of development that underpins its key objectives (the Opportunity and Regeneration Areas) in terms of both the delivery of new homes as well as regeneration / renewal of existing Council housing estates. In this respect it is at odds with paragraph 174 of the National Planning Policy Framework which identifies the need for planning authorities to assess the likely cumulative impacts on development in their area of all existing and proposed standards and policies. ○ It is based upon an analysis of hypothetical schemes (no greater than 50 residential units) that are not reflective of the Development Plan. While we appreciate that CIL cannot make allowance for every possible site specific circumstance, it must in this instance, be set on the basis of a robust viability assessment of the Opportunity and Regeneration Areas i.e. substantial mixed use schemes. The material is readily available for such an assessment to be undertaken. There is no logical reason put forward within the Viability Assessment as to why no scheme delivering over 50 units has been appraised.	Large sites Mixed uses	The Viability Study has a specific appraisal for ECWK.
PDCS	25.05	Capital and Counties	DP9	○ The 'overage' (i.e. margin of viability) determined by the Viability Assessment is inappropriate. It is not based upon viability inputs or assumptions that are reflective of the type of development underpinning the Development Plan. In the case of ECWKOA, for example, the inputs and assumptions are orders of magnitude apart.	ECWKOA: Assumptions	The DCS proposes a differential rate for ECWKOA based on a viability assessment of the whole area which takes into account values and costs assessed by DVS for the SPD appraisal.
PDCS	25.06	Capital and Counties	DP9	○ Undertaking a notional 500 unit scheme appraisal – i.e. more in tune with the size of scheme to come forward in line with the Development Plan – causes a substantially reduced potential overage available for CIL.	ECWKOA: General viability	The DCS proposes a differential rate for ECWKOA based on a viability assessment of the whole area which takes into account values and costs assessed by DVS for the SPD appraisal.
PDCS	25.07	Capital and Counties	DP9	○ Evidence of LBHF's record in recent years regarding the nature and extent of Section 106 obligations does not appear to have been considered.	Recent/historic S106s and appraisals	The Council has carried out an examination of a large number of schemes to compare S106 with theoretical CIL and has concluded that the proposed CIL charge rate are reasonable in comparison. See DCS supporting document.
PDCS	25.08	Capital and Counties	DP9	○ It is unclear from the PDCS and its evidence base what assumptions the Charging Authority has made about future Section 106 costs. There is no evident consideration of what is – and will continue to be – a vitally important development cost. We urge the Charging Authority to take a realistic and justified approach to the likelihood of future Section 106 costs. A cautious approach is recommended because the Regulations are clear that Section 106 obligations are to remain the primary means of mitigating the direct impacts of development, especially for the type of development underpinning the Development Plan in this case. As already mentioned, ECWKOA is reflective of the Development Plan and analysis would indicate that its Section 106 costs will remain substantial with limited 'scaling back' as a result of CIL.	S106 costs R123 list In-kind provision of infrastructure	The DCS proposes a differential rate for ECWKOA of £0 based on a viability assessment of the whole area and taking account of S106 costs.
PDCS	25.09	Capital and Counties	DP9	○ The Viability Assessment does not utilise all relevant available evidence. In the case of ECWKOA, for example, the evidence base to LBHF's recently adopted Supplementary Planning Guidance for the area includes a report prepared by DVS titled Development Infrastructure Funding Study: Viability Assessments of Each Development Capacity Scenario (2011). This report examines the nature, type, timing and viability of development proposed for the ECWKOA. Its inputs and assumptions are substantially different to those made by the Roger Tym & Partners Viability Assessment. This illustrates Capco's concern at the underlying approach and methodology informing PDCS.	ECWKOA: Assumptions	The DCS proposes a differential rate for ECWKOA based on a viability assessment of the whole area which takes into account values and costs assessed by DVS for the SPD appraisal.

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PDCS	25.10	Capital and Counties	DP9	○ An analysis of ECWKOA, for example, casts serious doubt over the margins of viability that form the basis of the CIL rates recommended by the Viability Assessment. In fact, the application of CIL to ECWKOA would indicate that development viability is insufficient to absorb the level of rates put forward in the PDCS. In other words, the PDCS rates would render ECWKOA unviable. This is a significant concern because as a consequence the PDCS rates, should they come into effect, would have a significant impact on the delivery of both new housing and housing estate renewal in line with the Development Plan. A differential CIL rate for ECWKOA could be justified on the basis of the points set out in these representations.	ECWKOA: General viability	The DCS proposes a differential rate for ECWKOA based on a viability assessment of the whole area which takes into account values and costs assessed by DVS for the SPD appraisal.
PDCS	25.11	Capital and Counties	DP9	1.4 Overall, in light of the above points, Capco is of the firm opinion that the Charging Authority has not complied with its legal obligation to strike an appropriate balance between helping to fund necessary infrastructure and the potential effects on the economic viability of development across its area. 1.5 Essentially, the evidence base is not consistent with the Development Plan. The Charging Authority has not properly identified or assessed the potential effects of CIL on the economic viability of development in strategically important Opportunity Areas / Regeneration Areas, without which the achievement of Borough-wide Development Plan policies and objectives will not be possible. 1.6 Capco consider that important further work needs to be undertaken by the Charging Authority to ensure any CIL rates are set in the knowledge that the deliverability of the Development Plan is not put at risk. Specifically in relation to ECWKOA there is overwhelming case presented in these representations that the relevant rates put forward in the PDCS will put development at serious risk and, in turn, jeopardise the Council's strategic Development Plan objectives. Following completion of further work it is likely that a specific CIL rate should be applied to ECWKOA (different to that for the wider Central Zone). In this respect Capco note that a differential rate for ECWKOA would be in accordance with the methodology stated by Roger Tym & Partners at paragraphs 2.22 to 2.25 of the Viability Assessment.	ECWKOA: General	The DCS proposes a differential rate for ECWKOA based on a viability assessment of the whole area which takes into account values and costs assessed by DVS for the SPD appraisal.
PDCS	25.12	Capital and Counties	DP9	1.7 Capco is willing to aid the Charging Authority, as consultees and major stakeholders, in additional viability work and analysis prior to the publication of any further CIL Charging Schedule. Capco would like a meeting to be arranged with relevant representatives of the Charging Authority and their agents in order to discuss the points raised in these representations and assist the Charging Authority in devising a CIL rate that mitigates against any adverse impact on viability, which could result in Development Plan objectives not being realised.	Meeting	Meeting held
PDCS	25.13	Capital and Counties	DP9	2.12 It is worth highlighting that the Infrastructure Plan has been reviewed. Whilst it 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.	R123 list	Following revisions to CIL Regulations, a draft R123 list is appropriate evidence to inform the preparation of the DCS.
PDCS	25.14	Capital and Counties	DP9	<u>Definition of development for the purpose of testing economic viability</u> 3.1 The CIL Regulations require a Charging Authority, when setting CIL rates, to strike an appropriate balance between the desirability of funding from CIL the cost of infrastructure and the potential effects of CIL on the economic viability of development across its area. 3.2 A key starting point, therefore, in applying the above tests is an understanding of development across the Charging Authority's area. In our opinion, this ought to be derived from the relevant up-to-date Development Plan. This being consistent with the approach taken to the independent examination Charging Schedule to date. The evidence should be able to conclude that the proposed CIL rate(s) will be viable for the sufficient number and type of developments upon which the Development Plan relies over the course of the Plan period. In other words, the evidence must enable the Charging Authority to reliably and robustly conclude whether the impact of CIL would be to render the Development Plan undeliverable. 3.3 In this case, the Development Plan comprises the adopted London Plan (2011) and the adopted LBHF Core Strategy (2011). Underpinning the regional spatial strategy set out in the London Plan and supporting regional	Large sites Mixed uses	The Viability Study has an expanded range of sample sites that includes two large mixed use schemes in each zone, together with appraisals for White City East. In addition, there is a specific appraisal for the ECWK SPD area.

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
				housing targets, are the Opportunity Areas. These are London's major reservoir of strategic brownfield development and regeneration sites, with the potential to deliver strategic land use change and provide substantial new homes and jobs. This is also true of the LBHF Core Strategy which is essentially underpinned by the designated Opportunity Areas / Regeneration Areas. Strategic Policy A of the Core Strategy states: • The Council will focus and encourage major regeneration and growth in the key Regeneration Areas. • The Regeneration Areas could provide at least 13,200 additional dwellings and 25,000 jobs during the Plan period to 2031. 3.4 Typically the nature and type of development schemes associated with Opportunity Areas / Regeneration Areas are large scale, mixed use, multi phased and often require significant up front enabling / infrastructure costs. 3.5 In the context of the above, in setting CIL rates the Charging Authority must be primarily concerned with the safeguarding of the Opportunity Areas / Regeneration Areas against any serious viability risk. In Capco's opinion, this must be the fundamental underlying objective because for any of the Opportunity Areas / Regeneration Areas to be put at serious risk, would pose consequential material adverse effect on the deliverability of the Development Plan i.e. in CIL terms, development across the Charging Authority's area. 3.6 Roger Tym & Partners have undertaken a Viability Assessment to test the impact of CIL. The Viability Assessment details the policy context associated with the Charging Authority's area and, on page 5, sets out the indicative housing targets as derived from the Core Strategy. It demonstrates that the Opportunity Areas / Regeneration Areas make up 92% of the Core Strategy housing targets. This clearly confirms the fundamental importance of the Opportunity Areas / Regeneration Areas to the delivery of new homes in line with the Development Plan. 3.7 Roger Tym & Partners have tested the impact of CIL in three areas within the Borough, which include the South Charging Zone, North Charging Zone and the Central Charging Zone. However, the Viability Assessment has only tested the impact of CIL on two development types – 10 residential units and 50 residential units – to determine whether a surplus (termed by Roger Tym & Partners in their study as 'overage') is available to fund a CIL payment, recognising it is imperative that the CIL rate provides a sufficient buffer to mitigate any impact on viability due to site-specific circumstances. The approach taken is inappropriate as it does not reflect the nature or type of development that underpins the delivery of the Development Plan (i.e. the Opportunity Areas / Regeneration Areas). This is illustrated by looking specifically at the circumstances associated with the ECWKOA (see below). The approach taken by Roger Tym & Partners does not comply with the CLG's statutory guidance. Representative development scenarios which reflect Development Plan policies and allocations for Opportunity Areas / Regeneration Areas have not been selected or assessed. Therefore, the proposed CIL rates cannot be said to be "informed by" appropriate available evidence. 3.8 Capco is concerned that the Charging Authority is unable to draw any relevant or reasonable conclusions as to the risk posed to the Opportunity Areas / Regenerations Areas – and, therefore, the Development Plan – on the basis of the Roger Tym & Partners Viability Assessment.		
PDCS	25.15	Capital and Counties	DP9	<u>Earls Court & West Kensington Opportunity Area (Fulham Regeneration Area): Viability Inputs and Assumptions</u> 3.9 ECWKOA sits within the Central Area for the purposes of the CIL Viability Assessment and resulting PDCS. ECWKOA makes up a minimum of 24% of Development Plan housing targets as defined by Policy H1 of the LBHF Core Strategy. However, the combination of the Seagrave Road planning permission and Earls Court Main Site (LBHF) resolution to grant (see paragraph 2.5) results in 6,653 residential units. This equates to 46% of Core Strategy housing targets. 3.10 In addition to the delivery of substantial new homes, the ECWKOA includes the phased comprehensive redevelopment of existing Council owned West Kensington and Gibbs Green housing estates in line with strategic Development Plan objectives. It is worth emphasising the importance of the redevelopment of the housing estates to	ECWKOA: Assumptions	The DCS proposes a differential rate for ECWKOA based on a viability assessment of the whole area which takes into account values and costs assessed by DVS for the SPD appraisal.

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
				the deliverability of the ECWKOA – they are intrinsic and central to it. 3.11 Clearly, ECWKOA comprises potential substantial delivery of new homes and jobs, a broad mix of uses and essential estate regeneration, reflecting the strategic priorities identified in the Development Plan, which should be safeguarded from any adverse impact on economic viability caused by the application of CIL. 3.12 In March 2012 LBHF adopted a Supplementary Planning Document for the . The evidence base to this document includes a report by DVS titled Development Infrastructure Funding Study: Viability Assessments of Each of the Development Capacity Scenarios ('DIF Study') (November 2011). This document examines the nature, type and timing of development proposed. Surprisingly, Roger Tym & Partner's Viability Assessment makes no reference to the DIF Study. This is concerning as the inputs and assumptions set out in the DIF Study are substantially different to those made by the Roger Tym & Partners Viability Assessment. This illustrates Capco's concern at the underlying approach and methodology informing PDCS. 3.13 It is clear from the above that the Roger Tym & Partners Viability Assessment has not used or relied upon all available evidence. When robustly testing the impact of the imposition of CIL, it is critical that the inputs and assumptions used are reasonable and the best available. Therefore, it is concerning that the Roger Tym & Partners Viability Assessment has not applied uniform inputs and assumptions to those applied in the DIF Study. Capco has undertaken a comparison of the inputs and assumptions associated with the DIF Study and compared these to the inputs and assumptions applied to the Viability Assessment (for a 50 unit apartment scheme development appraisal within the Central Area, at Appendix 4.5 of the Viability Assessment). Some of the key differences in assumptions are set out below: Table 1:		

Viability Input	Roger Tym & Partners Viability Assessment Assumption	ECWKOA DVS DI
Gross: net ratio	85%	70%
Private Residential Sales Revenue	£6,400 per sq metre	£11,000 per sq me
Affordable Housing Revenue (blended rate)	£2,700	£2,260
Private Build Cost rate	£1,900 per sq metre	£2,379 per sq met
Contingency on all build costs	5%	3%
Professional Fees	8%	10%
Sustainability costs to reach Code Level 3	-	£3,500 per unit
Infrastructure and Abnormals	£66,000	£1,941,941 (£601.
Contingency on infrastructure and abnormals	-	3%
Professional fees on infrastructure and abnormals	-	8%
Other plot related costs (e.g. over-sailing costs, building regs, NHBC fees, etc)	-	£163,450 £3,269 per unit
Marketing and Letting fees	£120,000 for the whole scheme	1.5% of sales reve
Disposal Fees: Sales agent fees Legal fees	 1.25% £30,000 across the scheme	 1% of sales revenu 0.5% of sales reve

3.14 The impact of replacing the Roger Tym & Partners assumptions with those used by the DVS on the findings of the Viability Assessment are significant: the differences in assumptions are order of magnitudes apart. When applying DVS's assumptions on a 50 unit apartment scheme in the Central Charging Zone and assuming 40% affordable housing, the residual land value generated is significantly lower that that reported in the Roger Tym & Partners Viability Assessment. The potential 'overage' available for CIL is reduced from £405 to £11 per sqm.

3.15 As the Roger Tym & Partners Viability Assessment has failed to test residential schemes delivering more than 50

<table>
<tr><th>Stage</th><th>Rep #</th><th>Organisation</th><th>Agency</th><th>Representation</th><th>Issue</th><th>Response</th></tr>
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units, Capco has run an additional appraisal for a hypothetical 500 unit scheme (more akin to the type and nature of development associated with the Development Plan strategic policies and objectives). The viability test has simply increased the revenue and costs assumed for a 50 unit scheme proportionately as well as made reasonable assumptions on programme. The table below demonstrates the difference in results for both a 50 and 500 unit scheme, assuming 40% affordable housing (i.e the Core Strategy policy target), when applying Roger Tym & Partners assumptions in comparison to the results generated when applying DVS's assumptions.

Table 2:
<table>
<tr><th>Appraisal</th><th>Number of units</th><th>Gross Chargeable sq m</th><th>Residual Land Value Per ha</th><th>Benchmark Land Value per hectare</th><th>Overage Per ha</th></tr>
<tr><td>Roger Tym & Partner assumptions</td><td rowspan="2">50 units</td><td>2,280</td><td>£10,799722</td><td rowspan="4">£8,000,000</td><td>£2,799,722</td></tr>
<tr><td>DVS assumptions</td><td>2,736</td><td>£8,088,054</td><td>£88,054</td></tr>
<tr><td>Roger Tym & Partner assumptions</td><td rowspan="2">500 units</td><td>22,800</td><td>£8,198,070</td><td>£198,070</td></tr>
<tr><td>DVS assumptions</td><td>27,360</td><td>£6,011,467</td><td>-£1,988,53</td></tr>
</table>

3.16 By testing the viability of a 500 unit scheme, we are able to demonstrate the cumulative impact CIL has on a larger development scheme and the serious risk posed to viability. The results demonstrate that the proposed CIL rate for the Central Charging Zone is significantly over-optimistic relative to the circumstances of ECWKOA: a differential CIL rate for ECWKOA could be justified.

3.17 The above findings suggest that the Charging Authority cannot currently ascertain with any robustness from the Roger Tym & Partners Viability Assessment, whether or not there is a sufficient margin of viability for the proposed PDCS rates to be achieved without putting development of ECWKOA at risk.

3.18 Capco would welcome the opportunity to work with the Charging Authority and Roger Tym & Partners in establishing the impact on viability, specifically in ECWKOA as a result of the PDCS proposed rates.
</td><td></td><td></td></tr>
<tr><td>PDCS</td><td>25.16</td><td>Capital and Counties</td><td>DP9</td><td>
<u>'Overage'</u>

3.19 The above section highlighted Capco's concern as to the appropriateness / relevance of the viability inputs and assumptions used by Roger Tym & Partners in the context of the type and nature of development, such as ECWKOA, underpinning the Development Plan. Notwithstanding this concern, Capco has undertaken an exercise to understand the potential impact of the PDCS rates if applied to the ECWKOA.

3.20 As explained in paragraphs 3.9 and 3.10, ECWKOA is vital to the delivery of strategic Development Plan policies and objectives: specifically, in relation to the delivery of substantial new homes and the regeneration of existing Council housing estates. The redevelopment of the Council housing estates is central to the Development Plan policy objectives for ECWKOA.

3.21 The table below applies assumptions based upon the Roger Tym & Partners Viability Assessment and the Development Plan requirement to deliver comprehensive estate regeneration in order to generate £ per sqm rate for ECWKOA.

Table 3:
<table>
<tr><td>Community Infrastructure Levy – Borough*</td><td>£144,566,532</td></tr>
<tr><td>Community Infrastructure Levy – Mayoral</td><td>£42,763,500</td></tr>
</table>
</td><td>ECWKOA: General viability</td><td>The DCS proposes a differential rate for ECWKOA based on a viability assessment of the whole area which takes into account values and costs assessed by DVS for the SPD appraisal.</td></tr>
</table>

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
				Estate Regeneration (secured through S106)** | £163,000,00 | Total | £350,320,032 £ per sqm | £398.03 (*Relief has not been applied for the affordable housing floorspace this would reduce the amount by c. £30 m **we have not included other Section 106 costs. However, these are likely to be substantial. See paragraphs 3.28-3.30 below) 3.22 The above analysis, albeit broad, is informative. The combination of CIL and estate regeneration alone provides a £ per sqm rate of c. £400 per sqm. Using the Roger Tym & Partners assessment of the maximum overage applied to the ECWKOA the maximum amount available is £275.50 per sqm (this is a blended overage based on those for relevant individual use types within the Viability Assessment). The £400 per sqm significantly exceeds the maximum potential 'overage' as assessed by Roger Tym & Partners. It should be noted that this excludes any allowance for s106 contribution over and above CIL for the Opportunity Area. As set out below the assumption that there would be no or limited s106 over and above CIL is wholly unrealistic. The CIL rates as proposed would risk the delivery of the ECWKOA, putting at risk Development Plan key deliverables of housing growth and estate regeneration. 3.23 In light of the above findings, a differential CIL rate for ECWKOA could be justified and should be fully considered by the Charging Authority.		
PDCS	25.17	Capital and Counties	DP9	<u>Failure to consider mixed use development</u> 3.24 Capco is concerned that the Roger Tym & Partners Viability Assessment ignores mixed use development: a key policy objective for the Opportunity Areas / Regeneration Areas. 3.25 Therefore, the approach taken to setting the PDCS rates, which sees each land use considered in isolation with no consideration to the implication of mixed use development, results in CIL rates being promoted for high value uses (i.e. residential) with no consideration as to the viability impact of delivering development in accordance with a key Development Plan policy requirement. For example, the implication for mixed use developments where some uses (e.g. office, culture, community) require cross-subsidy from residential has been ignored by the Viability Assessment. The consequence of this is that the proposed residential CIL rates for residential use are overstated. Because of this Capco recommend that the Charging Authority consider revising the viability margin/buffer ('overage') to reflect the differences between single use/contained sites and mixed use/regeneration sites within the Opportunity Areas / Regeneration Areas.	Mixed uses	The Viability Study has an expanded range of sample sites that includes two large mixed use schemes in each zone, together with appraisals for White City East. In addition, there is a specific mixed use appraisal for the ECWK SPD area.
PDCS	25.18	Capital and Counties	DP9	<u>Uncertain Relationship between PDCS and future Section 106 obligations</u> 3.26 The evidence base takes an inappropriate approach to future Section 106 costs. It unclear what standard assumptions the Charging Authority has made about the Section 106 costs that would normally be expected for future development – and any relationship between assumed costs and the consistency of these with the delivery mechanisms noted in the Infrastructure Plan. Overall, Section 106 costs are not dealt with as a topic adequately within the Viability Assessment. There is no evidence of any proper analysis or approach to residual Section 106 costs and the relationship of these to the available viability 'overage'. It is concerning that the Opportunity Areas / Regeneration Areas do not appear to have been properly considered. The inference of the Viability Assessment is that future Section 106 will be scaled back significantly once the Charging Schedule comes in to effect. It is Capco's considered opinion that this is at odds with the future 'normal circumstances' associated with how development will be delivered – especially in the case of Opportunity Areas / Regenerations – 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 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	S106 costs R123 list In-kind provision of infrastructure	The DCS proposes a differential rate for ECWKOA of £0 based on a viability assessment of the whole area and taking account of S106 costs.

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
				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 for specific infrastructure projects remain legitimate under Section 106 – even if CIL is being charged more generally for 'education' as a type of infrastructure, provided that the specific infrastructure projects are excluded from the Regulation 123 list - 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. 3.27 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 – such as ECWKOA – 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 unrealistic given the nature of sites making up the majority of the Development Plan (large scale strategic brownfield sites). This uncertainty puts a serious risk the deliverability of schemes. In this respect, it is important to highlight that the PDCS rates and the Viability Assessment are inconsistent with the assumptions in the Infrastructure Plan about the use of Section 106 as the proposed delivery mechanism. The PDCS rates do not appear to be informed by or consistent with the evidence on likely Section 106 costs in the Infrastructure Plan. 3.28 Capco is in the process of negotiating a Section 106 Agreement with LBHF (and other relevant parties) in relation to the current Earls Court Main Site planning application (ref. 2011/02001/OUT). The Heads of Terms associated with this Agreement are included in the LBHF Officer's Report to Committee of 12th September 2012. They include a combination of substantial in-kind works and financial contributions of a total cost of circa £93m (excluding affordable housing and estate regeneration), as follows: • Highway works. • On-site public open space and off-site public realm improvements. • Public transport improvements, including: improvements to West Kensington and West Brompton Stations; improvements to bus services and provision of bus infrastructure; cycle route improvements and provision of extension to Mayor's cycle hire network; Travel Plan measures; and a contingency fund. • Social infrastructure provision, including: provision of primary school; provision of day nursery facilities; provision of community space; provision of health facility; provision of leisure facility; contribution to secondary education. • Provision of cultural space / facility. • Local employment and training strategy and related fund. • Provision of energy infrastructure. • Monitoring.		

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
				3.29 Capco would like to work with the Charging Authority to analyse the above Heads of Terms and consider the likelihood for items to be 'scaled back' were LBHF CIL to take effect. On the basis of an initial broad analysis undertaken by Capco, it is expected that 'scaling back' of the above items would limited and the majority would remain to be delivered through Section 106. This is because of the various reasons explained in the bullet points above (paragraph 3.26), especially because a substantial proportion of the items are required on-site and to be delivered by the developer. As a headline this appears to cast significant doubt over the broad assumption the Charging Authority make at paragraph 1.2.13 of the Infrastructure Plan 3.30 Essentially, Capco consider that the combination of CIL and Section 106 for ECWKOA would not lead to equivalent total contributions as at present (i.e. the scaling back of Section 106 would be minimal) and could be equivalent to c. £100 per sqm being placed on development, which if added to the £400 per sqm (referred to in paragraph 3.22) would be equivalent to £500 per sqm. 3.31 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 strategic development, such as ECWKOA. The inference, therefore, is that the Charging Authority consider that development can sustain more cost when economic market conditions remain fragile. Capco do not consider this to be sustainable and urge the Charging Authority not to make unrealistic assumptions about the extent to which Section 106 will be reduced as a result of CIL. 3.32 As a final point on this matter, we are concerned that the inference of the Viability Assessment 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 acceptable in planning terms, the Charging Authority must not assume that those obligations can be easily flexed to make development viable.		
PDCS	25.19	Capital and Counties	DP9	<u>Lack of Consideration of historic Section 106 obligations</u> 3.33 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. Without appropriate benchmarking it is surely difficult for the Charging Authority to properly take into account the change in development costs arising from proposed CIL charges. This is particularly the case given 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, clearly, would require very robust evidence to justify the inference that development can afford to contribute and pay more.	Recent/historic S106s and appraisals	The Council has carried out an examination of a large number of schemes to compare S106 with theoretical CIL and has concluded that the proposed CIL charge rate are reasonable in comparison. See DCS supporting document.
PDCS	25.20	Capital and Counties	DP9	<u>Other Comments</u> 3.34 Capco would like to highlight the following additional specific comments in relation to the PDCS: • **Instalments Policy**: The Charging Authority has not decided whether to introduce an instalments policy. This is at odds with the advice of Roger Tym & Partners set out at paragraph 6.1 of the Viability Assessment. This states that "the instalments policy can have a significant impact on the deliverability of development. An overly aggressive policy which seeks a large proportion of total CIL liability from a development at an early stage can potentially make the difference between whether a scheme is viable or not." Capco request the Charging Authority's assumptions and proposals for instalments, to establish whether or not they are 'overly aggressive' can be assessed. It is acknowledged that the CIL Regulations require that developments that are the subject of outline planning permissions will be eligible for payments to be made in respect of individual phases. Therefore, it	Instalments	The Council currently does not expect that it will introduce its own instalment policy. Therefore, the Mayor of London's CIL instalment policy will apply to Mayoral and borough CIL payments.

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
				is considered that the instalments policy should allow for longer payment periods of more instalments by agreement, in respect of development phases, which could cover a number of years or relate to a large number of residential units. Otherwise, there is a risk that such payments place onerous and premature demands on the project financing, particularly on cash flow, and potentially impede timely delivery of the development.		
PDCS	25.21	Capital and Counties	DP9	• **Revised Planning Obligations SPD**: Capco note that paragraphs 1.2.13 to 1.2.15 of the PDCS explain that the Council is considering publishing a Planning Obligations SPD and anticipates consulting on this alongside the CIL Draft Charging Schedule. Capco agree that a Planning Obligations SPD should be prepared and consulted on simultaneously with the Draft Charging Schedule to ensure consistency of assumptions about development costs, viability and delivery mechanisms.	Planning Obligations SPD	Comment noted. The S106 SPD will not now be produced in advance of CIL though an outline of the scope of future S106 is included in the DCS supporting document.
PDCS	25.22	Capital and Counties	DP9	• **Earls Court and West Kensington Opportunity Area Supplementary Planning Document ('SPD')**: Capco note that paragraph 2.2.1 and figure 2.1 of the PDCS confirm that the SPD forms part of the background evidence for PDCS. These representations have clearly demonstrated (particularly at paragraph 3.12 and table 1) that the proposed CIL rates cannot be said to be informed by and consistent with the SPD. In fact, these representations demonstrate that the Development Plan objectives – and, therefore, the supplementary objectives and principles of the SPD – are put at serious risk by the PDCS.	ECWKOA: General	The DCS proposes a differential rate for ECWKOA based on a viability assessment of the whole area which takes into account values and costs assessed by DVS for the SPD appraisal.
PDCS	25.23	Capital and Counties	DP9	• **Justification of Charging Zones**: The evidence is unclear in explaining how the actual proposed rates and associated geographical zones have been arrived at. The zones would appear to bear no resemblance to planning policy designations which is concerning given designations associated with the Opportunity Areas / Regeneration Areas. It is Capco's strong opinion that the potential for distinct differences in viability within and outside all strategic Opportunity Areas / Regeneration Areas should have been considered, taking into account the abnormal costs commonly arising in such areas as demonstrated by these representations.	ECWKOA: Central B Zone	Differential charging zones should be based on viability evidence not policy designations. However, a review of viability has lead to the DCS having a differential charging zone for ECWKOA.
PDCS	25.24	Capital and Counties	DP9	<u>4.0 Conclusion and Way Forward</u> 4.1 Capco is of the firm and considered opinion that the Charging Authority has prepared its PDCS on the basis of inappropriate evidence (in the context of the Regulations and CLG's statutory guidance, 'Charge Setting and Charging Schedule Procedures'). Because of this, Capco is concerned that the rates set in the PDCS pose a serious risk to the viability and delivery of development across the Charging Authority's area. 4.2 These representations have demonstrated that the evidence base – specifically the Roger Tym & Partners Viability Assessment is not consistent with the relevant adopted Development Plan. Specifically this is because the Charging Authority has not properly identified or assessed the potential effects of CIL on the economic viability of development in strategically important Opportunity Areas / Regeneration Areas, without which the achievement of Borough-wide Development Plan policies and objectives will not be possible. 4.3 Capco consider that important further work needs to be undertaken by the Charging Authority to ensure any CIL rates are set in the knowledge that the deliverability of the Development Plan is not put at risk. Specifically in relation to ECWKOA there is an overwhelming case presented in these representations that the relevant rates put forward in the PDCS will put development at serious risk and, in turn, jeopardise the Council's strategic Development Plan objectives. 4.4 On the basis of work undertaken to inform these representations, and in light of the key points raised above, we are of the opinion that a differential rate could be justified for ECWKOA. In this respect Capco note such an approach would be in accordance with the methodology stated by Roger Tym & Partners at paragraphs 2.22 to 2.25 of the Viability Assessment.	ECWKOA: General	The DCS proposes a differential rate for ECWKOA based on a viability assessment of the whole area which takes into account values and costs assessed by DVS for the SPD appraisal.
PDCS	25.25	Capital and Counties	DP9	4.5 Capco is willing to aid the Charging Authority, as consultees and major stakeholders, in additional viability work and analysis prior to the publication of any further CIL Charging Schedule. Capco would like a meeting to be arranged with relevant representatives of the Charging Authority and their agents in order to discuss the points raised in these representations. 4.6 Capco reserve the right to provide further representations and evidence at subsequent stages in the preparation	Meeting	Meeting held

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
				of the Charging Schedule, including public examination.		
PDCS	26.01	Favour Well	Indigo Planning	Favor Well Limited own the IBIS Hotel at 47 Lillie Road and surrounding lands which are strategically located between the Earls Court and West Kensington Opportunity Area to the north and the Fulham Regeneration Area to the south. An application for these lands adjacent to the hotel is currently being considered by the London Borough of Hammersmith and Fulham (LPA Ref.2012/03034/FULL). The application proposes: *'Construction of 9 residential units ranging in height from 3 – 4 storeys, served by 11 car parking spaces and provision of replacement ancillary facilities and access to basement car park serving the adjacent hotel, landscaping and all associated works'* The implementation of CIL in the Borough and potential impact on the viability of any future development proposals is therefore of great interest to Favor Well Limited who wish to ensure that any tariff is implemented fairly and appropriately. <u>Evidence Base and Approach</u> DCLG guidance from 2010 CIL Guidance (Charge setting and charging schedule procedures) and Regulation 14 of the 2010 Regulations themselves are clear in stating that charging authorities: *'must aim to strike …an appropriate balance between –* *(a) the desirability of funding infrastructure from CIL 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 of the imposition of CIL on the economic viability of development across its area'* Significantly, the Council's draft consultation document at para. 2.2.1 repeats this wording within the guidance and we welcome the Council's reiteration of the need to find a balance between funding infrastructure and not undermining the economic viability of development schemes that come forward in the Borough. <u>The Preliminary Draft Charging Schedule</u> The proposed CIL charging rates for the borough are set out in Figure 5.1 in this section and at Figure 5.2 the charging zones are identified. We have identified our client's interests as being within the 'Central B' charging zone. We are satisfied that the Council has, in defining four geographical charging zones without undue complexity, considered economic viability and has been mindful of local conditions. We note the charge rate of £200 per sq metre proposed for residential development (Class C3/C4/HMO/Hostel) within the Central B zone. We have reviewed the Roger Tym and Partners accompanying Viability Assessment which provides the evidence base that underpins the proposed charging schedule and are satisfied that it represents a robust and relatively transparent approach to assessing viability.	Residential Central B Zone	Support noted.
PDCS	26.02	Favour Well	Indigo Planning	However the provision of 'live appraisals' comparing viability of residential development in a pre-CIL environment and viability of the same development subject to the CIL would have been helpful and would presumably help justify relevant proposed charge rates.	Recent/historic S106s and appraisals	Appraisals for live / recent schemes are confidential and cannot be provided as part of the evidence base.
PDCS	26.03	Favour Well	Indigo Planning	In addition further justification on how overage levels have been decided, with regard to residential development would be helpful.	CIL as proportion of overage	The overage is the difference between residual land value (from the viability appraisals) and the benchmark land value.
PDCS	26.04	Favour Well	Indigo Planning	We consider the proposed blanket charge across the borough of £80 per sq metre for all other uses which includes hotel development (Class C3) is too unrefined and does not reflect the nuances of the hotel market which would see a hotel room in Hammersmith Town Centre or Fulham Town Centre generally generate a higher level of income than similar rooms in locations such as Lillie Road where our client has a hotel operation. The proposed levy is therefore considered too high for this Central B zone and should be reduced in order to ensure a delivery of this specialised form of accommodation is not prejudiced in specific areas within the borough. The need for new visitor	All uses unless otherwise stated Hotels	The viability of hotels has been reviewed and it is now proposed that there should be a £0 charge.

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
				accommodation within the Borough is set out in the Core Strategy (Strategic Policy B) and locations (amongst others) such as the Earl's Court West Kensington Opportunity Area are identified as being appropriate for such uses. As identified earlier, our client's current application site is a few metres across Lillie Road from the southern boundary of the Opportunity Area.		
PDCS	26.05	Favour Well	Indigo Planning	<u>Calculation of CIL Charge</u> We note the reference at 5.3.2 to method for calculating deductions and the provision of the definition of an 'existing building in lawful use' which is at paragraph 40 of the CIL Regulations 2010. Cross reference to exemption provisions at 1.1.5 of the PDCS ('What development will be liable for CIL?') may be appropriate.	Cross-referencing	Will consider if necessary.
PDCS	26.06	Favour Well	Indigo Planning	<u>Other Considerations</u> At 5.5.1 it is stated that the *'Council has not currently decided whether to introduce an instalment policy. It will consider whether to do so in the light of any decision by the Mayor of London to introduce an instalment policy for the Mayoral CIL, should the regulations allow'.* We would contend that a reasonable instalment policy should be included from the outset in the arrangements. Both London Borough's that have in place existing CIL regimes (Redbridge and Wandsworth) allow payment by instalment under 69B of the CIL (Amendment) Regulations. Any decision by the Mayor in regard to an instalment policy on the Mayoral CIL is not likely to occur soon. he Mayoral CIL Charging schedule states that '*The Mayor is having discussions with London boroughs about establishing a common approach to payment by instalments' but* provides no definitive timeframe for any adoption of an instalment approach.	Instalments	The Council currently does not expect that it will introduce its own instalment policy. Therefore, the Mayor of London's CIL instalment policy will apply to Mayoral and borough CIL payments.
PDCS	26.07	Favour Well	Indigo Planning	We also consider that Hammersmith and Fulham should include reference to a discretionary relief in the PDCS as this will be critical to some potential occupiers. Regulation 55 (1) of the 2010 CIL Regulations allows a charging authority to grant relief (for exceptional circumstances) from liability to pay CIL in respect of chargeable development if: (a) it appears there are exceptional circumstances which justify doing so; and b) the charging authority considers it expedient to do so.	Exceptional circumstances	It is not currently proposed to introduce an exceptional circumstances policy. Such a policy is only possible if there is a S106 obligation on a development and the development cannot pay CIL. The proposed CIL charges make allowance for the possibility of such obligations.
PDCS	26.08	Favour Well	Indigo Planning	Finally we note the amendment to the CIL regulations recently laid before Parliament which will establish special rules for calculating CIL liability for planning permissions granted under section 73 of the Town and Country Planning Act 1990 (TCPA) to 'vary' existing planning permissions. We would expect that there be reference made to these amendments in the Draft Charging Schedule.	New CIL Regulations	It is not necessary to refer to S73 provisions in the DCS.
PDCS	27.01	National Grid Property Holdings	Drivers Jonas Deloitte	National Grid Plc owns land at Imperial Road. The entire site measures 6.84 hectares (17.1 acres) and comprises both surplus land owned by National Grid Property Holdings of 3.2 hectares (8 acres) and land owned by National Grid Gas of 3.64 hectares (9.1 acre). <u>Summary of Representations</u> As part of its strategic review, NGP will consider the potential to redevelop the site along the lines of the vision set out in LBHF's vision for the South Fulham Riverside Regeneration Area (SFR). It will be important to assess all the costs of development, including potential CIL liabilities. In this context, NGP is concerned about the proposed CIL charging rates for the South Charging Zone, in particular the proposed rate of £400 psm for residential uses. While it is not yet in a position to assess the implications of this rate on possible plans for the Imperial Road site, NGP is very concerned about the methodology that has been used for assessing the proposed CIL rates. For the reasons explained below, it considers that some elements of the viability assessment require further work and that it does not properly enable a balanced judgement on the effects of CIL on the economic viability of development across the Borough. NGPs concern is that excessive CIL charging rates could jeopardise regeneration of the area. It therefore proposes that LBHF should initiate a round of detailed discussions involving public and private sector partners in the Borough to ensure that the viability assessment is sufficiently robust to enable a credible judgement to be made about the level of	Meeting	Meeting held

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
				CIL rates that should apply in the Borough and the South Charging Zone in particular.		
PDCS	27.02	National Grid Property Holdings	Drivers Jonas Deloitte	… d) Summary …NGP is concerned that the viability of development and the success of these policies could be jeopardised by CIL rates that have not been properly assessed or justified.	General viability and deliverability	It is considered that the rates are justified. However, further viability work has taken place in preparing the DCS.
PDCS	27.03	National Grid Property Holdings	Drivers Jonas Deloitte	Comments on the PDCS … NGP considers that LBHF and its consultants have not undertaken a sufficiently thorough assessment the viability of development in the Borough as a whole and South Fulham in particular in order to properly strike the appropriate balance described in the CIL Overview. In particular, NGP questions the approach adopted by LBHF's consultants (Roger Tym & Partners – RTP) in its Viability Assessment, and does not believe that there is sufficient justification for the proposed CIL charging rates. NGP makes the following comments.	General viability and deliverability	It is considered that the rates are justified. However, further viability work has taken place in preparing the DCS.
PDCS	27.04	National Grid Property Holdings	Drivers Jonas Deloitte	a) Simplistic Residual Appraisals NGP is concerned that the CIL charging rates are based on simplistic development appraisals. In essence, the residential rate for the South Charging Zone is based on one appraisal for a scenario involving 50 flats. NGP believes that there has been inadequate consideration of a range of alternative development typologies and assumptions, and questions how a single development appraisal can be treated as representative of development in an area to establish a viable level of CIL. The majority of new homes in the Borough are provided in developments of over 100 units within Opportunity and Regeneration Areas. We therefore suggest that the viability assessment should consider a wider range of projects such as schemes with 100 and 1,000 residential units, and for mixed use developments. NGP is concerned that insufficient analysis has been undertaken to demonstrate that the majority of development in an area would be viable with CIL.	Large sites Mixed uses	The Viability Study has an expanded range of sample sites that includes two large mixed use schemes in each zone (500 and 750 dwellings).
PDCS	27.05	National Grid Property Holdings	Drivers Jonas Deloitte	b) Sensitivity Analysis No sensitivity analysis has been undertaken by RTP. For example no alternative residential sales rates or construction costs have been considered. The PDCS explains at paragraph 2.2.2 that the SFR Development Infrastructure Funding Study (DIFS) forms part of the viability evidence based documents for the PDCS. However, the DIFS assesses development in SFR with quite different sales rates and construction costs to those used by RTP.	Sensitivities: Residential values Construction costs	Whilst sensitivity testing could be undertaken the Hammersmith and Fulham area has witnessed an up-turn in property prices in the last 12 months in the order of 11% - 14% demonstrating a dynamic and buoyant residential market Given these upwards trends, viability is likely to improve over time.
PDCS	27.06	National Grid Property Holdings	Drivers Jonas Deloitte	If RTP were to use some of the alternative rates from the DIFS in a set of sensitivity appraisals, it would generate very different outcomes to those summarised in the table at paragraph 4.30 of the CIL Viability Assessment. For example RTP has used the sales rate for private units of £9,000 psm. The DIFS states that the apartments with river views achieve in excess of £9,684 psm, whereas apartments without river views achieve values in the region of £6,456 psm (paragraph 6.15). The use of the latter rate in RTP's appraisal would substantially reduce the Net Realisation to the extent that the residual value would be substantially lower than the benchmark land value, making development unviable and unable to pay any level of CIL.	Residential South Zone Riverside values SFR DIFS	The SFR values are now some two years old and prices have increased considerably in the meantime.
PDCS	27.07	National Grid Property Holdings	Drivers Jonas Deloitte	Likewise, the DIFS proposed significantly higher construction costs for private residential units (paragraph 6.33). Should those costs be incorporated into RTP's appraisals, the total costs would increase, again significantly reducing the residual value.	Construction costs (SFR DIFS)	The basis of construction costs is explained in Appendix A of the Viability Study for the DCS.
PDCS	27.08	National Grid Property Holdings	Drivers Jonas Deloitte	A third set of sensitivities that could derive from the DIFS is in relation to the affordable housing assumptions. The table at paragraph 6.23 includes significantly lower sales rates for the various tenures of affordable housing, alongside different construction costs than used by RTP. Using these rates would affect the residual values achieved by RTP, which would affect its judgement on the level of CIL.	Sensitivities: Affordable housing values (SFR	CIL charges should be based on achieving the affordable housing target of the Development Plan.

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
					DIFS)	
PDCS	27.09	National Grid Property Holdings	Drivers Jonas Deloitte	c) Benchmark Land Value NGP requests that further information is provided by RTP about the source of its benchmark land value of £20 million per hectare in the South Charging Zone. While a list of sources is included in Appendix 2 of the Viability Assessment, the actual evidence of the benchmark values is not included.	Land values	The approach to benchmark land values is explained in Appendix A of the Viability Study. The figure for the south zone has been revised to £23M/hectare.
PDCS	27.10	National Grid Property Holdings	Drivers Jonas Deloitte	d) Setting the CIL Rate NGP is particularly concerned about the process for assessing the level of CIL rates. The Viability Assessment does not appear to have made any objective assessment, and is purely based on a judgement made by RTP about the proportion of the “overage” that might be captured through CIL. NGP is concerned that RTP’s approach is too simplistic for such an important assessment and considers that there should be more justification for the final proposed rates.	CIL as proportion of overage	It is not clear what is being suggested by the need for an objective assessment unless this means a percentage based approach.
PDCS	27.11	National Grid Property Holdings	Drivers Jonas Deloitte	e) Other Issues NGP raises the following issues in relation to the PDCS: • NGP is very concerned that inadequate consideration has been given to the abnormal costs that could exist for developments in the Borough. It considers that RTP should address the potential for significant abnormal costs such as those associated with the Imperial Road, including removal of the gasholders, remediation of contaminated land and the potential provision of a link road and open space. The assessment of these issues should be included in the sensitivity analysis described above. However, NGP acknowledges that the PDCS does at least recognise that the level of affordable housing may need to be reduced to reflect abnormal costs.	Abnormals	Abnormal costs will clearly vary from site to site and it is not feasible to assess these for CIL viability appraisals. The Viability Study methodology expects that abnormal costs would be reflected in the land costs, therefore, they would effectively reduce the Benchmark Land Value. However, the Viability Study methodology allows scope for abnormal costs that are not fully reflected in land value to be absorbed from within the overage, since only a small proportion is taken for CIL. As the commenter notes, if the extent of abnormals was so great as to not to be properly reflected in land price and to lead to site development being unviable policy allows for the affordable housing proportion to be reduced.
PDCS	27.12	National Grid Property Holdings	Drivers Jonas Deloitte	• NGP does not accept that the analysis summarised in paragraph 4.3.2 of the PDCS justifies the levels of charging rates proposed. NGP considers that the vague reference to the proportion of CIL rates to other factors is unhelpful in the context of the issues being addressed.	CIL as proportion of other factors	Considering CIL as a proportion of other factors is helpful when assessing the impact.
PDCS	27.13	National Grid Property Holdings	Drivers Jonas Deloitte	• NGP proposes that, prior to the publication of the Draft Charging Schedule, LBHF should prepare (as part of the next stage of work) an Instalments Policy for the payment of CIL. This is particularly important for the large scale schemes that exist in the Borough such as the Imperial Road site in the SFR area. The imposition of CIL has the potential to create very substantial CIL liabilities which could prevent development from taking place. The ability to phase CIL payments will be an essential component of ensuring that successful developments can be delivered.	Instalments	The Council currently does not expect that it will introduce its own instalment policy. Therefore, the Mayor of London's CIL instalment policy will apply to Mayoral and borough CIL payments.
PDCS	27.14	National Grid Property Holdings	Drivers Jonas Deloitte	• NGP believes that LBHF has undertaken a thorough review of infrastructure requirements for the Borough. It has reviewed the Draft Infrastructure Plan (September 2012) with specific reference to the Imperial Road site. Notwithstanding NGP’s previous opposition to the SPD in this regard, it questions why the proposed open space provision for the Imperial Road site is not included in the Infrastructure Planning Schedule.	Imperial Road open space infrastructure	Acknowledge Imperial Road open space infrastructure in IPS.
PDCS	27.15	National Grid Property Holdings	Drivers Jonas Deloitte	Conclusions While it is at the very start of its assessment of the future possibilities for the Imperial Road site, NGP is very concerned that LBHF does not propose and adopt CIL charging rates that could jeopardise the firm strategic	General viability and deliverability	It is considered that the rates are justified. However, further viability work has taken place in preparing the DCS.

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
				objectives for achieve growth in the Borough and the SFR area. NGP considers that the PDCS is currently based on a Viability Assessment that does not robustly assess the viability of development in the Borough and the South Charging Zone, and could therefore result in unviable CIL rates. NGP does not believe that LBHF has properly struck an appropriate balance between funding infrastructure and the economic viability of development.		
PDCS	27.16	National Grid Property Holdings	Drivers Jonas Deloitte	For the reasons described in this letter, NGP proposes that LBHF should establish a Steering Group of public and private sector partners with an interest in development in the Borough in order to ensure that more through Viability Assessment is undertaken, and that acceptable CIL charging rates can be proposed. NGP would be very please to take part in that group or any other forum that the Council considers could be of value to this process. Without this approach, NGP is very concerned that the successful achievement of National and Local Planning Policies that are aimed at achieving economic growth and housing development will be jeopardised.	Meeting	Meeting held
Pre-DCS1	13.01	Berkeley Group	Quod	We agree that the development types (500 and 750 homes with mixed use) are broadly representative of the types of larger development which are brought forward in the Southern Zones of the Borough. The assumed site sizes however seem relatively small. As far as we are aware the three applications that have been consented of this scale in the last 18 months have been from 2.9 to 4 hectares in size. In addition they have all contained significant levels of non-residential floorspace, so we do not think that either of the 'single-use' residential typologies is relevant to likely development in the area. Strategic Policy SFR of the Core Strategy includes requirements for employment uses on sites within the most accessible locations as well as retail and other activities for day to day uses. The adopted SPD (2013) promotes a 'rich variety of land uses across the area'. We would therefore suggest that limited weight should be placed on the residential only typologies.	Typologies	The large mixed use schemes test different densities of development which can be used to be reasonably representative of potential sites of varying site areas on a pro-rata basis.
Pre-DCS1	13.02	Berkeley Group	Quod	We have not been presented with the sources or justification for the assumptions used in the updated (or indeed the original) viability studies.	Sources/justification of assumptions	A range of sources have been used to inform the assumptions. BLV's are informed by Land Registry Data which records recent transactions, supplemented with consultations with local property agents and developers. Residential sales values have been informed by Land Registry data gathered for each zone and new build developments which have recently come forward combined with quoted prices of properties currently on the market. This information has been supplemented via discussions with house builder sales representatives.
Pre-DCS1	13.03	Berkeley Group	Quod	Residential values vary quite significantly across the area depending, particularly, on proximity to and views of the river. The blended rate appears to be closer to the higher end of the assumptions in the South Fulham Riverside DIF Study (DIFS)	Residential values	Since the preparation of the draft CIL Charging schedule the Hammersmith and Fulham area has witnessed value increases. Anticipated sales values have subsequently been revised to reflect those increases. Evidence of new values within Fulham demonstrably show that the blended values applied are relatively conservative when compared with what is currently being quoted with respect to recent river front development.
Pre-DCS1	13.04	Berkeley Group	Quod	The build costs – even taking into account infrastructure and contingency - are low. We would expect them to be materially higher to achieve the targeted higher end residential values. As a minimum the impact of higher build costs	Build Costs - Residential	Residential build costs are based upon industry data from the Build Cost

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
				should be tested: we would suggest a 30% increase for these purposes. We therefore do not agree that these costs should be considered as notionally including some allowance for Section 106 contributions	costs	Information Service (BCIS) which is produced by the Royal Institution of Chartered Surveyors (RICS). The build costs used are derived from recent data of actual prices in the marketplace. For flats upper quartile rates for 6+ storey development have been used. For houses, upper quartile rates have been used. Depending on actual scheme specification costs could greatly vary from the BCIS data. However, the costs are based on a 'typical residential development' in the area with no specific consideration of scheme features which may result in a 'premium' product and could follow through into enhanced sale values
Pre-DCS1	13.05	Berkeley Group	Quod	Marketing and sales agents' costs are very low at 1.2%. We would normally expect robust assumptions to be in the order of between 3.5 and 4%. Sales legal costs are also low at 0.12%; we would expect 0.3%.	Marketing costs	Marketing costs are included within the revised financial model at £1,000 per private residential unit which is a recognised industry standard. The sales agents fees are now 1.25% of GDV and the sales legal costs are now increased to 1.25%.
Pre-DCS1	13.06	Berkeley Group	Quod	As a result of our comments on build costs above we do not believe that Section 106 or Section 278 costs have been taken into account in these assessments. As stated at the meeting we also do not agree that it is adequate to take a 'residual valuation' approach to determining Section 106 requirements – i.e. suggesting that there is a 'buffer' in the valuations from which Section 106 can be drawn. This is because both the NPPF and the CIL Regulations suggest that Section 106 and other planning obligations must be limited to the minimum that is necessary to ensure that the impacts of development are acceptable. Given that the Council has a very detailed understanding of the infrastructure required in the South Fulham Area through the DIFS it should be possible for you to come to an informed judgement about likely obligations for the development typologies and include them in the assessment. The suggested approach of relying on a buffer in the residual land values must cast significant doubt on your ability to demonstrate that you are not proposing CIL rates at the margins of viability as you are required to do in paragraph 30 of the CIL guidance.	S106 costs – anticipated	It is anticipated that after the introduction of CIL additional funding for a number of items of infrastructure identified in the South Fulham DIFS will be from CIL receipts. However, it is also expected that some other items will be the subject of site specific S106 obligations, in particular, where the items are not infrastructure as defined for CIL purposes. The approach to identifying an overage (residual land value minus benchmark land value) is considered to be an appropriate way of assessing the viability of sample schemes and ability to pay CIL. The amount of CIL is a small proportion of the overage so that there is scope for S106 obligations to also be met from overage without affecting scheme viability (and while still leaving headroom).
Pre-DCS1	13.07	Berkeley Group	Quod	The assumptions on duration of development and sales rates are not set out in the documentation we have seen, but your explanation at the meeting suggested that they were not at all in line with the Berkeley Group's extensive experience of building out such developments. This could have a very significant impact on the appraisal outcomes and we would suggest that it is essential for your consultants to re-run the assessments using more realistic assumptions. We would suggest that they might consider the following sensitivities for private dwellings: • **Planning:** – both scenarios – 12 to 18 months	Phasing Sales/void rates	The sales rates are informed by recent sales rates evidenced within the area including Fulham Reach and Circus West, Battersea, combined with others. Viability studies including the White City DIF and Earls Court Viability Review have also informed these estimates. Proposed sales rates of 6-8 per month

<table>
<tr><th>Stage</th><th>Rep #</th><th>Organisation</th><th>Agency</th><th>Representation</th><th>Issue</th><th>Response</th></tr>
<tr><td></td><td></td><td></td><td></td><td>Site Preparation: – up to 6 months
Main Construction: (100 homes p/a)
5 years – 500 home/10,000 sqm mixed use scenario
7.5 Years – 750 homes/15,000 sqm mixed use scenario
Sales:
6 to 8 per month from consent (ensuring differentiation between pre-sales commencing and occupation, as it is only at occupation that sales receipts - including deposits - should be reasonably taken into consideration in the viability)
We would be interested to receive copies of such sensitivities. Our view is that they will demonstrate that the residual values being generated by the current appraisals are too high and consequently that the proposed CIL levels are also too high.</td><td></td><td>appear conservative in the light of this evidence.</td></tr>
<tr><td>Pre-DCS1</td><td>13.08</td><td>Berkeley Group</td><td>Quod</td><td>We believe such an approach would confirm what we set out in our original response to the PDCS – namely that for larger sites the proposed CIL rates would result in charges significantly above the levels achieved on recent major planning applications through Section 106 agreements.

The table below shows the achieved Section 106 obligations and affordable housing achieved on the three sites which meet the large sites typology, and the implied CIL contribution using the current PDCS. This assumes that all existing floorspace meets the qualifying test in regulation 40 (6 months of 12 months occupation prior to permission allowing development), which in practice we think is unlikely. Section 106 figures are based on the Molior database. Current floorspace assumptions for Fulham Riverside use estimates based on publically available information.

The implied CIL rate compared to the previous Section 106 assumptions shows an increase of obligations of between 40% and 120%, and this assumes no residual Section 106, which is unlikely on the basis of the infrastructure evidence base that you have produced.

<table>
<tr><th>Development</th><th>Homes</th><th>S106 Contribution</th><th>Affordable Housing (%)</th><th>CIL – Mayor (Assuming Discount)</th><th>CIL LBHF (Assuming Discount)</th><th>CIL Mayor + LBHF</th></tr>
<tr><td>Chelsea Creek</td><td>489</td><td>£14,895,000</td><td>30%</td><td>£3,581,350</td><td>£18,909,131</td><td>£22,490,481</td></tr>
<tr><td>Fulham Reach</td><td>744</td><td>£11,966,524</td><td>25%</td><td>£3,880,000</td><td>£22,448,400</td><td>£26,328,400</td></tr>
<tr><td>Fulham Riverside (Sainsbury/L+Q)</td><td>463</td><td>£10,505,850</td><td>14%</td><td>£1,946,350</td><td>£12,624,981</td><td>£14,571,331</td></tr>
</table>
…

Given that Hammersmith and Fulham has typically been achieving close to the top of the range of Section 106 contributions in London we would suggest that scope for extracting greater obligations from large scale developments in the Borough is limited.</td><td>S106 costs</td><td>The DCS residential charge for the south zone, where the listed sites are located is to remain at £400/m^2. Therefore, assuming the calculations in the table are correct the theoretical LBHF CIL would be substantially less than the figures shown. It is not clear whether existing floorspace has been taken into account where appropriate.</td></tr>
<tr><td>Pre-DCS1</td><td>13.09</td><td>Berkeley Group</td><td>Quod</td><td>We would therefore suggest that the Council seriously consider reducing its proposed CIL charging rates, consistent with the guidance in the NPPF and CIL Guidance, to ensure that development is viable, and also to achieve the Borough’s stated objective of bringing forward development.</td><td>CIL charge</td><td>No change proposed.</td></tr>
<tr><td>Pre-DCS1</td><td>13.10</td><td>Berkeley Group</td><td>Quod</td><td>In line with paragraph 27 of the CIL Charging Guidance the Berkeley Group would like to continue to be engaged in discussion on these issues prior to the production of the Draft Charging Schedule, both in one to one meetings and with other developers and landowners.</td><td>Meeting</td><td>Meeting was held after PDCS</td></tr>
<tr><td>Pre-DCS1</td><td>25.01</td><td>Capital and Counties</td><td>DP9</td><td>By way of overview, Capco is concerned that the main points set out in its representations have not been addressed. Whilst we recognise that CIL setting is complex, Capco considers that the basic approach to the viability assessment in testing hypothetical development typologies is inappropriate and does not enable LBHF to understand the nature of risk related to the deliverability of the Development Plan (in other words it does not, in Capco’s opinion, enable LBHF to weigh-up the desirability of funding infrastructure from CIL against the potential effects on the economic viability of development in accordance with Regulation 14). By way of example, the hypothetical typologies do not model the substantial development costs associated with the comprehensive regeneration of the ECWKOA, particularly relating</td><td>General viability (ECWKOA)</td><td>The DCS proposes a differential rate for ECWKOA based on a viability assessment of the whole area which takes into account values and costs assessed by DVS for the SPD appraisal.</td></tr>
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				to estate regeneration.		
Pre-DCS1	25.02	Capital and Counties	DP9	In accordance with the Government's Guidance, the approach to viability needs to change and focus on actual strategic sites, including the ECWKOA. LBHF and Roger Tym and Partners must, through close collaboration with relevant developers, ensure viability assessment inputs/assumptions are the most appropriate and based upon an understanding of the particular complexities of strategic sites, such as: development programme and phasing; upfront infrastructure costs; necessary on-site 'in kind' infrastructure; expected residual Section 106 costs; and known abnormal costs – ranging from factors such as site remediation to estate regeneration. The evidence must not be too 'high level'. It ought to be more thorough and detailed than the produced to date and move towards testing actual development as opposed to hypothetical typologies. The evidence needs to be prepared now and the development industry provided the opportunity to comment prior to the publication of the Draft Charging Schedule, particularly owing to the limited flexibility in revising a Draft Charging Schedule after it has been published (see paragraph 52 of Government Guidance).	Strategic sites (ECWKOA)	The DCS proposes a differential rate for ECWKOA (£0/m^2) based on a viability assessment of the whole area which takes into account values and costs assessed by DVS for the SPD appraisal.
Pre-DCS1	25.03	Capital and Counties	DP9	Essentially, Capco do not feel as though the new development typologies suitably address their concerns. The key points made in the October 2012 representations remain and, in particular, Capco consider that a differential rate for the ECWKOA is the only robust evidence-based approach and that applying the same rate to ECWKOA as to non-strategic sites cannot be justified. As previously stated, Capco – and its advisors – are committed to working closely with LBHF on the CIL implications in respect of the ECWKOA in order to ensure the viability and deliverability of the Development Plan is not put at risk.	Differential rates (ECWKOA)	The DCS proposes a differential rate for ECWKOA of £0 based on a viability assessment of the whole area and taking account of S106 costs.
Pre-DCS1	25.04	Capital and Counties	DP9	As a final point, it is now important to draw attention to the fact that the Royal Borough of Kensington & Chelsea (RBKC) has now published its PDCS. This includes charging rates for the part of the ECWKOA that falls within RBKC. The ECWKOA is central to the deliverability of both LBHF and RBKC Core Strategies. The ability for comprehensive development to be realised across the whole of the ECWKOA needs to be safeguarded and must be a primary concern of both authorities in setting their respective CILs. Capco has recently submitted representations in relation to the RBKC PDCS, setting out its concerns with the way in which the PDCS has been derived and its potential implications for ECWKOA. The concerns are broadly similar to those set out in the representations in respect of the LBHF PDCS. It is essential that both boroughs work together in this respect. It cannot be the case that the viability assessment of ECWKO is artificially separated or divided simply because of administrative boundaries. Capco urge LBHF and RBKC to work together and ensure any assessment of viability associated with ECWKOA is consistent and approached as a whole.	Cross-boundary viability implications with RBKC (ECWKOA)	Both RBKC and LBHF have based their CIL appraisals on the whole SPD area across both boroughs. Both Councils have come to the conclusion that the area should be a separate charging zone with a £0 CIL rate.
Pre-DCS1	25.05	Capital and Counties	DP9	We would like to discuss the content of this letter with you and request a working meeting with you in order to scope out the assessment/evidence for ECWKOA specifically.	Meeting	Meeting was held after PDCS
Pre-DCS1	25.06	Capital and Counties	DP9/Quod	…the work fails to reflect the complexity of development viability, which underlies the delivery of strategic sites such as Earls Court. This in turn prejudices the opportunity for due consideration of the Earls Court West Kensington Opportunity Area (ECWKOA) as a separate charging zone, enabling the ECWKOA to benefit from a differential CIL rate to the rest of the Borough and ensure the risk of CIL undermining its delivery is mitigated.	Differential rates (ECWKOA)	The DCS proposes a differential rate for ECWKOA based on a viability assessment of the whole area which takes into account costs assessed by DVS for the SPD appraisal.
Pre-DCS1	25.07	Capital and Counties	DP9/Quod	<u>1. Development typologies</u>: The structure used to appraise the larger development projects and mixed use schemes, still fails to appropriately reflect how a strategic site would come forward for development. The revised Government CIL guidance issued in December 2012 sets out the requirement for a charging authority 'to sample directly an appropriate range of types of sites across its area…. The focus should be in particular on strategic sites on which the relevant Plan relies and those sites (such as brownfield sites) where the impact of the levy on economic viability is likely to be most significant.' Whilst specific appraisals have been produced for the Earls Court area, these do not accurately reflect the scale, nature, costs and complexity of the regeneration to come forward in the ECWKOA – which includes estate regeneration.	Strategic sites Typologies (ECWKOA)	The DCS proposes a differential rate for ECWKOA of £0 based on a viability assessment of the whole area and taking account of S106 costs.
Pre-DCS1	25.08	Capital and Counties	DP9/Quod	<u>2. Scale of development and estate regeneration</u>: The revised viability work introduces 500 and 750 unit scenarios along with an element of commercial floorspace. However, in view of the scale of development envisaged in the ECWKOA, as well as the complexity associated with land assembly, demolition, site preparation, up-front infrastructure, whilst also unlocking potential for and delivery of estate regeneration, the assumption that the viability of a strategic site is represented in a single 500 unit or 750 unit 'phase' is misleading and distorts the results of the Viability Study. It is incorrect to simply pro-rata all costs and revenue as strategic sites require significant and	Strategic sites Typologies (ECWKOA)	The DCS viability study uses one appraisal for ECWK based on development of the whole SPD area.

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				disproportionate up-front investment to release the land, prepare the site, undertake appropriate ground works and deliver necessary infrastructure before development can even begin. There is then often an extended period during which confidence in the regeneration process and the wider benefits that it can deliver begin to be realised. The approach taken does not reflect this inherent complexity, which is further compounded at Earls Court by the delivery of estate regeneration. These factors are not reflected appropriately in the use of discreet 500 and 750 unit development scenarios meaning costs are under stated whilst values are overstated which in turn distorts the outcomes of the Viability Study which is intended to inform the CIL rate.		
Pre-DCS1	25.09	Capital and Counties	DP9/Quod	<u>3. Evidence Base</u>: Previously, as an example of the failure to pay due regard to available evidence, we highlighted the failure to cross-refer to the DVS DIF Study– additional commentary on this is provided below. The December 2012 Guidance reiterates the importance of a robust evidence base and confirms that 'the charging authority should also prepare and provide information about the amounts raised in recent years through section 106 agreements. This should include the extent to which affordable housing and other targets have been met.' No evidence has been provided by the Council identifying the amounts raised through s106 agreements previously nor is there any reference to actual affordable housing delivery. This information should be made available.	Recent/historic S106s Recent/historic affordable housing delivery	The Viability Study includes an appraisal for the ECWK SPD which is referenced to the DVS report on the SPD.
Pre-DCS1	25.10	Capital and Counties	DP9/Quod	<u>4. Inputs and Assumptions</u>: The revised work includes revisions to the base RTP assumptions and sensitivities have been tested having regard to the DVS DIFS work. However, this is not undertaken in a transparent way – it is not possible to easily reconcile what inputs have been amended and which have not – a summary reconciliation of the base assumptions and the changes made including those which have been omitted is required. From the limited information available it is evident that: (a) There is an inconsistent selection of inputs and assumptions, which have been applied i.e. higher sales values have been included, yet many of the additional costs set out in the DVS DIF study are excluded – clarification on this is essential.	Residential values (ECWKOA) Residential costs (ECWKOA)	The appraisals have been remodelled using a bespoke excel model which includes revised assumptions which reflect the dynamic changes within the market place over the last 12 month period and reflect the additional costs identified within the DVS DIF Study. The revised assumptions are set out within the latest report in conjunction with the outputs from the recent modelling exercise.
Pre-DCS1	25.11	Capital and Counties	DP9/Quod	(b) There is a failure to test the development typologies and capacity scenarios set out in the DVS DIF Study and as illustrated as masterplan solutions in the ECWKOA SPD i.e. mixed use scenarios of 4,000, 6,000 and 8,000 units. Furthermore, the revised viability work has failed to undertake cash flow models to test the impact of CIL on these three development capacities – this is a deficiency of the typologies as set out above.	Strategic sites Typologies (ECWKOA) Cash flow (ECWKOA)	In recognition of this a bespoke financial model has subsequently been prepared for the whole 32.6ha site with respect to the 8,000 dwelling scenario to ascertain the likely level of CIL which the scheme might support.
Pre-DCS1	25.12	Capital and Counties	DP9/Quod	(c) The exceptional costs arising from the regeneration of the West Kensington and Gibbs Green housing estates identified within the ECWKOA are omitted which we have identified in our previous representations to be c. £163,000,000 million. These costs are implicit in releasing the ECWKOA for regeneration.	Estate regeneration (ECWKOA)	The costs of replacement estate housing have been included within the revised appraisal model for ECWKOA.
Pre-DCS1	25.13	Capital and Counties	DP9/Quod	5. As set out above, the revised viability work has tested viability, specifically for the ECWKOA, based on the previous work carried out by RTP in August 2012 using updated assumptions (which we refer to as 'Sensitivity 1') and has tested viability based on some of the assumptions in the DVS DIF Study (which we refer to as 'Sensitivity 2'). In relation to the inputs and assumptions used for both sensitivities, the revised viability work should be amended, as set out below: <u>(a) Residential Sales Values and sales rate</u>: In Sensitivity 1, without any explanation, the private sales value assumptions have increased by £1,400 per m2 to £7,800 per m2. However, despite this increase, the associated costs in achieving a higher sales rate per m2 have not been acknowledged. There is no differentiation of the required enhancements in specification (i.e. where a higher sales value is assumed, unavoidably a higher fit-out cost is required to meet the expectations of private purchasers), the increased on-site facilities demanded of purchasers (i.e. gyms, concierge, valet parking, superior communal spaces, etc.) and the increased marketing budget necessary to attract purchasers, pre-sales targets and the budget required for place-making and branding of schemes.	Residential values (ECWKOA) Residential costs (ECWKOA) Marketing (ECWKOA)	Residential build costs are based on the DVS report in the appraisal for the DCS.
Pre-DCS1	25.14	Capital and Counties	DP9/Quod	<u>(b) Affordable Housing Transfer Values</u>*:* In Sensitivity 1, there is no reconciliation between affordable housing values and the affordable housing products assumed, their affordability and local housing allowance rates. Consequently, the affordable housing transfer values of £2,600/ m2 for intermediate housing and £2,400/m2 for affordable rent risks	Affordable housing transfer	Affordable Housing Transfer Rates were informed by housebuilders and S106 Agreements and informed by the local

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				being over stated.	values (ECWKOA)	authority. Lower affordable housing transfer rates have been assumed within the alternative Earls Court financial models in accordance with the DVS viability study.
Pre-DCS1	25.15	Capital and Counties	DP9/Quod	(c) Unrealistic Development programme: Officers have confirmed that a build period of 18 months and sales period of 9 months has been assumed i.e. 27 months from start on site through to the sale of the last home. This reflects a very modest construction period and very aggressive sales rate assumptions. This fails to capture the complexity of works required, the scale of upfront infrastructure and time needed to deliver the infrastructure before sub-structure works and other development can commence. Consequently, the programme is over-optimistic and underestimates the significant project financing costs, development risk and required developer return. Strategic sites require onerous, time consuming lead-in and pre-commencement periods to conclude the legal agreements for stopping up orders, carry out detailed site investigations, factor in the time and costs required to undertake any necessary CPO processes, the decant, home loss and disturbance costs for residents and associated costs of gaining vacant possession, to discharge complex pre-commencement planning conditions, agree neighbourly agreements and seek the necessary approvals from third parties and other statutory authorities, etc. all of which have not been accounted for. The sales rate and sale period assumptions (a sales rate of between 222-333 units per year was assumed, which equates to an absorption rate of 18- 28 units per month), will result in the appraisals failing to account for the impact longer protracted sales periods have on development cash flow. There is no evidence to show that such rates have been achieved on large schemes across the Borough previously.	Sales/void rates (ECWKOA)	The phasing for the ECWK appraisal has been reviewed.
Pre-DCS1	25.16	Capital and Counties	DP9/Quod	(d) Insufficient cost assumptions: In both sensitivities, a nominal build cost rate has been assumed, when compared with the sales values assumed. By way of comparison, in the Viability Study carried out by BNPP which informs the maximum and suggested charging rates in RBKC (of which a proportion of the units in the ECWKOA are proposed), the residential build cost assumptions are 22% higher than the build costs assumed in this revised viability work. The nature and type of development in the ECWKOA will be large scale, mixed use and multi-phased, requiring significant up-front, onsite infrastructure costs, as identified in the ECWKOA SPD. Both scenarios have underestimated these costs (by almost 50%) and excluded the associated fees and contingency required. A combination of the complexity and scale of strategic schemes, such as Earls Court, means that there are a plethora of cost risk items outside of the 'normal' cost allowances for small discreet projects, for example insurances, rights of lights, party wall costs, surveys, events, etc. In addition, the nature of the scheme being delivered requires a comprehensive approach to be taken to estate services, which often results in a shortfall for the initial years of a development. Furthermore, and fundamentally, neither sensitivity has included the costs associated with delivering estate regeneration.	Residential costs (ECWKOA) Fees and contingency (ECWKOA) Estate regeneration (ECWKOA)	The complexity of the Earls Court site is acknowledged and the revised viability model includes costs related to infrastructure and abnormals and other plot related costs informed by the DVS study. RBKC had also used the DVS study as a basis of its CIL appraisal for ECWK.
Pre-DCS1	25.17	Capital and Counties	DP9/Quod	(e) Mayoral CIL: The charging area assumptions for both Mayoral CIL and borough CIL are incorrect as the communal affordable housing space has not also been included. Regulation 49 defines the qualifying dwellings as being eligible for relief from CIL liability and as Regulation 50 calculates the amount of social housing relief based on gross internal area, the communal areas are chargeable area. Until the regulations change, this area should be included, when determining the CIL liability. The information available does not provide details of the payment structure assumed for the Mayoral CIL and so it is unclear if the timing of the payment of Mayoral CIL adheres with the Mayor's instalments policy, as set out in the 'Draft SPG: Use of planning obligations in the funding of Crossrail and the Mayoral Community Infrastructure Levy' (November 2012), which requires CIL to be paid in full 60 days after commencement of the development if the total payable CIL is £500,000 or less or if it's more, half to be paid 60 days after commencements with the remaining 50% paid 240 days after commencement.	Mayoral CIL on communal social housing floorspace	In the viability appraisals, the private residential and affordable floorspace GIA is based on the same average floorspace per dwelling. The GIA would include communal floorspace. Therefore, communal floorspace is split proportionally which is in accordance with the current CIL Regulations. The timing of the Mayoral CIL is assumed at commencement of construction, therefore 'worst case'.
Pre-DCS1	25.18	Capital and Counties	DP9/Quod	(f) Profit: As schemes get larger and more complex in nature, developers may use other indicators, such as the Internal Rate of Return, to measure the profitability and viability of a development, such as those schemes situated within the ECWKOA. Therefore, a blanket approach to developer return for all typologies is not considered to accurately reflect the additional risk facing strategic sites.	Profit/IRR (ECWKOA)	Whilst it is recognised that this alternative method is often adopted for measure profitability and particularly, for comparing the profitability of different investments, this approach has not been adopted. The appraisals assume a target developer return of 20% on total development costs

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						which may vary, depending upon developer attitude towards risk.
Pre-DCS1	25.19	Capital and Counties	DP9/Quod	(g) Residual Section 106/ Section 278 contributions: It is understood that residual s106 costs have rolled into the allowance made for 'SUDS,' which is assumed to be 5% of build costs. No evidence is presented on the level of Section 106 contributions previously secured or clarification of what residual Section 106 the Council will be seeking over and above CIL, which are anticipated to be significant for sites such as Earls Court- Capco is in the process of negotiating a Section 106 Agreement with LBHF (and other relevant parties) in relation to the current Earls Court Main Site planning application (reference: 2011/02001/OUT). The Heads of Terms associated with this agreement were set out in the LBHF's officer report to committee, dated 12th September 2012 and include a combination of substantial in-kind works and financial contributions totalling circa. £93m (excluding affordable housing and estate regeneration). Therefore, it is self-evident that Section 106 costs should not be rolled into a generic +5% cost, instead it should be considered as a standalone cost and evidenced.	S106s costs – anticipated (ECWKOA)	S106 costs have been taken into account and the DCS proposes a £0 CIL charge in ECWK.
Pre-DCS1	25.20	Capital and Counties	DP9/Quod	(h) Land acquisition legal fees: Whilst 1% has been assumed for land sales agent fees, the revised viability work does not apply legal costs as a % of the land value (which in the 2011 DVS Report were assumed to be 0.75%) but rather as a fixed cost of £25,000 for all development typologies, which is wholly unrealistic.	Land sales legal costs (ECWKOA)	Applying a percentage rate will not reflect the costs which will be incurred in practice. The legal fees associated with site acquisition will likely be broadly the same with respect to the site sizes tested for each scenario.
Pre-DCS1	25.21	Capital and Counties	DP9/Quod	If the above matters are addressed the viability results conclude that larger sites become less viable than smaller sites, particularly sites that require comprehensive estate regeneration and consequently, there remains a failure to apply a reasonable viability buffer in the proposed CIL charging rates, to ensure that development at the margins of viability is not unduly prejudiced. As the DVS DIF Study concluded in November 2011, development viability in the ECWKOA is already marginal and when assuming the likely costs associated with the development within the ECWKOA, the application of a more realistic programme, and cash flow assumptions and the imposition of a local CIL charge at the proposed rates set out in the Preliminary Draft Charging Schedule, development is unviable. In view of the exceptional additional costs also incurred as a consequence of estate regeneration and the uncertainty surrounding residual s106 costs and their scale, the risk CIL presents to development viability is not resolved through the flexibility provided for in the application of affordable housing policy. Therefore, our concerns remain- the revised viability work is not fit for purpose and we urge the Council to readdress the impact of CIL on development viability on developments within the ECWKOA in the context of the revised Regulations issued in December 2012 and the identified deficiencies in the work carried out to date.	General viability (ECWKOA)	The DCS proposes a differential rate of £0/m^2 for ECWKOA based on a viability assessment of the whole area which takes into account values and costs assessed by DVS for the SPD appraisal.
Pre-DCS1	27.01	National Grid Property Holdings	Deloitte	While it is helpful to receive additional appraisals to cover larger schemes of 500 and 750 dwellings, these typologies do not address the need for greater levels of sensitivity analysis to be undertaken. Nor do they adequately assess the economic viability of the types of strategic sites that the Hammersmith & Fulham Core Strategy relies upon for the majority of its housing delivery.	Typologies Strategic sites Sensitivities	The two large site appraisals test different densities and provide a reasonable representation of possible densities on strategic sites.
Pre-DCS1	27.02	National Grid Property Holdings	Deloitte	Furthermore we still require information that was requested in our letter such as the evidence of benchmark values.	Source of BLVs	Please see Appendix A of the Viability Study accompanying the DCS
Pre-DCS1	27.03	National Grid Property Holdings	Deloitte	For the reasons that are set out below, the updated viability assessment work does not change NGP's previous comments that the proposed level of CIL could jeopardise the regeneration of large sites in the borough and hence threaten the objectives of the Development Plan to address the overriding need for new homes in the borough.	General viability	See more specific comments.
Pre-DCS1	27.04	National Grid Property	Deloitte	1. Sensitivities For reasons that are set out in NGP's first letter and as discussed last week, we consider that more detailed sensitivity analysis should be undertaken to justify the proposed level of CIL rates. The current absence of sensitivity analysis is	Sensitivities	Whilst sensitivity testing can be undertaken the Hammersmith and Fulham area has witnessed an up-turn in property prices in

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		Holdings		contrary to the acknowledged difficulties in assessing viability. Roger Tym & Partners' Viability Assessment includes a series of caveats about the difficulties associated with viability work, for example at paragraphs 4.3, 4.24 and 4.31. In these circumstances, it is essential that more detailed sensitivity analysis is undertaken. Furthermore you explained last week that the council intends to test the 'worst case', which has not yet been done.		the last 12 months in the order of 11% - 14% demonstrating a dynamic and buoyant residential market Given these upwards trends, viability is likely to improve over time.
Pre-DCS1	27.05	National Grid Property Holdings	Deloitte	We set out in our previous letter how the viability assessment should consider the range of residential sales rates and construction costs that are set out within the South Fulham Riverside DIFS. The new appraisals adopt the same values and costs as used in the original 50 unit appraisal for the southern area, and therefore do not include the necessary level of sensitivity. Indeed, none of the appraisals use the lower level of sales rates that are included at paragraph 6.15 of the DIFS, nor the higher level of construction costs set out at paragraph 6.33 of the DIFS. The result of including these rates would significantly affect the viability of the tested schemes and hence the overage assessment.	Residential values (SFR DIFS) Residential costs (SFR DIFS)	Residential build costs are based upon industry data from the Build Cost Information Service (BCIS) which is produced by the Royal Institution of Chartered Surveyors (RICS). BCIS offers a range of prices dependent on the final specification. For flats upper quartile rates for 6+ storey development have been used. For houses: also used upper quartile rates. An allowance has been made over and above these costs to reflect higher specification of developments whilst remaining cognisant of the assumed sales values, which are not at the higher end in terms of values anticipated or specification based on more recent evidence of sales values within the market.
Pre-DCS1	27.06	National Grid Property Holdings	Deloitte	In this context, it is worth noting that the new appraisals for 500 and 750 unit schemes assume that the developments are constructed at the higher end of the density ranges that are assumed by RTP at paragraph 3.6. One immediate consequence of this approach is that the construction costs are likely to increase with higher density development due to the potential for development above six storeys and the possible inclusion of basements. This provides further justification for a sensitivity analysis that uses the higher level of costs assumed within the DIFS.	Residential costs / density (SFR DIFS)	The residential build costs are informed by the latest published BCIS data published by the RICS assuming 6+ storey developments with an additional margin.
Pre-DCS1	27.07	National Grid Property Holdings	Deloitte	<u>2. Overage</u> We have previously commented on the simplistic nature of the overage assessment within the viability assessment and its use in proposing CIL rates. It is important that further explanation is provided about how the judgements have been made in terms of capturing part of the overage for CIL, including a bottom up approach to dividing the amount of overage.	CIL as proportion of overage	The overage per sq m of total development is the surplus on the appraisal, being the difference between residual land value and the benchmark land value. The ability of the development to pay CIL at any particular level is assessed against the overage allowing for the possibility that the overage may also be required (in a particular case) to fund S106 contributions over the £1000/private residential unit allowance in the appraisals), abnormal costs if not taken into account in the actual land price paid, variations to costs in particular schemes, a further incentive to the landowner to release land. Given the uncertainties surrounding viability appraisal, the overage is of course an approximate indicator, which should be used cautiously. A formula is not applied to arrive at an appropriate level of CIL charge, a judgement is made based on the overage.
Pre-DCS1	27.08	National Grid Property	Deloitte	The requirement for additional information of the approach is justified by a review of the latest scenarios for the southern zone. While the Council's consultants have not yet considered the worst case, it is clear from the latest summary table that at least one of the scenarios would not be viable if the Council collected CIL at £400 psm and	CIL as proportion of overage	The appraisals have been modelled assuming a 40% affordable housing requirement and the CIL surplus is

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		Holdings		required affordable housing at 40%. It is appropriate for the Council's Charging Schedule to recognise that there may be circumstances when the level of affordable housing may need to be reduced, but it is inappropriate to propose a level of CIL which automatically requires a lower level of affordable housing in order to achieve a viable development.	Affordable housing %	calculated after this and other policy costs have been paid. .
Pre-DCS1	27.09	National Grid Property Holdings	Deloitte	3. Phasing Now that the viability assessment includes larger projects, it is important that we understand the assumptions that have been made in relation to phasing and the rates of sale for the residential units.	Phasing Sales/void rates	Phasing assumptions are set out in the Appendix to the Viability Study.
Pre-DCS1	27.10	National Grid Property Holdings	Deloitte	In this context it is important to understand the Council's proposed CIL instalment policy. Please can further information be provided on this issue.	Instalments	The Council currently does not expect that it will introduce its own instalment policy. Therefore, the Mayor of London's CIL instalment policy will apply to Mayoral and borough CIL payments.
Pre-DCS1	27.11	National Grid Property Holdings	Deloitte	4. Site Preparation and Infrastructure We discussed last week that the appraisals include a higher level of potential cost for site preparation and infrastructure, at 5% of the total construction costs. It is important to note that even at this level there may be an insufficient allowances for abnormal costs such as those that might be accrued at NGP's Imperial Road site, the costs of service connections and other infrastructure, and the level of site specific s106 costs that could arise from developments. For example, using the PDCS assumption that an additional 20% of the CIL charge will be paid via a s106 agreement, the s106 cost for the 750 unit mixed scheme could be £2.7m. On this basis, we don't accept that increasing the allowance to 5% of construction costs will necessarily reflect the additional costs and risks associated with strategic sites.	Abnormals Site preparation and infrastructure S106 costs – anticipated	The Viability Study methodology expects that abnormal costs would be reflected in the land costs, therefore, they would effectively reduce the Benchmark Land Value. However, the Viability Study methodology allows scope for abnormal costs that are not fully reflected in land value to be absorbed from within the overage, since only a small proportion is taken for CIL. An allowance of £1,000 per unit has been factored within the appraisals for S106 costs. It is anticipated that site specific S106 obligations may be appropriate on non-residential schemes where justified.
Pre-DCS1	27.12	National Grid Property Holdings	Deloitte	As discussed last week, we believe that it would be beneficial to hold a joint meeting between the Council, its advisers and interested landowners prior to the publication of the draft CIL charging schedule. NGP would be interested in taking part in this exercise.	Meeting	Meeting was held after PDCS
Pre-DCS2	13.01	Berkeley Group	Quod	Affordable Housing Mix Affordable and social rent tenures Why have these tenures been included given the LBHF policy on the housing ladder of opportunity?	Affordable housing	Social rent tenures apply only in White City East and Earls Court West Kensington appraisals because of the policies for those areas. Affordable rent is included in accordance with Core Strategy Policy H2.
Pre-DCS2	13.02	Berkeley Group	Quod	Floorspace Sizes NIA 63.75 m2 686/ft2 on the small side as an average	Floorspaces	No alternative suggested. The size is considered to be satisfactory for CIL purposes.
Pre-DCS2	13.03	Berkeley Group	Quod	Benchmark Land Values North, Central and South It does not make sense that a site in the north of the Borough will be worth 5 times less than one in the south.	BLVs	The approach to setting benchmark land values is explained in Appendix A of the Viability Study
Pre-DCS2	13.04	Berkeley Group	Quod	Development Cost, Residential and Mixed Use Scheme All Private Residential Flats, £1,900/m2 £175/ft2 gross £207/ft2 net Too low - at least £250 net	Build costs - residential	The approach to cost figures is explained in Appendix A of the Viability Study.
Pre-	13.05	Berkeley	Quod	Development Costs, Build Costs	Build costs –	The approach to cost figures is explained in

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DCS2		Group		Retail Comparison - £925 m2 Retail Convenience - £1,100/m2 Hotel - £1,080/m2 £100/ft2	commercial	Appendix A of the Viability Study.
Pre-DCS2	13.06	Berkeley Group	Quod	Development Costs, Residential Sales and Costs Marketing, £1,000 Nowhere near enough. At least £15K per flat	Marketing costs	Marketing costs are included within the revised financial model at £1,000 per private residential unit which is a recognised industry standard
Pre-DCS2	13.07	Berkeley Group	Quod	Development Costs S106 and CIL £1,000/unit Residual S106 looks too low when analysing LBHF policies	S106 costs	The £1,000/dwelling allowance is for minor S106 costs. There may still be site specific S106 costs depending on the particular scheme and the justification. The viability methodology assumes that only a relatively small proportion of the overage will be taken for CIL, allowing considerable headroom which would partly be available to fund such S106 obligations. However, it would be expected that compliance with policy would be taken onto account in the price paid for land.
Pre-DCS2	13.08	Berkeley Group	Quod	Development Values North Private Residential Flats, £5,700/m2 £529/ft2	Values – residential - north	No comment necessary
Pre-DCS2	13.09	Berkeley Group	Quod	Development Values South Private Residential Flats, £10,350/m2 £961/ft2 – too high for South sides or for non riverside	Values – residential - south	The rates are considered to be reasonable.
Pre-DCS2	13.10	Berkeley Group	Quod	Development Values Commercial Retail Convenience Yield, 4.80% Assumes very strong covenant	Retail values	No comment necessary
Pre-DCS2	13.11	Berkeley Group	Quod	Build periods 19 months to build 500 homes 5-6 years more realistic	Phasing – construction – 500 units	The Viability Study has reviewed phasing and amended where appropriate.
Pre-DCS2	13.12	Berkeley Group	Quod	Build periods 19 months to build 750 homes 80 – 100 homes per year is realistic. The interest rate would be much higher.	Phasing – construction – 750 units	The Viability Study has reviewed phasing and amended where appropriate.
Pre-DCS2	13.13	Berkeley Group	Quod	Build periods In reality sales would be in parallel with construction.	Phasing – construction and sales	Much of the phasing for larger sites overlaps with construction but some sales continue after completion of construction.
Pre-DCS2	17.01	Stanhope	Gerald Eve	Development Costs The residential build costs look to be based on BCIS data and the CLG guide on additional costs for CfSH Level 4. BCIS rates do not adequately reflect site constraints and premium rates that are prevalent on London at present	Build costs - residential	The approach to cost figures is explained in Appendix A of the Viability Study. An additional 5% on costs is included for plot externals. The Viability Study methodology expects that abnormal costs would be reflected in the land costs, therefore, they would effectively reduce the Benchmark Land Value. The WCOA DIFS also took this view which is clearly stated on pages 42/43. However, the Viability Study methodology

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						allows scope for abnormal costs that are not fully reflected in land value to be absorbed from within the overage, since only a small proportion is taken for CIL.
Pre-DCS2	17.02	Stanhope	Gerald Eve	Development Costs It follows from the above and from other current schemes that the figures are at 10% below what would be expected, particularly given this is an area wide viability exercise	Build costs - residential	See Appendix A of the DVS Viability Study for basis of build costs.
Pre-DCS2	17.03	Stanhope	Gerald Eve	Development Costs Services and externals are typically taken as being between 8-15% of unit build costs (5% therefore is an underestimate)	External works	5% is considered to be a satisfactory estimate for CIL purposes.
Pre-DCS2	17.04	Stanhope	Gerald Eve	Development Costs Professional fees range between 10% to 12.5% - again we would suggest the upper level of the range for area wide viability assessments	Professional fees	Professional fees are based upon accepted industry standards and are calculated as a percentage of build costs at 10%
Pre-DCS2	17.05	Stanhope	Gerald Eve	Development Costs Sales and Marketing should equate to between 3%-6% of sales value. The figures presented cumulatively are only 1.7%	Marketing and sales costs	Marketing costs are included within the revised financial model at £1,000 per private residential unit which is a recognised industry standard.
Pre-DCS2	17.06	Stanhope	Gerald Eve	Development Costs It is not clear to what extent s106 has been scaled back	S106 costs	
Pre-DCS2	17.07	Stanhope	Gerald Eve	Development Values Profit for area wide assessments are better performed on an Internal Rate of Return (IRR) basis which allows for growth and sensitivity testing	Profit	CIL appraisals are expected to be based on present day values rather than taking account of growth. Whilst it is recognised that the IRRs alternative method is often adopted for measure profitability and particularly, for comparing the profitability of different investments, this approach has not been adopted. The appraisals assume a target developer return of 20% on total development costs which may vary, depending upon developer attitude towards risk.
Pre-DCS2	17.08	Stanhope	Gerald Eve	Development Values Finance costs do not reflect the costs and availability of finance for smaller developers and the level of equity input now required. Again for area wide viability assessment rates of 8%plus are more appropriate	Finance costs	7% is considered to satisfactorily reflect market rates for CIL purposes.
Pre-DCS2	17.09	Stanhope	Gerald Eve	Development Values The affordable housing rent levels appear high in the absence of grant	Values – residential - affordable	No alternative is suggested by the commenter. The rent levels are considered to be acceptable.
Pre-DCS2	17.10	Stanhope	Gerald Eve	Development Values Yield levels generally are between 25bpts and 50bpts too high given (i.e. they should be moved out) the area wide viability context	Yields	Yield levels are considered to be satisfactory.
Pre-DCS2	17.11	Stanhope	Gerald Eve	Development Programme The sales rates appear to be high given the area wide context. This may be perhaps considered in testing viability through running sensitivity tests	Phasing – sales	The comment makes no suggestion about alternative rates.
Pre-DCS2	17.12	Stanhope	Gerald Eve	Benchmark Land Values Values look inconsistent with transactions and comparable evidence in LBHF and do not seem to reflect such matters of density which is an important aspect/function of land value	BLVs	The approach to setting benchmark land values is explained in Appendix A of the Viability Study
Pre-	17.13	Stanhope	Gerald	Benchmark Land Values	BLVs	BLVs for mixed use sites are set at the

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DCS2			Eve	How are land values dealt with for mixed use sites		same level as for residential only sites.
Pre-DCS2	17.14	Stanhope	Gerald Eve	Unit Floor Space Ratios NIA/GIA ratio should be c. 80% not 85% again having regard to the context of this being an area wide viability assessment.	Floorspaces	Not clear whether the comment is suggesting that NIA should be reduced or GIA increased. The sizes are considered to be satisfactory for CIL purposes.
Pre-DCS2	27.01	National Grid Property Holdings	Deloitte	While it is difficult to comment on the assumptions without seeing how they are used in the development appraisals, we offer the following observations	General	See more specific comments
Pre-DCS2	27.02	National Grid Property Holdings	Deloitte	Please can the revised appraisals be shared with us before they are published as part of the Draft Charging Schedule.	General	The full set of appraisals will be published at the DCS stage.
Pre-DCS2	27.03	National Grid Property Holdings	Deloitte	It appears that the advisors continue to use one assumption for each variable, such as sales values, construction costs etc. For the analysis to be suitably robust, it is vital that more sensitivities are tested and for a more fine grained approach to be taken.	Sensitivities	Proposed charge rates are not set at a level that would absorb all the overage so are still capable of being viable, even when market sensitivities are tested.
Pre-DCS2	27.04	National Grid Property Holdings	Deloitte	Linked to this point is the absence of evidence to justify each of the rates that are used for the key variables. Please can evidence be provided of sales values, construction costs, benchmark values etc before we comment on these inputs.	Evidence	This is explained in Appendix A of the Viability Study.
Pre-DCS2	27.05	National Grid Property Holdings	Deloitte	The phasing schedule that you circulated is difficult to follow in respect of the appraisals to which it relates and how it corresponds with the reality of these types of developments. Please can you send us the phasing profile as set out in each Argus Developer appraisal to be submitted as part of the evidence.	Phasing – construction and sales	This is available in the appendices to the Viability Study.
Pre-DCS2	27.06	National Grid Property Holdings	Deloitte	We note that the advisers have increased the sales rates for private residential flats in the South Zone to £10,350/m². Prior to undertaking sensitivity analysis, we would expect the starting point for the appraisal to use a value for this Zone to be reflective of an average for the entire Zone. We have not had sight of the evidence that supports the increase in average sales value that has now been adopted. Clearly the appraisal needs to consider whether the CIL charge can be absorbed anywhere in the Zone, so it is vital that appropriate values are considered, particularly given the variety of development sites that exist.	Values – residential - south	The basis of sales values is explained in Appendix A of the Viability Study for the DCS.
Pre-DCS2	27.07	National Grid Property Holdings	Deloitte	We note that assumptions are included for site preparation, abnormals etc for Earls Court West Kensington. Please can equivalent figures be provided for the South Zone. In the case of NGP's land at Imperial Road, we are dealing with a very real strategic opportunity which will have major abnormal costs. It is therefore essential that adequate allowance is made in the appraisals for these costs.	Abnormal costs	In the case of ECWK, abnormal costs were estimated by DVS in carrying out the appraisal of the SPD for the area, though this estimate included highways and public transport costs which might normally be identified for S106 purposes. There is no estimate of the abnormals available to the Council for the NGP land. In any event, the Viability Study approach is that these would normally lead to a reduction in land cost (i.e. below the benchmark land value), since a developer would take abnormal costs into account in deciding what it was possible to pay for the land. However, the Viability Study methodology allows scope for abnormal costs that are not fully reflected in land value to be absorbed from within the

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						overage, since only a small proportion is taken for CIL.
Pre-DCS2	27.08	National Grid Property Holdings	Deloitte	We consider that the total marketing budget (for sales agents and marketing costs) should be 4% of the GDV. The current levels are too low in our opinion.	Marketing	Marketing costs are included within the revised financial model at £1,000 per private residential unit which is a recognised industry standard.
Pre-DCS2	27.09	National Grid Property Holdings	Deloitte	Likewise, we consider that the total professional fees should be 12.5%.	Professional fees	Professional fees are based upon accepted industry standards and are calculated as a percentage of build costs at 10%
Pre-DCS2	27.10	National Grid Property Holdings	Deloitte	It is unclear what value there is to include an assumption of £1,000/unit for s106 costs, given that the table includes such a substantial caveat that the assumption "does not represent the full s106 costs". This is particularly in the context of figure 3.2 of the PDCS, which suggests that the receipts from s106 will be approximately a fifth of the CIL receipts. If that was to be the case, the s106 costs per dwelling would be a lot higher than £1,000.	S106 costs	The DCS viability appraisals have an allowance of £1,000/dwelling for minor S106 costs. It is assumed that any remaining major site specific costs would be taken from the viability study's overage (residual land value minus benchmark land value) in addition to CIL. The south zone appraisals show that there would be considerable overage remaining after CIL.
Pre-DCS2	28.01	Imperial College London	Jones Lang LaSalle	We acknowledge receipt of the viability assumptions that are proposed to be used by Peter Brett Associates to inform the Draft Charging Schedule in respect of the Hammersmith CIL. Imperial College London and its team have reviewed the assumptions and, in particular to ensure an accurate comparison for the regeneration area of White City, compared them with the results issued by AECOM last year on behalf of yourselves and the GLA in respect of the White City Opportunity Area Planning Framework (WCOAPF) viability used to inform the DIFF study. From this, we now make the following observations:-	General	See more specific comments
Pre-DCS2	28.02	Imperial College London	Jones Lang LaSalle	<u>Benchmark Land Values</u> We do not believe Peter Brett Associates figure of £14m per Ha (equivalent to £5.67m per acre) is representative of current land values within the White City OAPF. As you are aware, there are a number of significant transactions which have occurred over the last 12 months which would indicate current land values of circa £10m per acre. Last year, AECOM were reporting £9.26m per acre.	BLVs – WCOA	The WCOA DIFS draft report referred to a land price of £9.26M/hectare not per acre but this was updated in the final report to £14M/ha as also used in the CIL appraisals. The approach to setting benchmark land values is explained in Appendix A of the Viability Study.
Pre-DCS2	28.03	Imperial College London	Jones Lang LaSalle	<u>Development Values</u> Private Residential Flats - When AECOM assessed sales values for carrying out the DIFF study in 2012, they determined that an appropriate value would be £5,400/m². The Peter Brett Associates proposed figure is 30% higher and we are not aware of any evidence, in the WCOAPF area, where these values are being achieved.	Values – residential – WCOA	The approach to setting sale values is explained in Appendix A of the Viability Study. In the final DIFS study the values were increased to £6.9-£8K.
Pre-DCS2	28.04	Imperial College London	Jones Lang LaSalle	<u>Benchmark Land Values</u> Intermediate Residential - AECOM assessed these sales values at between £2,250/m² and £2,420/m². This is over 10% less than the values proposed by Peter Brett Associates.	Values – residential – intermediate - WCOA	The approach to affordable housing values is explained in Appendix A of the Viability Study.
Pre-DCS2	28.05	Imperial College London	Jones Lang LaSalle	Commercial Offices - AECOM assessed commercial offices at a rental level of £215/m². This compares with Peter Brett Associates at £250/m². Although, AECOM's rent is set against a lower yield, the effective capital value reported by AECOM is still less than 10% of the capital value proposed by Peter Brett Associates.	Values – commercial - WCOA	In the final report AECOM assumed office rents at £377/m^2. The approach to commercial values is explained in Appendix A of the Viability Study.
Pre-DCS2	28.06	Imperial College	Jones Lang	Hotel - AECOM assessed the annual rent at £6,000/bed per annum, nearly half the £11,000/bed per annum identified	Values – hotel -	The Viability Study has reduced the value to £6,500/room.

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		London	LaSalle	by Peter Brett Associates. Yield assumptions were the same in both cases. Therefore, Peter Brett Associates are suggesting hotel values are nearly double compared with AECOM.	WCOA	
Pre-DCS2	28.07	Imperial College London	Jones Lang LaSalle	<u>Development Costs</u> Private Residential Flats - We do not believe it is possible to deliver good quality residential flats for £1,900/m² (certainly not flats that could be considered to achieve a value of £7,000/m²). AECOM assessed the costs at between £2,530 and £3,000/m².	Build costs - residential	As stated in the AECOM report on the DIFS, build costs include 12.5% professional fees and 5% contingency. The Viability Study appraisals show fees and contingency on costs as separate items. Therefore, the net difference is considerably less. The approach to cost figures is explained in Appendix A of the Viability Study.
Pre-DCS2	28.08	Imperial College London	Jones Lang LaSalle	<u>Development Costs</u> Commercial Offices - AECOM assessed costs of £2,210/m² compared with Peter Brett Associates at £2,045/m².	Build costs - commercial	As stated in the AECOM report on the DIFS, build costs include 12.5% professional fees and 5% contingency. The Viability Study appraisals show fees and contingency on costs as separate items. Therefore, the net AECOM cost is lower than that in the Viability Study.
Pre-DCS2	28.09	Imperial College London	Jones Lang LaSalle	<u>Development Costs</u> External Works - The 5% allowance used by Peter Brett Associates for external works could be considered a reasonable assumption to cover 'normal' external works costs. However, this would be insufficient to cover any abnormal infrastructure costs, expected for difficult regeneration sites such as those to be found within the White City OAPF. AECOM assessed the abnormal infrastructure costs that will have to be budgeted for these sites at circa £80m. For the proposed White City OAPF design, this equated to approximately 5% of the base construction costs. Therefore, the overall allowance for normal external works and abnormal infrastructure should be 10%. It is also important to note that these AECOM figures excluded the £56m of 'Essential Infrastructure' identified as vital for the regeneration of White City. It was assumed that this would be covered by the tariff/CIL. If it is not, then any viability assumptions produced by Peter Brett Associates, must also accommodate these costs.	External works / abnormals	In the DIFS AECOM assessed abnormal site specific costs, however, the DIFS clearly states on pages 42/43 that these costs would be expected to lead to a reduction in land price. The Viability Study methodology takes the same approach but allows scope for abnormal costs that are not fully reflected in land value to be absorbed from within the overage, since only a small proportion is taken for CIL. For the DCS, the cost of other essential infrastructure has been taken onto account, leading to a £0 CIL differential charge for White City East.
Pre-DCS2	28.10	Imperial College London	Jones Lang LaSalle	<u>Development Costs</u> Professional Fees - The allowance appears low and should be between 10 and 12%. In summary, we believe the values in many cases appear inflated and the costs understated.	Professional fees	Professional fees are based upon accepted industry standards and are calculated as a percentage of build costs at 10%
Pre-DCS2	29.01	BBC	Lambert Smith Hampton	I understand that at the DCS stage, full viability appraisals using the final viability assumptions will be published to inform your proposed CIL charges, alongside full responses to representations received on the Preliminary DCS. In short it will remain important for us to provide a formal response to the proposed viability assumptions at the DCS stage. At this stage we will expect that the assumptions particularly relating to values to be fully evidenced and the hypothesis which is used to create the proposed values per hectare for theoretical 10,50,500,and 750 unit schemes explained.	General	See more specific comments
Pre-DCS2	29.02	BBC	Lambert Smith Hampton	<u>Land Value Benchmarks</u> I think commenting on whether we think the values proposed in the tables sent are accurate at this time is pointless without understanding what assumptions were applied in this instance. For example are these values reflecting "Market Value" through comparable evidence, theorised based on residual assumptions and do they take into account reasonable head room in the flexibility of potential values of land per hectare in each range of scheme. I am sure this will be explained more fully as part of the formal process which will enable us to fully judge if the	BLVs	The approach to setting benchmark land values is explained in Appendix A of the Viability Study.

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				proposed land value benchmarks are appropriate for CIL calculation. We will also be interested to know what assumed affordable housing levels are anticipated within the benchmark land values and how these compare to recent planning permissions.		
Pre-DCS2	29.03	BBC	Lambert Smith Hampton	Land Value Benchmarks I also note that you have a single land value across the Borough for various other commercial uses other than residential. I would assume that the DCS stage will also explain why set difference in values by geography in relation to these other uses (surely offices near the river might gain a premium over those in the north of the Authority as reflected in the anticipated varying office rents you put forward). Furthermore in my experience there has been quite a lot of debate about the differing values achievable through different A1 occupiers – for example bulky good retail does not achieve similar rents to unrestricted A1, similarly covenant strength is a factor, such as the difference between Tesco and a local food trader.	BLVs – commercial	The approach to setting benchmark land values is explained in Appendix A of the Viability Study.
Pre-DCS2	29.04	BBC	Lambert Smith Hampton	Land Value Benchmarks Finally I notice that the land values for Offices, HTC Offices, Retail comparison, Retail convenience and hotel are all £10m per hec. I would be interested to understand how this has been concluded and why there isn't some variation between the types. I would also be interest to know how a reasonable CIL is assessed for uses not within the categories proposed, such as Health and Student uses.	BLVs - commercial	The approach to setting benchmark land values is explained in Appendix A of the Viability Study. The BLVs are now different in some cases.
Pre-DCS2	29.05	BBC	Lambert Smith Hampton	I would also be interest to know how a reasonable CIL is assessed for uses not within the categories proposed, such as Health and Student uses.	Health and Student Uses	Please see Viability Study.
Pre-DCS2	29.06	BBC	Lambert Smith Hampton	Unit sizes I appreciate the approach of assumed sites for residential and the calculated coverage are rather straight forward to gauge floor area. However, I assume evidence will be provided as part of the DCS to support why the particular site areas have been chosen. I assume as process such as of assessing the previous planning consents and assessing the average size of the previous schemes has been done to support the areas proposed.	Floorspaces – residential	The sizes chosen for the larger appraisals were chosen based on an assessment of schemes in the borough to produce appropriate alternative densities for testing. The precise site areas are not important in that the results would be pro-rata for smaller or larger sites.
Pre-DCS2	29.07	BBC	Lambert Smith Hampton	Unit sizes I also assume that a similar exercise has been carried out to demonstrate that assessing a single area size for commercial uses is justifiable and proportionally representative of the various uses in LBHF. I would have thought that like residential units offices vary significantly in size and the size impacts the occupant which influences the potential income and investment value. Therefore, I would anticipate a discussion as to whether more than one office floor space calculation per area is required to demonstrate that a viable CIL is achievable.	Floorspaces - commercial	There are two sample large site appraisals which have different quantities of commercial and residential floorspace.
Pre-DCS2	29.08	BBC	Lambert Smith Hampton	Unit sizes In regards to the residential units, although the sizes look familiar I assume the DCS stage will include evidence to show that these reflect the average size of units in LBHF and that there is no significant geographical variation in sizes.	Floorspaces – residential	The unit sizes are considered to be reasonable for viability testing.
Pre-DCS2	29.09	BBC	Lambert Smith Hampton	Affordable Housing Mix I assume that the proposed affordable mixes are reflective of LBHF affordable policy, which seems a reasonable position to start. I would however be interested to know how these are consistent with the proposed land value benchmarks.	Affordable housing	Yes - the affordable housing mixes are in accordance with LBHF policy. It would be expected that land value would take account of policy requirements for development and the benchmark land values are consistent with that approach..
Pre-DCS2	29.10	BBC	Lambert Smith Hampton	Costs At the formal stage I would anticipate some explanation of why the private and affordable build costs are the same in all instances and why no variation has been made for anticipated fit out differences between the two types or why no additional build cost has been applied to represent high rise development.	Build costs – residential	The approach to cost figures is explained in Appendix A of the Viability Study.
Pre-DCS2	29.11	BBC	Lambert Smith Hampton	Costs I seek an explanation of how a single figure for commercial construction by use was concluded. I would be interested to know if this takes account of sustainability costs/ policies which are anticipated and the impact of any BREAM changes.	Build costs – commercial	The approach to cost figures is explained in Appendix A of the Viability Study.

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Pre-DCS2	29.12	BBC	Lambert Smith Hampton	<u>Costs</u> Although I note allowances have been made for external works, professional fees, and contingency, I cannot see where an allowance for abnormal costs has been made. Unless this has already been incorporated within the standard build cost, I would anticipate that individual schemes may include costs over and above those identified in say RICS BCIS data. I therefore think to ensure the CIL is robust that this is taken into account. I note that additional costs have been allowed for in the Earls Court appraisal and whilst they may not be to the same amount in other schemes, I would suggest that site preparation costs and abnormals should be accounted for across the board.	Abnormals	The allowance of 5% on costs for externals includes for normal site preparation and on-site infrastructure. The Viability Study methodology expects that abnormal costs would be reflected in the land costs, therefore, they would effectively reduce the Benchmark Land Value. The WCOA DIFS also took this view which is clearly stated on pages 42/43. However, the Viability Study methodology allows scope for abnormal costs that are not fully reflected in land value to be absorbed from within the overage, since only a small proportion is taken for CIL.
Pre-DCS2	29.13	BBC	Lambert Smith Hampton	<u>Costs</u> I am unsure why there is a difference in anticipated agent's fees between Earls Court and other areas. I assume it is because it is known for Earls Court. I would suggest it would be simpler to have a single agent's fee rather than justifying why there is a difference.	Agents fees	The agents fees are now consistent.
Pre-DCS2	29.14	BBC	Lambert Smith Hampton	<u>Costs</u> I assume residential sale legal fees and marketing are by unit rather than per appraisal? However, I would suggest a percentage application here may be more accurate, as has been used for commercial sales.	Marketing and sales and legal costs	Marketing costs are included within the revised financial model at £1,000 per private residential unit which is a recognised industry standard
Pre-DCS2	29.15	BBC	Lambert Smith Hampton	<u>S106</u> I assume that the average S106 cost per unit has been calculated by considering the last several years of planning applications, removing from this the items which will be collected from CIL and working out a reasonable average to apply to the appraisals across the board. I would therefore anticipate an explanation of this at the formal stage.	S106 costs	Reference has been made to past schemes which confirms that an average £1,000 S106 cost per private dwelling is a reasonable assumption.
Pre-DCS2	29.16	BBC	Lambert Smith Hampton	<u>Costs</u> Given this cost is calculated on a unit basis, is it correct to assume that no section 106 has been previously collected on non-residential schemes and that it is not anticipated any S106 costs will be collected on non-residential schemes in the future. I would be interested to understand how this works with mixed use schemes.	S106 costs	It is anticipated that site specific S106 obligations may be appropriate on non-residential schemes where justified.
Pre-DCS2	29.17	BBC	Lambert Smith Hampton	<u>Profit and Finance</u> The profit level at 20% on cost across all developments is the minimum I would anticipate. However, Developers are increasingly asking for higher levels to reflect the perceived risks from bank finance. It may be more appropriate to asses a range of profit levels to reflect that risk and profit will vary between schemes and this way the review will be more robust at the margins. However, I would also suggest the calculation is done on GDV (i.e 17%) to reflect the GLA viability assessment advice.	Profit	20% on costs is considered to be a reasonable level for CIL viability testing.
Pre-DCS2	29.18	BBC	Lambert Smith Hampton	<u>Profit and Finance</u> I would agree that the finance costs look accurate; however, again a sensitivity test around this would improve the robustness of the CIL review.	Finance costs	If the finance costs look accurate it is not clear whether sensitivity testing would be beneficial or what alternative rates would be tested.
Pre-DCS2	29.19	BBC	Lambert Smith Hampton	<u>Land Acquisition costs</u> I would anticipate that legal costs will be associated with all land transactions and not only single use commercial uses and therefore should be applied across the board. I also think that some acknowledgement of planning costs in gaining consent should be included in the appraisal modelling.	Land acquisition costs	Legal costs are included in the CIL viability appraisals. The professional fees allowance includes all such costs.
Pre-DCS2	29.20	BBC	Lambert Smith Hampton	<u>Sales Values</u> I think it is best to wait for the full report to understand how these various values have been concluded and what they represent and what spec has been assumed. I am unsure why no ground rents have been assumed in flats outside the Earls court area. I would anticipate all private flats to have a ground rent.	Ground rents	The approach to sales values is explained in Appendix A of the Viability Study.

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Pre-DCS2	29.21	BBC	Lambert Smith Hampton	Profit and Finance As noted above the commercial land values don't vary geographically, nor do build costs, but rental values do. I would anticipate there to be a correlation between these proposed assumptions. I assume that a significant amount of evidence will be provided to demonstrate that the chosen sales values reflect a reasonable average taking into account spec and size.	BLVs	The approach to setting benchmark land values is explained in Appendix A of the Viability Study.
Pre-DCS2	29.22	BBC	Lambert Smith Hampton	Profit and Finance Furthermore I would assume that some sensitivity testing around this base value is included in the CIL analysis so that the proposed CIL does not restrict marginalised development and accounts for geographic, and market variations.	Sensitivities	Whilst sensitivity testing could be undertaken the Hammersmith and Fulham area has witnessed an up-turn in property prices in the last 12 months in the order of 11% - 14% demonstrating a dynamic and buoyant residential market Given these upwards trends, viability is likely to improve over time.
Pre-DCS2	29.23	BBC	Lambert Smith Hampton	Build Cash flows I don't think these look unreasonable at first glance, but would appreciate an explanation of how they were conceived. I think however, whilst a vacancy period appears to be included within the commercial cash flow, I would like to understand where rent frees are included in the calculation and whether the void period reflect current experience.	Phasing – construction and sales	Rent free periods are identified in the viability appraisals accompanying the DCS.
Pre-DCS3	13.01	Berkeley Group (St James)	Quod	Build and marketing costs are extremely low, and in no way reflect the level of investment required to achieved the identified values. It would appear that some of the build costs have reduced since the previous version we commented on, despite significant cost inflation in the sector;	Build costs	Residential build costs are based upon industry data from the Build Cost Information Service (BCIS) which is produced by the Royal Institution of Chartered Surveyors (RICS). The build costs used are derived from recent data of actual prices in the marketplace. For flats upper quartile rates for 6+ storey development have been used. For houses, upper quartile rates have been used. Depending on actual scheme specification costs could greatly vary from the BCIS data. However, the costs are based on a 'typical residential development' in the area with no specific consideration of scheme features which may result in a 'premium' product and could follow through into enhanced sale values.
Pre-DCS3	13.02	Berkeley Group (St James)	Quod	Programme assumptions are unrealistic – there appears to be no planning period, the build period is too short and sales/completion rates too high. They do not appear to make any reflection for the holding costs of a long-term development delivered in phases, nor do they appear to cashflow CIL;	Phasing	The Viability Study has reviewed phasing and amended where appropriate.
Pre-DCS3	13.03	Berkeley Group (St James)	Quod	There is no allowance in White City for abnormal costs or infrastructure costs – unlike Earls Court which appears to be treated as a special case. The DIFs study identifies both site specific infrastructure costs and 'area wide' requirements – in the case of the M+S site, as we have discussed, all of these costs are likely to fall on the developer and there needs to be some kind of credit/equalisation mechanism. Notwithstanding the fact that the DIF study significantly underestimates the costs of decking and delivery for the M+S site, the RTP figures do not appear to take them into account at all	Abnormals	The Viability Study methodology expects that abnormal costs would be reflected in the land costs, therefore, they would effectively reduce the Benchmark Land Value. The WCOA DIFS also took this view which is clearly stated on pages 42/43. However, the Viability Study methodology allows scope for abnormal costs that are not fully reflected in land value to be absorbed from within the overage, since only a small proportion is taken for CIL.

Stage	Rep #	Organisation	Agency	Representation	Issue	Response
Pre-DCS3	13.04	Berkeley Group (St James)	Quod	More broadly we are concerned that the approach being taken by RTP/PB does not properly address the CIL guidance which suggests that "The focus should be in particular on strategic sites on which the relevant Plan relies and those sites (such as brownfield sites) where the impact of the levy on economic viability is likely to be most significant." We believe that 'generic' area wide appraisals such as those used previously by RTP/PB do not meet this requirement as they are not properly based on strategic sites and their needs. This is emphasised by the big differences in outcome between the DIFs viability study which does seek to consider site specific costs and the RTP/PB work which doesn't.	Strategic sites	Since the PDCS stage, large site appraisals have been carried out to examine the viability of strategic sites. This includes , White City East which is treated in the DCS as a separate CIL zone. The Viability Study methodology and the DIFS deal with site specific (abnormal) costs in the same way, in that they are expected to be taken off land value (see DIFS pages 42/43).
Pre-DCS3	13.05	Berkeley Group (St James)	Quod	As you are aware there are a number of current/recent appraisals in White City, which have been independently assessed on behalf of the Council, which completely contradict the idea that 40% affordable housing and on site infrastructure can be secured alongside the equivalent of £100/sqm off site contributions. These would appear to be more realistic 'appropriate available evidence' than that produced by RTP/PB in that they are current assessments of real strategic sites in the area.	Affordable housing	The CIL viability appraisals are based on the affordable housing proportions set out in the development plan. If individual sites are shown to have reasons why they are not viable at those proportions of affordable housing, the policy allows the proportion to be varied. For the DCS, the likely costs of future S106 contributions to off-site infrastructure have been taken in to account and this has led to a £0 CIL charge for White City East.
Pre-DCS3	13.06	Berkeley Group (St James)	Quod	We are very concerned that appraisal based on the current assumptions will give a very misleading impression of the capacity of White City, but particularly our site to deliver Affordable Housing, On-Site Infrastructure and Off site contributions. As you are aware there is no site in White City East that has provided anything like 40% affordable housing together with other obligations.	Affordable housing	The CIL viability appraisals are based on the affordable housing proportions set out in the development plan. If individual sites are shown to have reasons why they are not viable at those proportions of affordable housing, the policy allows the proportion to be varied. For the DCS, the likely costs of future S106 contributions to off-site infrastructure have been taken in to account and this has led to a £0 CIL charge for White City East.
Pre-DCS3	13.07	Berkeley Group (St James)	Quod	Given this St James would be keen to meet to discuss these issues with you and your advisers as soon as possible and prior to the publication of the DCS to ensure that any appraisals for White City reflect market realities and site specific viability and deliverability issues. We hope this will be possible.		As the DCS proposes a £0 CIL charge in White City East further discussions are not considered to be necessary.