LONDON BOROUGH OF TOWER HAMLETS CIL SCHEDULE EXAMINATION

Transport for London's statement in response to examination questions

Hearing Session 1 – General Matters

1. Introduction

1.1. Transport for London (TfL) does not consider that the London Borough of Tower Hamlets' (LBTH) charging schedule is supported by background documents containing appropriate available infrastructure planning and economic viability evidence. The evidence does not demonstrate that the proposed charging rates would not put the overall development of the charging area, and the North Docklands area specifically, at risk. The flaws identified in the evidence undermine the value of the Viability Study as appropriate available evidence; our consultants, Jones Lang LaSalle (JLL), have carried out a technical analysis of the Viability Study. JLL's analysis is set out in this statement for your consideration.

1.2. JLL will demonstrate in session 2, with particular reference to Wood Wharf, that the proposed charging schedule is likely to put the proposed development at risk. JLL have analysed and recast the Wood Wharf appraisals to demonstrate the impact of LBTH's proposed CIL rate on the viability of bringing the site forward, measured on an IRR basis. JLL's analysis concludes that whilst it could be argued the LBTH CIL rate are as an overall cost considered small, cumulatively, the IRRs achieved in various scenarios are affected to such an extent that the likelihood of development commencing lessens.

1.3. TfL is also concerned that the borough did not give sufficient regard to the Crossrail s106 rates, under the Mayor's *'Supplementary Planning Guidance on the use of planning obligations in the funding of Crossrail, and the Mayoral Community Infrastructure Levy'* (SPG), which puts at risk the ability of this policy to deliver the required level of contribution towards the project.

1.4. TfL considers that the borough has not complied with Regulations 14(1) and 14(3) of the CIL Regulations 2010 (as amended), which require the Council to demonstrate that:

14(1) - it has struck an appropriate balance between, the desirability of using CIL to fund infrastructure required to support the development of its area, and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area and

14(3) – in setting its own CIL, the Council has taken the existing Mayoral charging rates into account, together with other charging policies that are given priority, to reflect the strategic importance of the Crossrail project as set out in the provisions of the London Plan.

1.4. The Mayor has sought the advice of the Leading Counsel on the legal considerations and his opinion was set out as part of the Greater London Authority's (GLA's) representation in response to the proposed modifications of the revised draft charging schedule in March 2014. TfL would urge that this legal advice is taken into consideration as part of the Examination in Public.

2. Question 2. Are the land value assumptions appropriate?

- **Are site purchase cost assumptions appropriate? Should market value, as opposed to existing use value, be used to assess viability?**
- **Are the four benchmark values realistic and appropriate? Do they adequately reflect actual property market evidence?**
- **Is it appropriate to assume lower rents and higher yields for existing space than for new floorspace?**

2.1. In answer to this question TfL presents below the opinion of our consultants, JLL. This is as follows:

2.2. It is common ground that in order for a development to be viable the owner must be encouraged to either sell the property to a developer or develop it in its own right.

2.3. Practitioners disagree about the level of value that it is reasonable to assume will encourage development. BNP Paribas Real Estate (BNPPRE) generally assume 20% above current use value (CUV) and we do not consider this to be unreasonable. However, they do not apply this principle uniformly.

2.4. Four benchmarks are used for residential, and three for commercial. It is important that the benchmarks are a realistic proxy for the type of property found in each charging zone. Where the majority of the potential supply of development stock in a zone is in an Opportunity Area then the particular characteristics of that Opportunity Area need to be reflected in the appraisals. If the buildings that characterize the area are small offices it would not be appropriate to benchmark the EUV on undeveloped land value for example.

2.5. Typically it would be realistic for property being considered for development to be let on lower rents and on higher yields than the modern replacement. However, there is no absolute rule. In order to be appropriate, the value of the new floor space and the value of the buildings in current use should reflect the circumstances found in the charging zone.

3. Question 3. Is the discount/buffer used in determining the CIL rates appropriate?

- **What evidence is there to justify the 25% buffer (35% for student accommodation)?**
- **Has a double buffer been applied to the Mayoral CIL rate (ie in setting the Mayoral rate and again in setting the Tower Hamlets rate?)**

3.1. In answer to this question TfL presents below the opinion of our consultants, JLL. This is as follows:

3.2. The use of a "buffer" is often considered a necessity for area wide viability assessments where it is impossible to accurately reflect all the variables in an appraisal that could then apply across the zone and to avoid the charge being set at the limits of viability.

3.3. The way the buffer is applied by BNPPRE in their appraisals is however counterintuitive. The buffer is calculated as a percentage of maximum CIL after netting off the Mayoral CIL.

3.4. By reference to Table 8.4.1, Viability Evidence August 2013, it can be seen that the buffer in the lowest value areas for residential is £10 per sq m (Cubitt Town etc.) whereas it is £65 per sq m for Shadwell etc. A buffer fixed at a given rate of x per sq m applied to all areas would be a better approach. Decontamination, for example, will be as great a cost burden whatever the end value of the development.

3.5. There is no "double buffer." The Mayor's CIL and if appropriate, S106 are known amounts which should be included as development cost in the LBTH viability appraisals.

4. Question 5. Are the build and other development costs used in the viability appraisals realistic?

4.1. In answer to this question TfL presents below the opinion of our consultants, JLL. This is as follows:

4.2. The build and development costs may be unrealistic in more than one respect. Examples include:

- The type and size of the development being appraised is unrealistic for the area

- Costs (particularly as they relate to strategic schemes and Opportunity Areas) are not comprehensive and/or omit likely items
- The items themselves are costed at levels which depart from experience

4.3. In Hearing Session 2 JLL will demonstrate this by reference to Wood Wharf.

5. Question 7. What is the justification for basing the maximum CIL Levels on CUV2 for other retail and hotels but CUV3 for supermarkets/superstores/retail warehousing?

5.1. Our consultants, JLL, can see no justification for current use values varying depending on the use of the development being assessed. There could be an exception if there is a distinct geographic bias for a type of existing use in the Borough and the location for that particular use has particularly high or low current use values.

5.2. Equally unjustified is the use of CUV1 as the benchmark for North Docklands offices (BNPPRE August 2013), where CUV2 was used in the earlier analysis (BNPPRE March 2013). CUV 3 was used for City Office Fringe in March 2013, but in August 2013 study this was changed to CUV 2.

6. Question 8. Are there errors in the viability assessments which undermine their relevance as appropriate available evidence?

6.1. Despite having requested the appraisals JLL have not been supplied with copies so remarks here address the printouts accompanying the August 2013 BNP evidence.

6.2. For the City Fringe output sheets only appraisal 10 shows any figures in the rows for Maximum CIL per sqm. Yet in the results table there are positive figures for each of appraisals 1-10. This is not explained.

6.3. The North Docklands table incorporate yields at between 6% and 6.5% for no apparent reason and in contradiction with the assumptions table. The results table cannot be derived from the figures show in Appraisals 1-10.

Hearing Session 1 word count: 1,212 words (excluding titles and questions)