LONDON BOROUGH OF TOWER HAMLETS
COMMUNITY INFRASTRUCTURE LEVY SCHEDULE EXAMINATION

HEARING SESSION 2

WRITTEN STATEMENT
ON BEHALF OF
BISHOPSGATE GOODSYARD REGENERATION LIMITED

Introduction

1. This Written Statement is submitted by DP9 and DS2 on behalf of Bishopsgate Goodsyard Regeneration Limited ('BGY Regeneration Limited'). It needs to be read in the context of the Written Statement prepared for Hearing Session 1 as well as the various representations submitted by BGY Regeneration Limited.

2. BGY Regeneration Limited is primarily concerned with the implications of the Charging Schedule on the designated Opportunity Areas and Strategic Sites. Of particular concern in this respect is ensuring an appropriate approach is taken in respect of the Bishopsgate Goods Yard site because its viability is challenging. This Statement demonstrates that an inappropriate approach has been taken. The greater cost burden associated with a borough CIL liability will create significant additional challenges for the viability of Bishopsgate Goods Yard.

3. The Examiner will already be aware from BGY Regeneration Limited's Hearing Session 1 Written Statement, that a substantial development scheme for Bishopsgate Goods Yard is anticipated by adopted planning policy and is currently being prepared ready for the submission of a planning application in the near future. The scheme would make a significant contribution towards both housing and employment targets. It is a major development within the City Fringe Opportunity Area and would have a transformative regenerative impact.

4. As with the Hearing Session 1 Statement, this Statement does not seek to repeat the substantial representations that have been submitted. What is set out below provides a key point summary as relevant to specific questions posed by the Examiner.

Response to Questions

Question 9

5. The Council has not sought to understand the relationship between CIL setting and the Development Plan (i.e. the actual profile of planned development). There does not appear to be any analysis of the nature of development underpinning the Development Plan. The Council, therefore, has not appropriately defined the nature of development upon which its approach and analysis should have been based. This is especially concerning given that the Development Plan for Tower Hamlets envisages large-scale substantial development of specifically allocated areas / sites. It is clearly important to understand how these areas / sites underpin and relate to the Development Plan in order to consider the consequences of introducing a CIL

Charging Schedule. The absence of this understanding from the Council's evidence basis leads one, at the very outset, to be concerned about the appropriateness of the evidence upon which the Charging Schedule has been based.

6. The planning policy context within which the Council's Charging Schedule is proposed is important to mention. The critical need to deliver new housing is well documented. The National Planning Policy Framework (2012) is focused on ensuring a positive approach to planning in order to support development. Nowhere is this more important than in London. The London Plan (2011) – as the strategic planning document for the capital – sets significant housing targets for each Borough: the target for Tower Hamlets is the highest of all Boroughs. The London Plan designates a number of Opportunity Areas. These are strategic areas anticipated to deliver the majority of housing supply over the Plan period. Clearly, ensuring development is not frustrated or overly burdened in the Opportunity Areas is fundamentally important in ensuring the deliverability of the London Plan.

7. There are two Opportunity Areas – City Fringe and Isle of Dogs – located within Tower Hamlets. They cover substantial areas and are anticipated to provide significant development.

8. At the local level, the Tower Hamlets Managing Development Document (2013) provides a number of strategic site allocations. BGY Regeneration Limited is primarily concerned with the deliverability of Bishopsgate Goods Yard: located within the City Fringe Opportunity Area and allocated as a strategic site.

9. Opportunity Areas account for a substantial proportion (approximately 75%) of Tower Hamlets' housing target. They are fundamental to the deliverability of the Council's Core Strategy. As stressed in representations, Opportunity Areas have not been considered or addressed by the Council in its CIL evidence base. The BNP Paribas Viability Study makes no mention of them. The Opportunity Areas should have been the starting point of the assessment.

10. The BNP Paribas Viability Study is focused on a series of generic development types that do not relate to the strategic nature of development that underpins the Development Plan. The Charging Schedule is effectively based on these generic development types. The Viability Study includes high level appraisals for some strategic development sites, but this is an after-thought, whereas the strategic sites should have been front and centre of the viability assessment.

11. The Charging Schedule should be based on a thorough assessment of the strategic sites – it is not. It is actually not possible to understand how the strategic sites relate to results of the Viability Study and, most importantly, the viability 'buffers' that have been applied. It appears that they have not performed a role in setting the viability 'buffers'.

12. Opportunity Areas and strategic sites are complicated, multi-phased, and large-scale. They are challenging to deliver and require significant enabling infrastructure. They need to be considered carefully and thoroughly in respect of CIL, since to introduce additional cost burdens will put their delivery at risk.

13. Assumptions regarding residual Section 106 are unrealistic. This issue is thoroughly explained in representations and is addressed in BGY Regeneration Limited's Hearing Session 1 Statement. The Council has applied a generic figure which appears unjustified and is significantly underestimated in relation to strategic development. The Council has not analysed what the Section 106 for strategic sites might actually be – it has been able to do so based on available evidence e.g. through combining the Managing Development Document (2013) and the Infrastructure Delivery Plan (2013). The Council should take a more conservative approach insofar that it is realistic to assume that strategic development will continue to require a substantial Section 106 cost. Little will change between a pre and post CIL scenario for strategic sites. Refer to paragraph 27 of BGY Regeneration Limited's Statement for Hearing Session 1.

14. The BNP Paribas Viability Study includes high level appraisals for some of the strategic site allocations (taking the form of a schedule of viability inputs as opposed to actual appraisals). The Bishopsgate Goods Yard appraisal is very broad-brush and light-touch when considering the complicated nature of development associated with the site.

15. The representations submitted by BGY Regeneration Limited provide a commentary / critique of the Bishopsgate Good Yard appraisal that is contained in the BNP Paribas Viability Study. Especially critical is the assumed Internal Rate of Return ('IRR'), build costs and the proposed efficiencies of development.

16. BNP Paribas refer to an IRR of 11% to 13%. We assume by the site's continued inclusion in the study that 13% IRR is deemed to be an acceptable benchmark return following BNP Paribas's methodology regarding non-viable sites. As noted in BGY Regeneration Limited's representations, it is BGY Regeneration Limited's strong considered opinion that a minimum (ungeared) 20% IRR is the most appropriate evidenced assumption. The BNP Paribas approach is incorrect. Using anything less than 20% IRR is inappropriate for viability testing policy/CIL, because it risks not delivering a sufficient return for strategic development sites to come forward.

17. Strategic sites are generally brought forward in a staged process over a significant period of time often equating to in excess of a decade. A strategic site will be promoted through the planning process, with often a multi-phased outline planning permission sought and enabling infrastructure provided. The applicant may then bring forward individual plots or sell them to the market for more experienced developers to deliver. The target profit return in accordance with the NPPF needs to recognise the weighted cost of return in response to the various risks.

18. Quite simply as BNP Paribas acknowledge, the IRR is a more realistic way of analysing the profitability of larger sites given it measures the costs and value inputs into an appraisal over a long period of time and the IRR represents a time weighted cost of capital. This approach has been accepted on many large scale projects in site specific viability assessments across London.

19. DS2 has recreated a development appraisal using the BNP Paribas inputs and has achieved a residual profit return within 0.3% of the BNP Paribas IRR. Using all of

the BNP Paribas inputs[1], the residential values required to reach a 20% IRR are increased from the BNP Paribas base level of £700 per sq ft by on excess of 40%. This percentage increase is unprecedented and well outside any margin of reasonableness on residential values.

20. It is inappropriate for CIL to be based on an expectation of future rises in values, the NPPG for policy making clearly requires the assessment of viability to refer to present day costs and values and not based on an expectation of future rises. It is clear that the Bishopsgate Goods Yard site cannot viably afford a Borough CIL liability on the basis of a target benchmark of 20% IRR. This is on the basis of the inputs / assumptions contained in the BNP Paribas Viability Study. The viability position would substantially worsen should the inputs/assumptions be sensitivity tested according to comments set out in CWG representations (e.g. to include for cost growth, higher S106, reduced efficiencies, greater affordable housing percentage).

21. Clearly, the viability position in respect of a planning application is different. Of course, an applicant can take a view on risk and make assumptions about growth in order to assist in presenting a viable development. However, as explained above, this is not relevant / appropriate in respect of plan-making and CIL-setting. As mentioned at paragraph 16, using anything less than 20% IRR is inappropriate.

22. The Council's evidence illustrates that both the pre and post CIL scenarios are below the strategic landowners expectations of a 20% IRR. However, the BNP Paribas evidence appears to seek a justification that, firstly, a 13% IRR would be a reasonable profit return and, secondly, that it is the margin between the two scenarios that is being tested rather than whether the scheme remains viable or not.

23. The BNP Paribas methodology has been to discount sites from the Study that are unviable. The continued inclusion of Bishopsgate Goods Yard, and the other strategic sites, implies that these sites are deemed to be viable at a 13% level of return. On the basis of table 7.13.1 on page 66 of the Viability Study, the non-CIL scenarios are clearly close to a 20% (ungeared) IRR and as such would have a reasonable chance of being brought forward based on reasonable cost savings or market improvements.

24. The impact on the IRR for the with borough CIL scenarios is significant as table 7.13.1 illustrates with discounts on the IRR between 18% and 44%. Table 7.13.1 clearly shows that the impact on borough CIL on the strategic sites renders them significantly unviable against a benchmark return of 20% (ungeared) IRR that has been deemed to be reasonable on site specific viability assessments on larger projects across London in recent years. The evidence as it stands illustrates that the prospects of the delivery of the strategic sites will be significantly eroded if the borough CIL is applied.

25. Also, there are significant concerns regarding the inclusion of the BCIS base costs and associated development efficiencies. As previously noted in representations, larger sites are significantly more expensive to build than standard development for a combination of reasons and the BNP Paribas BCIS based assumptions are not

[1] For the avoidance of doubt the BNP Paribas viability inputs in respect of Bishopsgate Goods Yard are not supported by BGY Regeneration Limited as explained within representations and this Written Statement.

sensitivity tested to a significant enough degree in order to present what would be reasonable scenarios from a cost perspective. The BCIS rates are only applicable for relatively low to medium density low rise housing projects and not applicable to higher density mixed use strategic developments.

26. The development efficiencies included by BNP Paribas at 85% assume relatively standard development with a single entrance and core. The efficiencies assumed in the modelling of the strategic sites do not consider the larger communal areas required and multiple entrances that commonly reduce the efficiency of above ground building by 10 to 15% from the BNP Paribas assumption. Also, no account has been made of substantial above and below ground site constraints that would further reduce efficiencies. This significantly impacts on level of income that the scheme can generate and the BNP Paribas inputs significantly overestimate the viability of the strategic sites on this basis.

27. As already explained, the Bishopsgate Goods Yard site is complicated and faces significant challenges. CIL would provide a greater material cumulative cost burden for the site and cannot be justified on the basis of the Council’s own evidence.

28. Representations have proposed that the Council needs to prepare a more appropriate evidence base in order to understand whether the introduction of its Charging Schedule would put development at risk. BGY Regeneration Limited has consistently explained that more specific and thorough evidence is needed in respect of the strategic sites. The Council has not undertaken to do so.

29. The evidence associated with the strategic sites is fundamentally flawed. Overall, considering the issues explained fully in representations and summarised above, it is our considered opinion that the Charging Schedule should differentiate between strategic and non-strategic development i.e. differentiate between development that is large scale, complex, etc and development that is smaller scale, more straightforward, etc. In respect of Bishopsgate Goods Yard, the proposed rates set out in the Charging Schedule are not robust.

30. A nil rate is, in Bishopsgate Goods Yard’s opinion, the only appropriate evidence based approach.

Question 10

31. The approach taken by the Viability Study is not appropriate insofar that it does not accurately reflect the Core Strategy.

32. The relevant part of Policy SP02 states: “Set an overall strategic target for affordable homes of 50% until 2025. This will be achieved by: Requiring 35%-50% affordable homes on sites providing 10 new residential units or more (subject to viability).” The Core Strategy is clear that the delivery of affordable housing is a key issue / priority. It is clear that there is a very significant need for affordable housing and the Council estimate within their Core Strategy that there is currently a shortfall of 2,700 new affordable homes per annum.

33. The key test is whether or not the assumptions upon which the proposed level of CIL are based would undermine the delivery of the Core Strategy affordable housing target.

34. The objective of meeting the target of 50% affordable housing from all sources will be prejudiced if the CIL rates, calculated on the flawed strategic appraisals in particular, are accepted.

35. It is reasonable to conclude that the use of the 35% figure by the Council in the viability testing without sufficient testing of higher affordable housing percentages will be seen as a reason not to seek the achievement of the full target and consequently it will put the provision of affordable housing at serious risk. The Council on site specific viability cases consistently seek above 35% affordable housing where it is deemed to be viable. If the Council wishes to reduce the target percentage of affordable housing to be provided (assuming such an approach could be justified, bearing in mind the advice in the NPPF that in principle the full objectively assessed needs for market and affordable housing should be met) then this should be achieved through a review of the adopted policies. The Council should have taken the full extent of Policy SP02 into account when setting the CIL rate and on this basis it can be concluded that the viability evidence, on which the proposed residential charge is based, is not robust.

36. The proposed residential rates would put at risk the overall development of the area because it would not reflect the need to provide a significant number of affordable homes and the Council's decision to set its rates is not based on an appropriate approach to affordable housing provision.

<u>End.</u>

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