

**Appendix 1 Table of detailed responses to DCS consultation representations**

<b>No.</b>	<b><u>Nature of Representation</u></b>	<b><u>Council's Response</u></b>
1	<b>CIL_DCS01: Stephen Ashworth</b>	
2	There is no analysis of how the proposed CIL rates will impact development in terms of provision of housing or levels of commercial floor space that will be affected by the charge. The evidence does provide an analysis of the spatial consequences of a rate which will have a differential affect across the borough. This is not in the spirit of Regulation 14 which requires a balance to be drawn between the desirability of securing infrastructure funding through CIL and the effect this will have on the viability of development as a whole.	It should be noted that CIL will constitute a maximum of 5% of residential development costs. It is therefore highly unlikely that CIL would be the determining factor that would make developments unviable. As such, it is considered the impact on the Development Plan and housing targets will be minimal.
3	The Infrastructure Funding Gap Report does not differentiate between future demand for infrastructure caused by development and demand for infrastructure to meet an existing deficit or caused by population growth not attributable to development.	The Infrastructure Planning and Funding Gap report identifies infrastructure to support new growth and identifies that significant demand arises from growth associated with development rather than existing deficiencies.
4	There are anomalies in the way non CIL revenues are anticipated. The £245 m does not take account of other potential public sector funding to the end of the time period. The level of Section 106 funding is grossly overstated; the BNP analysis rightly assumes lower levels of future S106 income. The two approaches cannot be reconciled.	The projected CIL income incorporates known funding available that will be allocated towards infrastructure. The position in relation to projected S106 income has now changed. The projection is based on secured and unspent funds in addition to three years of average S106 receipts based on amounts received in previous years. The S106 assumptions made within the Viability Study (October 2013) predict the level of S106 contributions that will be payable after the implementation of CIL and therefore relate to two different funding sources (one prior to CIL implementation and one after).
5	The assumption that 200,000 sq. m of convenience retail will be developed and £29m will be paid is risible.	Noted. The original assumption is based on a measure of scale rather than type of retail floorspace; the CIL Infrastructure Planning and Funding Gap Report has now been corrected to focus on the type of retail floorspace likely to be delivered.
6	The Core Strategy seeks between 35% and 50% affordable housing provision. The viability work does not attempt to viability test the impact of a CIL rate the entire range.	A sensitivity analysis assuming 50% affordable housing has been undertaken. Please refer to the updated CIL Viability Study (October 2013). However, the Council consider that the policy position of seeking a minimum of 35% affordable housing - and levels of affordable housing delivery to date - justifies the focus on the lower end of the range. The examination of Newham's Charging Schedule addressed this point and allowed the lower end of a range of affordable housing to be accounted for in the rate setting process.

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7	The Council has provided no justification for why the proposed CIL rates have not accommodated 100% of the Mayor of London's Crossrail 'top-up'. This undermines the robustness of the analysis.	Crossrail is a priority for London Borough of Tower Hamlets and an important one but it should not obliterate the pressing need for other local infrastructure. In response to the representations, the Council has amended its approach from that of the Draft Charging Schedule of assuming 30% of the Mayor of London's Crossrail 'top up' in its appraisals in setting its rates. It is expected that the rates set out in the Revised Draft Charging Schedule will allow for the full 'top up' required under the Crossrail SPG 2013 where the viability of individual schemes allow for it in line with the approach set out in the Crossrail SPG, 2013, paragraph 3.34. However, it is acknowledged that achieving the full top up may be more challenging in certain office schemes in the North Docklands in the current market and in light of the fact that it has the highest 'top up' charge in London. Accordingly, a lower Crossrail SPG top is assumed for office floorspace in North Docklands (please refer to paragraph 4.55 of the Viability Study (October 2013)). This has resulted in a reduction in the CIL rate for offices in North Docklands. This approach reflects the Crossrail funding requirements arising from office development in this part of the borough while recognising the need to fund local infrastructure to enable sustainable development.
8	The evidence base does not test likely CIL income against historic S106 receipts.	The Council has published additional information on historic section 106 receipts as part of the Revised Draft Charging Schedule consultation (Section 106 Receipts Background Report October 2013). This includes affordable housing targets. The Infrastructure Planning and Funding Gap Report provides projected CIL income figures.
9	Regulation 13 only permits differentiation of rates by location and intended use. The evidence to support the DCS provides no analysis of whether there is a different intended use either side of the proposed 280 square metre threshold for retail uses. Any such differentiation should be supported by a viability analysis. Furthermore, the Council should provide an explanation of how it intends to determine intended use of retail units. The Council has not provided an analysis of whether the proposed differentiation between uses could constitute State Aid.	The Draft Charging Schedule differentiated between the scale and type of retail development proposed. This was an approach recognised as a the Inspectors report for Wycombe District Council CIL Charging Schedules concluding: "there is nothing in the CIL regulations to prevent differential rates for retail developments of different sizes, provided they are justified by the viability evidence and differing retail characteristics or zones" (para 16, 2012). However, it is acknowledged that size does not necessarily result in the higher values generated by convenience based supermarkets and superstores and retail warehousing uses. Rather, it is a combination of factors (detailed in paragraph 6.31 – 6.34 of the Viability Study, October 2013). Accordingly, the definition now refers to the use rather than the scale of use. The use and viability characteristics of these different types of retail uses are markedly different, justifying the council's approach.

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10	The evidence to support differentiation by geographical zones is "not fine-grained".	The 'fine grained' approach has been undertaken to differentiate by geographical zones. For example and with reference to residential appraisals, at the outset of the viability work, the borough was analysed using a number of approaches including the establishment of average sales values. Numerous areas were tested and then refined into zones based on sales values in the given area.
11	The Council's approach to charging student housing, which makes an affordable housing contribution, requires clarification.	The Council's requirement for affordable housing is not all encompassing and applies in those instances where accommodation is not provided specifically for accredited colleges and universities. A specific threshold for affordable housing is not defined in relation to student housing – instead this is calculated 'taking into consideration' relevant affordable housing policies (Managing Development Document, DM3 Student Accommodation). Accordingly, affordable housing contributions have not been factored into appraisals as unlike for general housing the requirement will not always apply. In line with the Council's affordable housing policy approach the level of affordable housing sought will depend on the viability of the scheme which will be assessed accommodating the CIL charge.
12	The viability analysis suggests that Strategic Sites will not be viable under the proposed charge. Additionally, estimates for on-site Section 106 requirements have not been justified.	The Strategic Sites appraised are viable under the proposed CIL rates, with the exception of sites that are unviable prior to applying CIL. In addition, the assumptions/ estimates for Strategic Sites in the Viability Study (2013) have been updated where possible in line with comments received during consultation.
13	Although the duty to cooperate does not apply directly to CIL Charging Schedules, the lack of reference to the progress of neighbouring borough's preparation of CIL Charging Schedules.	The lack of reference to neighbouring authorities is not indicative of a lack of consultation or engagement. The requirements related to consultation defined in the CIL Regulations 2010 (as amended) have been addressed and exceeded.
14	<b>CIL_DCS02: James Ball</b>	
15	The Zone 1 residential boundary should be amended to exclude East Ferry Road reflecting the lower sales values in this location (e.g. 1403 sq. ft house with a value of £303 per sq.ft) ; the level of Charge in Zone 1 is too high and will deter development	CIL rates are charged on and therefore based on new build developments and not existing stock. The house identified in the representation is a large 6 bedroom house of 1,403 sq ft and as such the rate per square foot will understandably be lower than that which could be achieved for smaller new build units in this location. It is difficult for the CIL process to account for exceptionally sized existing properties and as such the evidence for the boundary being placed in this location is considered sound.
16	<b>CIL_DCS03: Planning Perspectives on behalf of National Grid Property Holdings</b>	

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17	Supportive of the Council's stated intention to provide discretionary relief in exceptional circumstances.	Noted.
18	The statement "Appendix 2 does not formally constitute part of the draft CIL Core Strategy of the London Borough of Tower Hamlets" contained within the Draft Charging Schedule should be removed and the appendix should form a part of the Charging Schedule.	Appendix 2 is only for information only and the CIL regulations do not require that this forms part of the Charging Schedule.
19	Supportive of the Council's stated intention to accept in-kind CIL payments on strategic sites	Noted.
20	<b>CIL_DCS04: Greater London Authority</b>	
21	The Council has not provided evidence on historic Section 106 Agreements, including the extent to which affordable housing and other targets have been met, as required in guidance.	The Council has published additional information on historic section 106 receipts as part of the Revised Draft Charging Schedule consultation (Section 106 Receipts Background Report, October 2013). This includes affordable housing targets.

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22	The Council has not provided information on the effect of its CIL on London Plan Opportunity Areas within the borough. The GLA consider these should be informed by specific viability appraisals.	The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.
23	Only two sites in in each of the City Fringe and Isle of Dogs opportunity areas have been appraised as Strategic Sites. This level is inadequate.	The Community Infrastructure Levy Guidance 2013 which requires charging authorities to 'sample directly an appropriate range of types of sites across its area in order to supplement existing data, subject to receiving the necessary support from local developers. 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'. In accordance with the CIL Guidance 2013, the Council has tested the viability of eight strategic sites across the whole borough. These are all sites which have been identified in the Council's Managing Development Document, which represent a range of different viability scenarios.

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24	The Council has not provided evidence or justification for why the Draft Charging Schedule rates accommodate 30% of the Crossrail top-up, rather than the full requirement set out in the SPG.	Crossrail is a priority for London Borough of Tower Hamlets and an important one but it should not obliterate the pressing need for other local infrastructure. In response to the representations, the Council has amended its approach from that of the Draft Charging Schedule of assuming 30% of the Mayor of London's Crossrail 'top up' in its appraisals in setting its rates. It is expected that the rates set out in the Revised Draft Charging Schedule will allow for the full 'top up' required under the Crossrail SPG 2013 where the viability of individual schemes allow for it in line with the approach set out in the Crossrail SPG, 2013, paragraph 3.34. However, it is acknowledged that achieving the full top up may be more challenging in certain office schemes in the North Docklands in the current market and in light of the fact that it has the highest 'top up' charge in London. Accordingly, a lower Crossrail SPG top is assumed for office floorspace in North Docklands (please refer to paragraph 4.55 of the Viability Study (October 2013)). This has resulted in a reduction in the CIL rate for offices in North Docklands. This approach reflects the Crossrail funding requirements arising from office development in this part of the borough while recognising the need to fund local infrastructure to enable sustainable development.
25	The Mayor's CIL rate should be treated as a development cost.	The viability appraisals now include Mayoral CIL as a cost, so the outputs identified are the maximum viable levels of Borough CIL.
26	No evidence has been provided for why the buffer applied to the CIL rates differs across the borough (spanning from 22.2% to 32.5%).	A minimum buffer of 25% has sought to be applied for all developments from the maximum CIL rate identified by BNPPRE's appraisals, with the exception of student accommodation, where a larger buffer of 35% has been adopted
27	<b>CIL_DCS05: Nathaniel Lichfield and Partners on behalf of Lanark Square Limited</b>	
28	In relation to CIL Zone 1, these areas should be subdivided to account for the variation in sales values.	The Council has sought to adopt an approach which merges areas together to avoid undue complexity in line with paragraph 37 of the CIL Guidance, 2013. It is acknowledged that a range of residential values will be achieved on new build schemes in each Zone and for Zone one this is identified as being between £575 and £700 per sq ft. Indeed, there will always be a range of values per square foot that could be achieved on new build units within an area. This will be due to many influencing factors including specification of the development, height of the development, aspect, size of the residential unit in question etc. For a strategic exercise such as this, an approach of taking an average value that reflects the likely

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		values that could be achieved in new developments in the area has been sought to be defined.
29	It is recommend that the area to the south of Pepper Street including Turnberry Quay/Lanark Square is placed in zone 2 as recent viability appraisals have identified sales values of £625 as opposed to £700 which is assumed in the viability appraisal.	<p>It is acknowledged that a range of residential values will be achieved on new build schemes in each Zone and for Zone one this is identified as being between £575 and £700 per sq ft.</p> <p>For a strategic exercise such as this, an approach of taking an average value that reflects the likely values that could be achieved in new developments in the area has been sought to be defined.</p>
30	The Viability Report does not indicate what landowner's premium (if any) they have adopted over CUV to drive their assumed Site Value Benchmarks. Further information is therefore required to justify the proposed CIL rates.	The premiums adopted on the residential benchmark values are clearly set out in the Viability Study (October 2013). For the avoidance of doubt however, we confirm that a premium of 15-20% over and above existing use values has been adopted. This approach has been established as acceptable in other area wide viability assessments undertaken and examined for CIL purposes.
31	<b>CIL_DCS06: Peacock and Smith (Aspinall Verdi) on behalf of Morrison's</b>	
32	The RICS Guidance on Financial Viability in Planning supersedes Local Housing Delivery Group Guidance and as such more reference needs to be made to the approach outlined in the guidance published by the RICS.	The Local Housing Delivery Group guidance was published on 22 June 2012 and the RICS guidance was published circa 7 weeks later on the 9 August 2012. It is clear that both documents were being produced at the same time, and in this regard the RICS guidance does not supersede the Local Housing Delivery Group Guidance. The RICS guidance note on Viability in Planning is aimed at individual schemes being processed through the development management process whereas the Local Housing Delivery Group Guidance is aimed at testing emerging policy and as such we consider that it has been referred to appropriately.
33	The Mayor's CIL rate should be treated as a development cost.	The viability appraisals now include Mayoral CIL as a cost, so the outputs identified are the maximum viable levels of Borough CIL.

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34	The benchmark land values approach is overly complex, divorced from reality and dilutes the recommendations about the actual maximum CIL rate.	The approach we have adopted was considered in depth at the London Mayoral CIL examination. The merits of the Market Value and Existing Use Value plus a premium approach were considered in detail by the Examiner. It was accepted that market transactions are of limited relevance to testing a new planning requirement, as they are historic and relate to prevailing planning policies at the time. As such, the Market Value approach was found to be an unsound basis for testing the viability of CIL It should also be noted that this approach has been accepted in numerous other CIL Examinations both inside and out of London including Croydon, Redbridge, Bristol, Poole, Havant, Harrow, Brent, Waveney.
35	In respect of retail schemes, no rationale behind applying the rate of 1:1.5 in terms of the building size of the new development relative to the assumed existing use has been provided. Car parking and other factors need to be considered.	Car parking and other factors specific to large retail occupiers have been taken into account with regard the relative size of new development. The methodology adopted has been established as sound at other examinations in public.
36	There is no justification for the testing of the 30,000 sq. ft generic schemes. It would be more appropriate to model two or three options of say, 280 sq. m, 1,500 sq. m and a larger format of say 5,000+ sq. m. This generally would reflect the formats which operators are presently considering.	Noted: Appraisals of schemes of 1,000 square metres and 5,000 square metres have now been undertaken as these reflect the sizes for which build cost vary according to the BCIS. Please refer to the updated Viability Study (October 2013).
37	A base construction cost of £120 psf has been adopted for the convenience food development typology. However, this typology includes retail warehousing which has a build cost substantially less than food supermarkets. It is therefore incorrect to lump retail warehouse typologies in with supermarkets.	The information provided on the RICS BCIS database in relation to build costs for Hypermarkets and Supermarkets has been reviewed and locally adjusted to the Tower Hamlets area. As a result the build costs have been adjusted to £121 and £117 per square metre for the 1,000 square metre and 5,000 square metre units respectively.
38	Supermarket development should allow for 12% professional fees, rather than the standard assumption for 10%, due to the complexity of these schemes.	Professional fees can range between 8% and 12% and as such we consider that an allowance of 10% is reasonable for the majority of schemes.
39	The approach and rationale for the rent/yield assumptions made in relation to convenience retail is not clear.	The following comparable transaction evidence has been used to establish the approach: · A Tesco store of 400 sq. m at 25-30 Landmark Square E14 achieved a yield in July 2012 of 5.2%. The rent passing is identified as being £18 per sq. ft. · A Halfords store of 4,187 sq. m at 124-128 Anchor Retail Park E1 achieved a yield of 5.6% in February 2011 with a rent passing of £25.40 per sq. ft. A Morrison's store of 7,534 sq. m at E16 achieved a yield of 4.7% in August 2012 let at a rent of £26 per sq. ft.



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40	The Viability Study gives no explanation as to how, or why, three different Current Use Values (CUVs) are used in presenting the results.	Three CUVs were used as they broadly reflect the types of uses that typically comes forward for development in the borough.
41	<p>Chart 6.33.1 of the Viability Study is difficult to interpret and potentially misleading:</p> <ul style="list-style-type: none"> <li>• The chart and discussion about the results do not specify the Threshold Land Value that is applicable. The chart shows various scenarios for three CUV's – but which one is the right one? How does this compare (per hectare or per acre) to actual Market Values of land?</li> </ul>	The updated Viability Study (October 2013) makes reference to the Benchmark Land Value used. A comparison with Market Value is not generally a useful exercise due to the numerous limitations with assuming a Market Value approach.
42	<p>Chart 6.33.1 of the Viability Study is difficult to interpret and potentially misleading:</p> <ul style="list-style-type: none"> <li>• The analysis does not differentiate by size of scheme – so how has the CIL rate for small retail (&lt;280 sqm) been derived?</li> <li>• Similarly the analysis lumps together supermarkets and retail warehouses which both have significantly different build rates which undermines the reliability of the appraisals.</li> </ul>	The differentiation between the different types of retail is detailed in paragraphs 6.31 – 6.34 of the Viability Study (October 2013). The build rates assumed reflects typical 'Convenience' retail delivered in the borough.
43	It is not clear how the maximum CIL rates have been derived in respect of the Threshold Land Values used.	Please refer to Section 3 of the updated Viability Study (October 2013) which explains the application of the Benchmark Land Values.
44	Insufficient allowance has been made for planning fees and costs, exceptional development costs associated with brownfield development, land assembly costs.	Planning costs have been appropriately accounted for in the appraisals through the professional fees (which also includes a 5% contingency) and buffer assumed. Remediation of brownfield sites or land assembly and holding costs cannot be accounted for within an area wide Viability Study (October 2013) as they are site specific and variable. The main reason for allowing a buffer from the maximum CIL charge is to account for differences between sites. The Bristol CIL examiner identified this at Para 26 of his report dated July 2012, stating that, 'By definition, the CIL cannot make allowance for abnormal, site specific, costs. The rates have to be based on a generic analysis of a variety of size and type of schemes across the area, taking into account average local build costs, not the individual circumstances of particular sites.'

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45	Insufficient allowance has been made for residual S278 and S106 costs.	Noted: The Council has revised the commercial appraisals to incorporate an allowance of £5 per square foot (£53.82 per square metre) to address any Section 278 and residual Section 106 costs.
46	The CIL DCS should account for the full suite of planning obligations which may be required, including 100% of the Crossrail top-up.	Crossrail is a priority for London Borough of Tower Hamlets and an important one but it should not obliterate the pressing need for other local infrastructure. In response to the representations, the Council has amended its approach from that of the Draft Charging Schedule of assuming 30% of the Mayor of London's Crossrail 'top up' in its appraisals in setting its rates. It is expected that the rates set out in the Revised Draft Charging Schedule will allow for the full 'top up' required under the Crossrail SPG 2013 where the viability of individual schemes allow for it in line with the approach set out in the Crossrail SPG, 2013, paragraph 3.34. However, it is acknowledged that achieving the full top up may be more challenging in certain office schemes in the North Docklands in the current market and in light of the fact that it has the highest 'top up' charge in London. Accordingly, a lower Crossrail SPG top is assumed for office floorspace in North Docklands (please refer to paragraph 4.55 of the Viability Study, October 2013). This has resulted in a reduction in the CIL rate for offices in North Docklands. This approach reflects the Crossrail funding requirements arising from office development in this part of the borough while recognising the need to fund local infrastructure to enable sustainable development.
47	The Argus Strategic Site Appraisals should be made available for public comment.	The Council has provided all the inputs into the Argus models to assist developers or stakeholders who may wish to recreate these assessments. The focus should be on whether inputs are reasonable - and evidence should be provided to support these concerns. It is also noted that the same level of information provided was considered acceptable at the examination of the Managing Development Document.
48	<b>CIL_DCS07: Barkantine Management Team</b>	
49	The Council should accept a percentage of floorspace for the community in lieu of a CIL payment.	The current CIL Regulations only allow for payment of CIL by land in kind although the Government is considering expanding this to include facilities. Payments of CIL in kind may be considered in certain circumstances and in compliance with the CIL Regulations.

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50	<b>CIL_DCS08: Savills on behalf of Thames Water</b>	
51	The Council should seek s106 agreements to secure water and waste water infrastructure upgrades to avoid sewage flooding of residential and commercial property, pollution of land and water courses plus water shortages with associated low pressure water supply problems.	Section 2 of the Draft Planning Obligations SPD already identifies states that strategic environmental sustainability projects will be delivered using CIL receipts. The Council may seek to secure any development site-specific harmful impacts of development through the Section 106 process, where it meets legal test for the use of planning obligations; however, it would be impractical to outline all such potential impacts of development which may require mitigation through the mechanism of Section 106.
52	<b>CIL_DCS09: Canal and River Waterways Trust</b>	
53	The explanation of public realm in the Draft SPD doesn't explicitly include canal or waterways.	Managing Development Policy DM12 confirms the Council's commitment to provide increased opportunities to access to and interaction with water space on land adjacent to the Blue Ribbon Network. A minor clarification to the Draft Planning Obligations SPD has been made to identify the use of planning obligations to contribute to public realm through the S106 process. This would encompass canals and waterways.
54	Any measures to improve biodiversity, on-site or off-site, that affect waterways should seek approval from CARTs environmental team to avoid unsuitable interventions.	As the landowner of the canals, CART would be a statutory consultee on any planning application adjacent to a canal. If any biodiversity enhancements or other works to the canal are proposed as part of a Section 106 Agreement, CART would be involved in the process to agree to works on CART's property.
55	<b>CIL_DCS10: TfL</b>	

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56	The Draft Charging Schedule is unsound in proposing rates which only accommodate 30% of the Mayor's Crossrail Section 106 top-up. The delivery of the Development Plan (policies 6.5 and 8.2 of the London Plan) is therefore compromised.	Crossrail is a priority for London Borough of Tower Hamlets and an important one but it should not obliterate the pressing need for other local infrastructure. In response to the representations, the Council has amended its approach from that of the Draft Charging Schedule of assuming 30% of the Mayor of London's Crossrail 'top up' in its appraisals in setting its rates. It is expected that the rates set out in the Revised Draft Charging Schedule will allow for the full 'top up' required under the Crossrail SPG 2013 where the viability of individual schemes allow for it in line with the approach set out in the Crossrail SPG, 2013, paragraph 3.34. However, it is acknowledged that achieving the full top up may be more challenging in certain office schemes in the North Docklands in the current market and in light of the fact that it has the highest 'top up' charge in London. Accordingly, a lower Crossrail SPG top is assumed for office floorspace in North Docklands (please refer to paragraph 4.55 of the Viability Study, October 2013). This has resulted in a reduction in the CIL rate for offices in North Docklands. This approach reflects the Crossrail funding requirements arising from office development in this part of the borough while recognising the need to fund local infrastructure to enable sustainable development.
57	TfL wishes to work with boroughs on infrastructure planning and offer support in relation to defining the Draft Regulation 123 list.	Noted. The Council notes TfL's priorities around Crossrail funding and will continue to engage with TfL on infrastructure planning matters.
58	<b>CIL_DCS11: London First</b>	
59	There is no evidence to suggest market testing has taken place, particularly on strategic locations identified in the Charging Authority's Management Development Document	Testing of strategic sites has taken place and the Viability Study (October 2013) clearly includes according appraisal information.
60	The Council has not provided information on historic Section 106 receipts, and to the extent to which affordable housing and other targets have been met.	The Council has published additional information on historic section 106 receipts as part of the Revised Draft Charging Schedule consultation (Section 106 Receipts Background Report, October 2013). This includes affordable housing targets.

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61	<p>From the evidence published, the Charging Authority has assumed a broad brush low level residual s106 rate without any justification whatsoever. It also only assumes a residual rate for residential use and nothing for non-residential use which we believe is not reflective of the market.</p>	<p>The Council has included cost assumptions for Section 278 and residual Section 106 requirements in a CIL context (thereby reducing the probable CIL charge) even though there are likely to be instances in which such contributions may not be required e.g. minor schemes. The residential appraisals incorporate an allowance of £1,220 per unit and the commercial appraisals have also been amended to incorporate an allowance of £5 per square foot (£53.82 per square metre). These figures are considered to be a reasonable proxy for likely sums to be sought after CIL is adopted, based on the requirements set out in the Revised Draft Planning Obligations SPD where it can be quantified, and the figure adopted is broadly in line with those adopted by many other London boroughs for CIL testing purposes.</p>
62	<p>The Charging Authority has not taken account of the Mayoral CIL rate when proposing their own levy rates. The Crossrail S106 levy has been accounted for inadequately.</p>	<p>Crossrail is a priority for London Borough of Tower Hamlets and an important one but it should not obliterate the pressing need for other local infrastructure. In response to the representations, the Council has amended its approach from that of the Draft Charging Schedule of assuming 30% of the Mayor of London's Crossrail 'top up' in its appraisals in setting its rates. It is expected that the rates set out in the Revised Draft Charging Schedule will allow for the full 'top up' required under the Crossrail SPG 2013 where the viability of individual schemes allow for it in line with the approach set out in the Crossrail SPG, 2013, paragraph 3.34. However, it is acknowledged that achieving the full top up may be more challenging in certain office schemes in the North Docklands in the current market and in light of the fact that it has the highest 'top up' charge in London. Accordingly, a lower Crossrail SPG top is assumed for office floorspace in North Docklands (please refer to paragraph 4.55 of the Viability Study, October 2013). This has resulted in a reduction in the CIL rate for offices in North Docklands. This approach reflects the Crossrail funding requirements arising from office development in this part of the borough while recognising the need to fund local infrastructure to enable sustainable development.</p>

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63	The Council has not undertaken meaningful engagement with the development industry in the preparation of its DCS.	On 22nd April 2013, the Council published the CIL Draft Charging Schedule for consultation between until 5th June 2013. The consultation was advertised in the local press – East End Life, and on the Council's website. The advertisements stated its duration, location for inspection and two drop-in sessions. Developer Drop-in Sessions were also held at the Council's offices, where developers were invited to drop in to discuss issues 1st May 2013 and 3rd June 2013. The Council has also met with some of the agents for two of the strategic sites. This followed consultation the Preliminary Draft Charging Schedule (between 16th November 2012 and 2nd January 2013) and a workshop was run on 6th July 2012 right at the start of the process to invite input as to the proposed methodology and assistance with inputs into the appraisals. The Council has also met with owners of strategic sites and invited submission of appraisal information and other evidence to help inform the rate setting process. The Council has met all the regulatory and local consultation requirements, and made extra efforts to encourage proactive participation from a wide range of stakeholders.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
64	The rates proposed don't comply with the National Planning Policy Framework and will compromise the delivery of the development plan.	The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.
65	It is more appropriate to adopt a market value approach as opposed to an EUV + approach.	The approach we have adopted was considered in depth at the London Mayoral CIL examination. The merits of the Market Value and Existing Use Value plus a premium approach were considered in detail by the Examiner. It was accepted that market transactions are of limited relevance to testing a new planning requirement, as they are historic and relate to prevailing planning policies at the time. As such, the Market Value approach was found to be an unsound basis for testing the viability of CIL It should also be noted that this approach has been accepted in numerous other CIL Examinations both inside and out of London including Croydon, Redbridge, Bristol, Poole, Havant, Harrow, Brent, Waveney.
66	The number of generic appraisals relied upon is not sufficient.	The generic appraisals used reflect the types of sites that the Council considers have and are likely to continue to be brought forward for development in the borough.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
67	The Viability Study fails to address how the rates proposed will impact on the delivery of different land uses or indicate what the spatial planning consequences will be.	The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.
68	There is no justification for the choice of the eight strategic sites	The generic appraisals used reflect the types of sites that the Council considers have and are likely to continue to be brought forward for development in the borough. In accordance with the CIL Guidance 2013, the Council has tested the viability of eight strategic sites across the whole borough. These are all sites which have been identified in the Council's Managing Development Document, which represent a range of different viability scenarios.
69	Strategic sites do not cross reference relevant development policies to enable assessment of the cumulative burden of policies.	The policy requirements for each site have been accounted for in the appraisals and are summarised in section 7 of the Viability Study (October 2013).



<b>No.</b>	<b><u>Nature of Representation</u></b>	<b><u>Council's Response</u></b>
70	The number of generic appraisals relied upon is not sufficient.	A range of commercial typologies have been tested and the residential development typologies reflect the range of developments across the borough and have been based on an understanding of previous and likely future development that have and will come forward in the borough. These are supplemented with appraisals of strategic sites. This approach has been adopted by numerous other 'urban area' Charging Authorities and approved at examinations in public.
71	<b>CIL_DCS12: Thomas Eggar on behalf of Asda</b>	
72	The Viability Study has not shown any financial evidence to differentiate between retail uses above and below 280 sq. m and whether this has an impact on the viability of a development scheme. In the lack of evidence the differentiation appears to indicate a policy support for smaller retail units in favour of larger units.	The Draft Charging Schedule differentiated between the scale and type of retail development proposed. This was an approach recognised as a the Inspectors report for Wycombe District Council CIL Charging Schedules concluding: “there is nothing in the CIL regulations to prevent differential rates for retail developments of different sizes, provided they are justified by the viability evidence and differing retail characteristics or zones” (para 16, 2012). However, it is acknowledged that size does not necessarily result in the higher values generated by convenience based supermarkets and superstores and retail warehousing uses. Rather, is it a combination of factors (detailed in paragraph 6.31 – 6.34 of the Viability Study, October 2013). Accordingly, the definition now refers to the use rather than the scale of use. The use and viability characteristics of these different types of retail uses are markedly different, justifying the council's approach.
73	No evidence relating to the amount of S106 revenue raised and to what extent affordable housing and other targets have been met has been provided.	The Council has published additional information on historic section 106 receipts as part of the Revised Draft Charging Schedule consultation (Section 106 Receipts Background Report, October 2013). This includes affordable housing targets.
74	Urges the Council to adopt an exceptional circumstances relief policy.	As indicated in Appendix 2 of the Charging Schedule, the Council is minded to implement an exceptional circumstances relief policy in line with the CIL Regulations. It is noted that this is not an examination matter or a component of the Charging Schedule preparation process.
75	Urges the Council to define and adopt an instalments policy.	It is noted that an instalments policy can be amended at any time by a Charging Authority and is not a matter that the Examiner is required to consider. Notwithstanding this, the Council does intend to introduce an instalment policy. The starting position was the Mayor of London's approach; however, the comments on the impacts of instalments are noted, particularly in the context of large schemes, and the Council intends to keep this issue under review.

<b>No.</b>	<b><u>Nature of Representation</u></b>	<b><u>Council's Response</u></b>
76	Government consultation to amend CIL regulations is on-going. The Council is urged to defer submitting a charging schedule until the outcome of the consultation is published as revised guidance.	There is no requirement or reason to delay the implementation of CIL. There have been annual amendments to the CIL Regulations and given the scaling back of the use of planning obligations provided for in the CIL Regulations, it would not be prudent to stall the production of Charging Schedules as a result of potential changes. Doing so may prejudice the delivery of sustainable development.
77	The Council must ensure that the viability appraisals will need to account for the fact that commercial developments will need to pay some S106 and S278 beyond the implementation of CIL.	Noted. The viability appraisal has been amended to assume a residual S106/278 sum for commercial schemes.
78	<b>CIL_DCS13: Quod on behalf of One Housing Group</b>	
79	Request that the Council consults further with affordable housing providers.	On 22nd April 2013, the Council published the CIL Draft Charging Schedule for consultation between until 5th June 2013. The consultation was advertised in the local press – East End Life, and on the Council's website. The advertisements stated its duration, location for inspection and two drop-in sessions. Developer Drop-in Sessions were also held at the Council's offices, where developers were invited to drop in to discuss issues 1st May 2013 and 3rd June 2013. The Council has also met with some of the agents for two of the strategic sites. This followed consultation the Preliminary Draft Charging Schedule (between 16th November 2012 and 2nd January 2013) and a workshop was run on 6th July 2012 right at the start of the process to invite input as to the proposed methodology and assistance with inputs into the appraisals. The Council has also met with owners of strategic sites and invited submission of appraisal information and other evidence to help inform the rate setting process. The Council has met all the regulatory and local consultation requirements, and made extra efforts to encourage proactive participation from a wide range of stakeholders.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
80	Concern that the evidence does not consider the impact on Estate Regeneration and affordable housing.	The viability appraisals undertaken account for a policy compliant level of affordable housing and as such we consider the delivery of affordable housing won't be compromised. In relation to estate regeneration schemes, it is acknowledged that given the current economic climate, lack of grant funding and requirement in Estate Renewal Schemes to ensure the replacement of the existing units and in particular social rented accommodation, many schemes incorporating private units are being developed by housing associations in order to assist in the delivery of more affordable units. However, some schemes may still benefit from grant. A wide range of factors – many of which will be unique to the individual regeneration schemes - will determine the viability of such schemes and as such a general exclusion is not considered appropriate.
81	The Council has not provided information on historic Section 106 Agreements, including the extent to which affordable housing and other targets have been met.	The Council has published additional information on historic section 106 receipts as part of the Revised Draft Charging Schedule consultation (Section 106 Receipts Background Report, October 2013). This includes affordable housing targets.
82	The Council has failed to publish the evidence referred to in the Viability report referred to in the following passage: "Whilst the appraisals were undertaken according to postcode area groups (based on bottom-up research on sales values and rents), further analysis of specific sites has been undertaken to ensure that the boundaries are correctly placed. The boundaries are placed according to the variation in the level of CIL sites in each area can absorb without having a significant impact on development viability taking each area as a whole. The boundaries also have regard to the practicality of divisions between areas (e.g. down the centre of roads, rather than through the middle of development sites)."	The Council considers consider the rates have been set appropriately and involved the testing of strategic sites which has helped ensure that the boundaries have been appropriately located. Appendix 2 of the Viability Study (October 2013) contains further detail on land value research - including post code related data.
83	<b>CIL_DCS14: Environment Agency</b>	
84	The Council should consider the Thames Estuary 2010 plan which sets out recommendations for flood management in areas of Tower Hamlets at risk of flooding	Noted. The Council will engage further with infrastructure providers as part of on-going infrastructure planning post the adoption of a CIL for LBTH.
85	<b>CIL_DCS15: Planning Potential on behalf of Redrow PLC</b>	

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
86	The differential rates do not reflect the actual impact of development within the zones and the resulting infrastructure requirements.	Setting a CIL is not a process of matching the infrastructure required by the projected development in each area to a CIL rate. The CLG Guidance requires that CIL rates be set in relation to viability evidence, not the level of infrastructure required in each of the zones.
87	The Council has failed to achieve its annualised housing target (as set out in the London Plan) of 2,885 homes per year. Residential CIL rates should be reduced to encourage investment in house building.	The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.
88	The Council should publish an instalments policy which is proactive in supporting development by allowing instalments for CIL payments set at certain thresholds. An instalments policy should reflect the nature of development in the borough and the needs of developers.	It is noted that an instalments policy can be amended at any time by a Charging Authority and is not a matter that the Examiner is required to consider. Notwithstanding this, the Council does intend to introduce an instalment policy. The starting position was the Mayor of London's approach; however, the comments on the impacts of instalments are noted, particularly in the context of large schemes, and the Council intends to keep this issue under review.

<b>No.</b>	<b><u>Nature of Representation</u></b>	<b><u>Council's Response</u></b>
89	Encourage the Council to publish clear policy guidance on how it intends to apply 'exceptional relief' in circumstances where CIL compromises the viability of development.	Noted. As indicated in Appendix 2 of the Charging Schedule, the Council is minded to implement an exceptional circumstances relief policy in line with the CIL Regulations. It is noted that this is not an examination matter or a component of the Charging Schedule preparation process.
90	<b>CIL_DCS16: DP9 on behalf of Bishopsgate Goods Yard Limited</b>	
91	There is concern that the NPPF has not been adequately considered and there is concern that the statutory guidance in relation to CIL has not been adequately considered. Clarification needs to be provided in relation to how the Council's evidence base accounts for the Development Plan.	The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
92	The Council should consider adopting a market value approach in respect of the assumption of what price will be bought forward for development.	The approach we have adopted was considered in depth at the London Mayoral CIL examination. The merits of the Market Value and Existing Use Value plus a premium approach were considered in detail by the Examiner. It was accepted that market transactions are of limited relevance to testing a new planning requirement, as they are historic and relate to prevailing planning policies at the time. As such, the Market Value approach was found to be an unsound basis for testing the viability of CIL It should also be noted that this approach has been accepted in numerous other CIL Examinations both inside and out of London including Croydon, Redbridge, Bristol, Poole, Havant, Harrow, Brent, Waveney.
93	Concerned that the Council has not fully engaged with land owners of strategic sites.	On 22nd April 2013, the Council published the CIL Draft Charging Schedule for consultation between until 5th June 2013. The consultation was advertised in the local press – East End Life, and on the Council's website. The advertisements stated its duration, location for inspection and two drop-in sessions. Developer Drop-in Sessions were also held at the Council's offices, where developers were invited to drop in to discuss issues 1st May 2013 and 3rd June 2013. The Council has also met with some of the agents for two of the strategic sites. This followed consultation the Preliminary Draft Charging Schedule (between 16th November 2012 and 2nd January 2013) and a workshop was run on 6th July 2012 right at the start of the process to invite input as to the proposed methodology and assistance with inputs into the appraisals. The Council has also met with owners of strategic sites and invited submission of appraisal information and other evidence to help inform the rate setting process. The Council has met all the regulatory and local consultation requirements, and made extra efforts to encourage proactive participation from a wide range of stakeholders.
94	Concerned that the Council has assumed a standard borough-wide assumption for residual S106 and S278. This approach requires justification, particularly in relation to strategic sites, where investment in infrastructure is required to enable and mitigate development. The Council has also not published any evidence on the cost implications of residual S106 and there is no cross referencing between the Planning Obligations SPD and the Draft Charging Schedule.	The Council has included cost assumptions for Section 278 and residual Section 106 requirements in a CIL context (thereby reducing the probable CIL charge) even though there are likely to be instances in which such contributions may not be required e.g. minor schemes. The residential appraisals incorporate an allowance of £1,220 per unit and the commercial appraisals have also been amended to incorporate an allowance of £5 per square foot (£53.82 per square metre). These figures are considered to be a reasonable proxy for likely sums to be sought after CIL is adopted, based on the requirements set out in the Revised Draft Planning Obligations SPD where it can be quantified, and the figure adopted is broadly in line with those adopted by many other London boroughs for CIL testing purposes.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
95	The Council has not provided information on historic Section 106 Agreements, including the extent to which affordable housing and other targets have been met.	The Council has published additional information on historic section 106 receipts as part of the Revised Draft Charging Schedule consultation (Section 106 Receipts Background Report, October 2013). This includes affordable housing targets.
96	The Council should estimate likely S106 costs for strategic sites and account for this in Strategic Site appraisals.	Estimates have been made reflecting comments from developers where provided and where justified.
97	The Council has not undertaken a proper assessment of the likely balance between CIL and other Planning Obligations required to deliver the development plan.	The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. In addition, it should be noted that CIL will constitute a maximum of 5% of development costs of residential development. It is therefore highly unlikely that CIL would be the determining factor that would make developments unviable.
98	The CIL charge in Bishopsgate Goodsyrd (which straddles Hackney and Tower Hamlets) should have a consistent approach to CIL. For example, the proposed office rate in Hackney's PDCS is £74 per sq. m and in LBTH's DCS is £215 per sq. m. Again, there is little consistency in the rate between the City of London and Tower Hamlets.	Noted: Tower Hamlets' CIL office rate has been reduced to £120. In addition, Tower Hamlets' residential rate (£200) is broadly similar to Hackney's latest published rate (£190).
99	In setting CIL rates for Bishopsgate Goods Yard both Hackney and Tower Hamlets must work closely together.	Noted: Tower Hamlets and Hackney will be working together to ensure a consistent approach to Bishopsgate Goods Yard.
100	No justification has been provided for the increase in the City Fringe office rate.	The approach relating to the City Fringe office rate has been amended and explained in the latest Viability Study (October 2013).
101	The Strategic Site Appraisals are not accompanied by an explanation for why eight have been chosen. Furthermore there is no detailed analysis of the site's policy requirements.	In accordance with the CIL Guidance 2013, the Council has tested the viability of eight strategic sites across the whole borough. These are all sites which have been identified in the Council's Managing Development Document, which represent a range of different viability scenarios.
102	The Mayor's CIL rate should be treated as a development cost. The Council have approached this instead by subtracting the Mayor's CIL rate from the maximum rate which could possibly be sought.	The viability appraisals now include Mayoral CIL as a cost, so the outputs identified are the maximum viable levels of Borough CIL.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
103	It is difficult to analyse the strategic site appraisal summaries included within the viability report. A request has been made for this information but it hasn't been forthcoming.	The Council invited submission of appraisal inputs/ information and has reflected specific comments - where received - in amendments to the strategic site appraisals. It is noted all inputs into the appraisals are provided within the study. Inputs into the Argus models related to the Strategic Sites have been provided in the Viability Study (October 2013) so should developers or stakeholders wish to test these they are able to do so. The focus should be on whether the inputs are reasonable or whether there is evidence to suggest otherwise
104	The way the Mayor of London's Crossrail charge has been taken into account is not clear.	Crossrail is a priority for London Borough of Tower Hamlets and an important one but it should not obliterate the pressing need for other local infrastructure. In response to the representations, the Council has amended its approach from that of the Draft Charging Schedule of assuming 30% of the Mayor of London's Crossrail 'top up' in its appraisals in setting its rates. It is expected that the rates set out in the Revised Draft Charging Schedule will allow for the full 'top up' required under the Crossrail SPG 2013 where the viability of individual schemes allow for it in line with the approach set out in the Crossrail SPG, 2013, paragraph 3.34. However, it is acknowledged that achieving the full top up may be more challenging in certain office schemes in the North Docklands in the current market and in light of the fact that it has the highest 'top up' charge in London. Accordingly, a lower Crossrail SPG top is assumed for office floorspace in North Docklands (please refer to paragraph 4.55 of the Viability Study (October 2013)). This has resulted in a reduction in the CIL rate for offices in North Docklands. This approach reflects the Crossrail funding requirements arising from office development in this part of the borough while recognising the need to fund local infrastructure to enable sustainable development.



<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
105	<p>The Council needs to clarify a number of inputs into the Bishopsgate Goods Yard Appraisal, including: -</p> <ul style="list-style-type: none"> <li>• How the site area has been derived.</li> <li>• How the unit density has been assumed.</li> <li>• The Viability Study assumes a residential mixed use whereas the site allocation in the Managing Development Document assumes a mixed use.</li> <li>• How the development quantum has been derived.</li> <li>• How the unit mix has been derived.</li> <li>• What are the reasons to assume the gross to net ratio of 85%?</li> <li>• How the 'Construction pre sales start' has been derived.</li> <li>• Whether an IRR approach to profit is more suitable.</li> <li>• The build cost assumption of £177 per sq. ft. £270 - £300 is more appropriate.</li> <li>• The 'Exceptionals/Abnormals' assumed.</li> <li>• The marketing costs assumed. 2% is more appropriate.</li> <li>• The sales costs assumed. 2% is more appropriate.</li> <li>• The letting fee assumed. 15% is more appropriate.</li> <li>• Professional fees assumed. 12 – 14% is more appropriate.</li> <li>• Finance costs assumed. 9% is more appropriate.</li> </ul>	<p>The Council has, where appropriate, updated appraisals to address comments made during the Draft Charging Schedule consultation. The approach to assessing the largest sites has been amended to an Internal Rate of Return ('IRR') approach in response to representations. It is noted that although developers commonly identify that they are targeting an IRR of 20%, BNP Paribas Real Estate have advised that large schemes in London, particularly in the current economic climate, developers have agreed to proceed with developments identified as generating IRRs of between 11% and 13%. In addition:</p> <ul style="list-style-type: none"> <li>• The Strategic Site inputs data has been updated to include the development programmes and we can confirm that S106 and CIL costs are included as upfront costs at the beginning of construction</li> <li>• The professional fees on strategic sites and all schemes larger than 250 units have been increased to 12% in line with the assumptions in the typologies for consistency.</li> <li>• With respect to energy requirements on large sites, the provision of such technologies will be included in the cost to achieve CSH level 4 on such sites. A 5% contingency is also allowed for the on the uplift of the build costs associated with achieving CSH level 4, which should allow for any unforeseen costs relating to the provision of such elements.</li> <li>• Allowances have been made for the onsite infrastructure that is sought by the Council's policies such as schools, health facilities through land in kind.</li> <li>• The higher abnormal costs identified on the Bishopsgate Goodsyard (and Wood Wharf) sites have been taken into account in line with comments made to the DCS consultation. These site appraisals have been updated to include commercial uses in line with the quantum identified in relevant planning policies and guidance which will inform the planning application on this site</li> <li>• Assumptions with respect to marketing have been amended and a rent free period to 24- months for the office elements included.</li> </ul>

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
106	The Council should not use CIL to provide site-specific infrastructure. Such an approach risks the robustness of development decisions which approve development without securing a commitment to the provision of necessary infrastructure on the assumption that it will be provided by CIL.	The Draft Planning Obligations SPD sets out the Council's approach to mitigating the impacts of development. The Council's Draft Regulation 123 List provides an overview of where CIL and where Section 106 contributions will be used. The SPD states that, following the adoption of the local CIL, Section 106 will be limited to mitigating site-specific impacts of development (Regulation 123 CIL Regulation 2010 (as amended)). Where a site allocation requires the provision of infrastructure on-site CIL, or in-kind provision to an equivalent value, will be used to ensure the provision, rather than Section 106.
107	Complications around in kind transfer of land have not been considered and need to be properly addressed in the Planning Obligations SPD.	The Draft Planning Obligations SPD sets out the Council's approach to mitigating the impacts of development. The Council's Draft Regulation 123 List provides an overview of where CIL and where Section 106 contributions will be used. The SPD states that, following the adoption of the local CIL, Section 106 will be limited to mitigating site-specific impacts of development (Regulation 123 CIL Regulation 2010 (as amended)). Where a site allocation requires the provision of infrastructure on-site CIL, or in-kind provision to an equivalent value, will be used to ensure the provision, rather than Section 106.
108	Reference to circular 5/05 needs to be removed and replaced with provisions of NPPF	Noted: References to Circular 5/05 have been deleted.
109	Para 4.16 refers to two DPD documents, but only lists the Managing Development Document. The publication date of the National Planning Policy Framework is cited as 2011 however this was adopted in 2012. The commentary around Managing Development Document needs to be updated following the adoption of the document.	The Draft Planning Obligations SPD has been updated to reflect the current Development Plan and national guidance.
110	<b>CIL_DCS17: DP9 on behalf of London and Quadrant</b>	

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
111	The Council has not articulated how its proposed CIL rates supports the Development Plan	The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.
112	The Viability Study does not adequately explain the relationship between charging zones and the viability of development within them. Within the proposed zones there are wide differences in the value of land. This means that development is far more likely to occur in some areas within certain zones than in other areas within the same zone.	The Council has sought to adopt an approach which merges areas together to avoid undue complexity in line with paragraph 37 of the CIL Guidance, 2013. It is acknowledged that a range of residential values will be achieved on new build schemes in each Zone. Indeed, there will always be a range of values per square foot that could be achieved on new build units within an area. For a strategic exercise such as this, an approach of taking an average value that reflects the likely values that could be achieved in new developments in the area has been sought to be defined.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
113	The viability study provides no evidence for the residual S106 buffer of £1,220 per residential unit. The Council should publish background evidence on historic Section 106 in accordance with paragraph 22 of the new statutory guidance	The residual S106 amounts assumed are considered to be a reasonable proxy for likely sums to be sought after CIL is adopted, based on the requirements set out in the Revised Draft Planning Obligations SPD where it can be quantified, and the figure adopted is broadly in line with those adopted by many other London boroughs for CIL testing purposes. A report has been published which contains background evidence on historic S106 income.
114	The Regulation 123 List is too generic to offer certainty over which infrastructure will be funded through CIL and/or Section 106	In accordance with the CIL Regulations 2010 (as amended) and CIL Guidance 2013 (paragraph 15) the Council has set out for examination a draft list of the projects or types of infrastructure that are to be funded in whole or in part by the levy. The list has been published alongside a revised Planning Obligations SPD to provide transparency on what the charging authority intends to fund in whole or part through the levy and those known matters where section 106 contributions may continue to be sought.
115	We object to paying energy contributions if targets are not met. There is no clarity on threshold levels before payment is triggered.	Policy DM 29 of the Managing Development Document clearly sets out the extent to which residential and non-residential developments will be expected to reduce Carbon emissions up to the year 2031. Should a development fail to meet these targets through on-site provision, and all opportunities to do so have been exhausted, financial contributions towards carbon reduction projects will be secured through Section 106 Agreements. It is appropriate to mitigate any environmental sustainability impacts of development on a scheme by scheme basis, rather than through CIL as the opportunity to enter into a Section 106 Agreement on non-policy compliant schemes allows for a proactive and flexible approach to development in circumstances where environmental sustainability is an issue. Additionally, it is important to reserve the opportunity to penalise non-compliant schemes to ensure incentives to reduce carbon emissions on-site are not undermined.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
116	Biodiversity - There is an objection to paying a contribution. Sites are penalised for physical reasons that don't contribute to biodiversity.	Policy DM 11 of the Managing Development Document clearly sets out the Council's approach to ensuring all new developments enhance, and do not harm, the borough's natural environment and biodiversity value. Potential developments which fail to achieve on-site policy compliance in respect of this policy will be required to mitigate the impacts of the development through financial contributions. It is appropriate to mitigate any environmental impacts of development on a scheme by scheme basis, as the opportunity to enter into a Section 106 Agreement on non-policy compliant schemes allows for a proactive and flexible approach to development in circumstances where environmental sustainability is an issue. Additionally, it is important to maintain the opportunity to penalise non-compliant schemes to ensure incentives to enhance biodiversity value and habitats on-site are not undermined.
117	<b>CIL_DCS18: Quod on behalf of Berkeley Group</b>	
118	Suggested changing wording of S2.6 of the Planning Obligations SPD from 'such as' to 'through' and urges council to consider mechanisms of securing land transfer.	The SPD has been clarified to make reference to the CIL regulations which govern in kind contributions.
119	Sentence at the end of para 3.3 relating to pooling is considered technically incorrect with regards to the regulations.	Noted: Text has been changed accordingly
120	Para 4.3 and 4.4 should be removed as Circular 5/05 was replaced by the NPPF. Reference should instead be made to relevant NPPF paragraphs.	Noted: References to Circular 5/05 have been deleted. The Draft Planning Obligations SPD has been updated to reflect the current Development Plan and national guidance.
121	Mayor of London's 'use of planning obligations in the funding of Crossrail' was published in April 2013 and supersedes guidance referred to in para 4.7 and 4.8.	The Draft Planning Obligations SPD has been updated to refer to the current Supplementary Planning Guidance.
122	Seeks confirmation relating to Managing Development site allocations' infrastructure requirements. Will these requirements be delivered through Section 106, Section 278 or CIL?	The Draft Planning Obligations SPD sets out the Council's approach to mitigating the impacts of development. The Council's Draft Regulation 123 List provides an overview of where CIL and where Section 106 contributions will be used. The SPD states that, following the adoption of the local CIL, Section 106 will be limited to mitigating site-specific impacts of development (Regulation 123 CIL Regulation 2010 (as amended)). Where a site allocation requires the provision of infrastructure on-site CIL, or in-kind provision to an equivalent value, will be used to ensure the provision, rather than Section 106.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
123	Seeks a description of how the council will front-load negotiation on planning obligations and how this will relate to CIL. Refers to the culture change to partnership working to achieve infrastructure investment. The Draft Planning Obligations SPD does not reflect this change.	Section 5 of the Draft Planning Obligations SPD explains that the Council is committed to work in partnership with developers and other third parties to ensure any site specific impacts of development are appropriately mitigated through the use of Section 106 Planning Obligations. Appropriate trigger points for individual clauses in any Section 106 agreement will be included within any such negotiations. Regulation 70 of the CIL Regulations 2010 (as amended) provides options for a Charging Authority to adopt an instalment policy for CIL, which will allow developers/liable parties to pay for the levy by instalments. The nature of any instalments policy is still under review and will be confirmed in due course.
124	The legal process for securing in-kind contributions of land is unclear.	The Draft Planning Obligations SPD sets out the Council's approach to mitigating the impacts of development. The Council's Draft Regulation 123 List provides an overview of where CIL and where Section 106 contributions will be used. The SPD states that, following the adoption of the local CIL, Section 106 will be limited to mitigating site-specific impacts of development (Regulation 123 CIL Regulation 2010 (as amended)). Where a site allocation requires the provision of infrastructure on-site CIL, or in-kind provision to an equivalent value, will be used to ensure the provision, rather than Section 106.
125	Further clarity sought on use of planning conditions in relation to infrastructure which will be partly/wholly funded by CIL	Section 1.2 of the Draft Planning Obligations SPD sets out the Council's approach to the use of planning conditions.
126	Reference to circular 5/05 needs to be removed.	Noted: References to Circular 5/05 have been deleted. The Draft Planning Obligations SPD has been updated to reflect the current Development Plan and national guidance.
127	Narrative within the SPD states that development "adds increased pressure on the Council to provide access for residents to appropriate employment and skills training." Development creates new jobs and business opportunities so is not an adverse impact which requires mitigation.	The Council acknowledges that development provides employment and enterprise opportunities for the local population. Ensuring access to any such employment and enterprise opportunities are secured for the local population is an important priority - and contributions will be sought where appropriate to the specific development and in line with the statutory tests for use of planning obligations.
128	Concerned about the council securing employment space in a development and restricting its use, thereby 'interfering' in commercial arrangements with tenants.	The principle of ensuring employment space is provided for SMEs is outlined in Managing Development policy DM15. Section 106 may in some cases provide a mechanism for achieving this. Such planning obligations will be sought where appropriate to the specific development and in line with the statutory tests for use of planning obligations.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
129	Seeks more information of councils approach to securing s278 requirements, s106 site specific infrastructure, non-financial obligations and Crossrail as these will be needed for accurate viability testing	The Draft Planning Obligations SPD clearly describes the thresholds and circumstances under which a Section 106 Agreements may be required to mitigate any impacts of development which are site specific. In such instances the value of any financial contribution sought as part of a Section 106 agreement will be dependent upon the extent to which a scheme deviates from policy compliance or causes harmful site-specific impacts. It is not therefore appropriate to provide an indicative value for each principal clause within a Section 106 Agreement. When a S106 requirement correlates to the nature and scale of a scheme impacts, such as in the case of Crossrail contributions, standard formulae are available.
130	It is not necessary to repeat policy position in relation to car free, car clubs, travel plans, rather the Draft Planning Obligations SPD should state how they will be secured.	The Draft Planning Obligations SPD highlights common mitigation measures the Council may seek to agree with developers. However, points about repetition are noted and some minor drafting changes have been made to improve clarity.
131	Seeks reaffirmation that s106 contributions will only be expended as defined in legal agreement, that the council will report on the expenditure and return to the developer is it is not spent within the defined period.	It is not necessary to state that all Section 106 contributions will be spent in accordance with the terms agreed in the Section 106; this is a legal requirement.
132	States trigger points should be based on the nature of the obligation. Inappropriate to define commencement at the preferred option	The Draft Planning Obligations SPD states that trigger points will be agreed upon between the developer and the Council - the starting point for which in many cases is commencement.
133	Pooling of Section 106 Obligations: Concerned the current draft does not provide sufficient clarity on what will be required for large sites.	The Draft Planning Obligations SPD sets out the Council's approach to mitigating the impacts of development. The Council's Draft Regulation 123 List provides an overview of where CIL and where Section 106 contributions will be used. The SPD states that, following the adoption of the local CIL, Section 106 will be limited to mitigating site-specific impacts of development (Regulation 123 CIL Regulation 2010 (as amended)). Where a site allocation requires the provision of infrastructure on-site CIL, or in-kind provision to an equivalent value, will be used to ensure the provision, rather than Section 106.
134	The cost assumptions used for infill development are the same as for larger development typologies.	The cost assumptions used correctly reflect the BCIS, adjusted for Tower Hamlets.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
135	The Viability Study excludes on-site infrastructure provision and abnormal costs associated with development.	The Strategic Site appraisals account for on-site infrastructure provision and abnormal costs. Abnormal costs cannot be accounted for in generic appraisals within an area wide viability study as they are site specific and variable. The main reason for allowing a buffer from the maximum CIL charge is to account for differences between sites. The Bristol CIL examiner identified this at Para 26 of his report dated July 2012, stating that, 'By definition, the CIL cannot make allowance for abnormal, site specific, costs. The rates have to be based on a generic analysis of a variety of size and type of schemes across the area, taking into account average local build costs, not the individual circumstances of particular sites.'
136	The Viability Study assumes faster sales rates than borne out by evidence. Evidence should be provided to justify the assumption make for sales rates of larger schemes.	The assumption made is based on evidence of market transactions. It is reasonable to assume that the larger schemes assume multiple sales outlets.
137	The timing of the application of Tower Hamlets' CIL and Mayoral CIL is incorrect.	The position relating to Mayoral CIL has now been amended so it is accounted for as an up front development cost. In relation to Tower hamlets' CIL it is noted that an instalments policy can be amended at any time by a Charging Authority and is not a matter that the Examiner is required to consider. Notwithstanding this, the Council does intend to introduce an instalment policy. The starting position was the Mayor of London's approach; however, the comments on the impacts of instalments are noted, particularly in the context of large schemes, and the Council intends to keep this issue under review.



<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
138	The appraisals for commercial projects have assumed discounts to the Mayor's Crossrail Tariff. The justification for such an approach is unclear.	Crossrail is a priority for London Borough of Tower Hamlets and an important one but it should not obliterate the pressing need for other local infrastructure. In response to the representations, the Council has amended its approach from that of the Draft Charging Schedule of assuming 30% of the Mayor of London's Crossrail 'top up' in its appraisals in setting its rates. It is expected that the rates set out in the Revised Draft Charging Schedule will allow for the full 'top up' required under the Crossrail SPG 2013 where the viability of individual schemes allow for it in line with the approach set out in the Crossrail SPG, 2013, paragraph 3.34. However, it is acknowledged that achieving the full top up may be more challenging in certain office schemes in the North Docklands in the current market and in light of the fact that it has the highest 'top up' charge in London. Accordingly, a lower Crossrail SPG top is assumed for office floorspace in North Docklands (please refer to paragraph 4.55 of the Viability Study (October 2013)). This has resulted in a reduction in the CIL rate for offices in North Docklands. This approach reflects the Crossrail funding requirements arising from office development in this part of the borough while recognising the need to fund local infrastructure to enable sustainable development.
139	The viability evidence proposes a different phasing policy for CIL payments to the DCS which states the Council intends to adopt the Mayor of London's phasing policy.	It is noted that an instalments policy can be amended at any time by a Charging Authority and is not a matter that the Examiner is required to consider. Notwithstanding this, the Council does intend to introduce an instalment policy. The starting position was the Mayor of London's approach; however, the comments on the impacts of instalments are noted, particularly in the context of large schemes, and the Council intends to keep this issue under review.
140	The residential sales rate on large developments is too high.	The explanation for sales rate adopted is in contained in the Viability Study (October 2013 para 4.28) and is based on market knowledge from the Council's viability consultants.
141	The office assessment for the city fringe assumes a typology of 30,000 sq. ft for stand-alone developments. This may penalise mixed use schemes which bring forward smaller units of this use type and use unable to benefit from the economies of scale which would be found in larger schemes.	Mixed use schemes have not been included in the generic typologies as they will be different and contain varying proportions of different uses. Such schemes will not provide a useful evidence base for setting a CIL for the different types of developments included in such schemes. All that this will reflect is that the more viable uses will have to subsidise the less viable uses. In this regard we have sought to establish the viability of individual uses so that only the uses identified as being viable and able to bear a CIL charge will be liable to pay LBTH's CIL. Notwithstanding this it is noted that the Strategic Sites – which included a mixture

No.	Nature of Representation	Council's Response
		of uses - have been tested.
142	The Council has not provided an appraisal of all strategic sites. The Council has also not clearly assessed the implications of the strategic infrastructure which is required on these sites through policy.	In accordance with the CIL Guidance 2013, the Council has tested the viability of eight strategic sites across the whole borough. These are all sites which have been identified in the Council's Managing Development Document, which represent a range of different viability scenarios.
143	The strategic site appraisals assume a single use scheme (with the exception of Wood Wharf) which is unlikely.	Several other strategic appraisals assume mixed use schemes, such as Bishopsgate Goods Yard and London Dock.
144	For strategic site appraisals, development programmes have not been set out, including the timing of CIL and S106 payments.	It is not a requirement to define an instalments policy at this stage (and the Council will confirm its position in due course) whereas S106 payments will be required on a basis to be agreed between the Council and the developer. Development programmes have been set out in the Viability Study (October 2013).
145	The assumptions made in relation to professional fees are inconsistent.	Noted: The position relating to professional fees has been amended; all strategic and large sites now assume 12% professional fees whereas smaller sites assume 10%.
146	The residual S106/S278 costs are too low and have not been justified.	The Council has included cost assumptions for Section 278 and residual Section 106 requirements in a CIL context (thereby reducing the probable CIL charge) even though there are likely to be instances in which such contributions may not be required e.g. minor schemes. The residential appraisals incorporate an allowance of £1,220 per unit and the commercial appraisals have also been amended to incorporate an allowance of £5 per square foot (£53.82 per square metre). These figures are considered to be a reasonable proxy for likely sums to be sought after CIL is adopted, based on the requirements set out in the Revised Draft Planning Obligations SPD where it can be quantified, and the figure adopted is broadly in line with those adopted by many other London boroughs for CIL testing purposes.
147	Strategic sites that are deemed as unviable need to be accounted for in respect of the impact on affordable housing the proposed CIL charge would have.	We do not agree with this. We note that the recently published Examiner's report for the LB Newham's CIL Charging Schedule acknowledged this issue at paras 15 and 16 by stating: <i>As stated in the Viability Study, if a scheme is not viable before CIL is levied it is unlikely to come forward and CIL is, therefore, unlikely to be a material consideration in any development decision. Consequently, the Viability Study, sensibly in my view, did not factor in unviable schemes in recommending appropriate rates.</i>

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
148	An analysis of development schemes undertaken since 2009 has been undertaken. The analysis concludes that applying the current CIL rates will result in more than a doubling of the planning obligations paid in the developments analysed.	The Council has established its rates informed by the economic viability of schemes in line with CIL Guidance 2013. The Council has set a CIL rate CIL will constitute a maximum of 5% of development costs. In addition a discount is applied to all rates. It is therefore highly unlikely that CIL would be the determining factor that would make developments unviable. In addition, it is noted that the Core Strategy was adopted in 2010 and that Council's current Planning Obligations SPD was adopted in 2012.
149	An exceptional circumstances policy needs to be clarified.	Noted. As indicated in Appendix 2 of the Charging Schedule, the Council is minded to implement an exceptional circumstances relief policy in line with the CIL Regulations. It is noted that this is not an examination matter or a component of the Charging Schedule preparation process.
150	The approach relating to an instalments policy needs to be reconsidered.	It is noted that an instalments policy can be amended at any time by a Charging Authority and is not a matter that the Examiner is required to consider. Notwithstanding this, the Council does intend to introduce an instalment policy. The starting position was the Mayor of London's approach; however, the comments on the impacts of instalments are noted, particularly in the context of large schemes, and the Council intends to keep this issue under review.
151	The approach to receiving land 'in kind' of CIL should be clarified.	The Draft Planning Obligations SPD sets out the Council's approach to mitigating the impacts of development. The Council's Draft Regulation 123 List provides an overview of where CIL and where Section 106 contributions will be used. The SPD states that, following the adoption of the local CIL, Section 106 will be limited to mitigating site-specific impacts of development (Regulation 123 CIL Regulation 2010 (as amended)). Where a site allocation requires the provision of infrastructure on-site CIL, or in-kind provision to an equivalent value, will be used to ensure the provision, rather than Section 106.
152	<b>CIL_DCS19: Barton Wilmore on behalf of Aldgate Developments</b>	
153	An exceptional circumstances policy should be clarified.	Noted. As indicated in Appendix 2 of the Charging Schedule, the Council is minded to implement an exceptional circumstances relief policy in line with the CIL Regulations. It is noted that this is not an examination matter or a component of the Charging Schedule preparation process.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
154	A more flexible approach needs to be adopted in respect of the viability study. Site specific circumstances should be taken into account.	Site specific circumstances cannot be taken into account. The main reason for allowing a buffer from the maximum CIL charge is to account for differences between sites. The Bristol CIL examiner identified this at Para 26 of his report dated July 2012, stating that, 'By definition, the CIL cannot make allowance for abnormal, site specific, costs. The rates have to be based on a generic analysis of a variety of size and type of schemes across the area, taking into account average local build costs, not the individual circumstances of particular sites.'
155	Due to the variation from theoretical development typologies and actual schemes a viability cushion needs to be accommodated. The Viability Study sets a cushion of 30% which seems inadequate for the borough. It should be noted other boroughs have used a cushion between 30% and 60%.	Other boroughs have assumed a buffer as low as 20% (for example the recently approved Newham Charging Schedule; Tower Hamlets has assumed a minimum of 25% and considers this a reasonable figure.
156	The approach to receiving land 'in kind' of CIL should be clarified.	The Draft Planning Obligations SPD sets out the Council's approach to mitigating the impacts of development. The Council's Draft Regulation 123 List provides an overview of where CIL and where Section 106 contributions will be used. The SPD states that, following the adoption of the local CIL, Section 106 will be limited to mitigating site-specific impacts of development (Regulation 123 CIL Regulation 2010 (as amended)). Where a site allocation requires the provision of infrastructure on-site CIL, or in-kind provision to an equivalent value, will be used to ensure the provision, rather than Section 106.
157	The approach relating to an instalments policy needs to be reconsidered.	It is noted that an instalments policy can be amended at any time by a Charging Authority and is not a matter that the Examiner is required to consider. Notwithstanding this, the Council does intend to introduce an instalment policy. The starting position was the Mayor of London's approach; however, the comments on the impacts of instalments are noted, particularly in the context of large schemes, and the Council intends to keep this issue under review.
158	The Council have identified that planning obligations and CIL will be used to deliver Crossrail. Further clarity should be provided as to how double counting will be avoided when a S106 agreement prescribes the need to contribute to Crossrail.	Only the London Mayor's CIL will be used to deliver Crossrail, not Tower Hamlets' CIL. Therefore no double counting will occur. The Use of Planning Obligations in the Funding of Crossrail, and the Mayoral Community Infrastructure levy Supplementary Planning Guidance (April 2013) published by the GLA clarifies the position where London Mayoral CIL is sought in addition to the Crossrail SPG charge.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
159	The Draft Planning Obligations SPD does not take into account instances where the site is close to an existing park/open space. Seeks flexibility to address via Section 106 rather than CIL payment.	Regulation 123 of the 2010 CIL regulations states it is not possible to enter into a Section 106 Agreement to deliver infrastructure which will be delivered through CIL. This approach is reiterated in the Draft Planning Obligations SPD in Section 2.
160	Decentralised energy - it is considered developers will want to deliver on site Combined Heat and Power and connect to decentralised energy networks where feasible. CIL is not the appropriate mechanism to deliver this type of infrastructure.	Policy DM29 of the Managing Development Document states that development will be required to connect to, or demonstrate a potential connection to, a decentralised energy system unless it can be demonstrated that this is not feasible or viable. It is appropriate to use CIL for the delivery of strategic energy infrastructure.
161	The Council should outline its proposed instalments policy. Larger developments require the assurance that the Council's instalments policy will not compromise the viability of a scheme. Failure to outline the instalments policy which will be pursued reduces scope to accurately assess the impact of the proposed CIL rates.	It is noted that an instalments policy can be amended at any time by a Charging Authority and is not a matter that the Examiner is required to consider. Notwithstanding this, the Council does intend to introduce an instalment policy. The starting position was the Mayor of London's approach; however, the comments on the impacts of instalments are noted, particularly in the context of large schemes, and the Council intends to keep this issue under review.
162	<b>CIL_DCS20: Barton Wilmore on behalf of East Thames Group</b>	
163	The CIL viability study (2013) does not consider viability of estate regeneration schemes, for example, the Ocean Estate. Therefore the proposed Charges cannot be justified in respect of viability and commercial realities of estate regeneration schemes.	In relation to estate regeneration schemes, it is acknowledged that given the current economic climate, lack of grant funding and requirement in Estate Renewal Schemes to ensure the replacement of the existing units and in particular social rented accommodation, many schemes incorporating private units are being developed by housing associations in order to assist in the delivery of more affordable units. However, some schemes may still benefit from grant. A wide range of factors – many of which will be unique to the individual regeneration schemes - will determine the viability of such schemes and as such a general exclusion is not considered appropriate.
164	Due to the variation from theoretical development typologies and actual schemes a viability cushion needs to be accommodated. The Viability Study sets a cushion of 30% which seems inadequate for the borough. It should be noted other boroughs have used a cushion between 30% and 60%.	Other boroughs have assumed a buffer as low as 20% (for example the recently approved Newham Charging Schedule), Tower Hamlets has assumed a minimum of 25% and considers this a reasonable figure.
165	An exceptional circumstance policy should be set out making specific reference to estate regeneration schemes.	Noted. As indicated in Appendix 2 of the Charging Schedule, the Council is minded to implement an exceptional circumstances relief policy in line with the CIL Regulations. It is noted that this is not an examination matter or a component of the Charging Schedule preparation process.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
166	Welcome the suggestion to accept land in kind payment however the Council should clarify how it intends to do this.	The Draft Planning Obligations SPD sets out the Council's approach to mitigating the impacts of development. The Council's Draft Regulation 123 List provides an overview of where CIL and where Section 106 contributions will be used. The SPD states that, following the adoption of the local CIL, Section 106 will be limited to mitigating site-specific impacts of development (Regulation 123 CIL Regulation 2010 (as amended)). Where a site allocation requires the provision of infrastructure on-site CIL, or in-kind provision to an equivalent value, will be used to ensure the provision, rather than Section 106.
167	An instalments policy needs to be re-considered and clarified and should be tailored to account for funding constraints and the cash flow of complex schemes. It should also accord to expected build rates.	It is noted that an instalments policy can be amended at any time by a Charging Authority and is not a matter that the Examiner is required to consider. Notwithstanding this, the Council does intend to introduce an instalment policy. The starting position was the Mayor of London's approach; however, the comments on the impacts of instalments are noted, particularly in the context of large schemes, and the Council intends to keep this issue under review.
168	This document proposes matters that should be clarified in a Development Plan Document , are inappropriate or repetitive	The SPD is intended to provide guidance on the implementation of policy requirements already established in DPD documents.
169	With regard to 'Employment Training and Facilities' the extent to which the draft policy meets the CIL tests and competition rules is questioned and it is stated that this policy goes beyond the remit of the Council.	The Council acknowledges that development provides employment and enterprise opportunities for the local population. Ensuring access to any such employment and enterprise opportunities are secured for the local population is an important priority - and contributions will be sought where appropriate to the specific development and in line with the statutory tests for use of planning obligations.
170	A number of the matters (travel plans, energy performance) can be dealt with through planning conditions.	Noted, planning obligations will be used only where appropriate and in line with legislative test.
171	The requirement to maximise on-site provision of public realm infrastructure without a distinction by area goes beyond the requirements of the SPD and is not justified. The GLA SPD makes reference to this.	Noted, the guidance is intended to reflect the policy and to ensure provision in line with the policy requirements established in the Council Core Strategy and Managing Development Document. The text has been updated to better clarify this.
172	The requirement to maximise on-site provision of energy infrastructure without a distinction by area goes beyond the requirements of the SPD and is not justified. The GLA SPD makes reference to this.	Policy DM29 of the Managing Development Document states that development will be required to connect to, or demonstrate a potential connection to, a decentralised energy system unless it can be demonstrated that this is not feasible or viable. It is appropriate to use CIL for the delivery of strategic energy infrastructure.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
173	Clarification relating to monitoring charges is sought.	The SPD details the Council's approach to monitoring fees. This reflects the cost associated with monitoring agreements and is comparable to other London boroughs.
174	Trigger points should account for scheme viability and scheme phasing.	The Draft Planning Obligations SPD states that trigger points will be agreed upon between the developer and the Council - the starting point for which in many cases is commencement.
175	Confirmation that unspent sums will be will be returned within a reasonable time period is sought.	It is not necessary to state that all Section 106 contributions will be spent in accordance with the terms agreed in the Section 106; this is a legal requirement.
176	All S106 contributions sought should be the subject of viability testing.	The contributions sought reflect policy requirements established in the Council's Core Strategy and Managing Development Document which have been subject to viability testing. In addition, paragraph 5.14 to 5.17 of the SPD includes specific guidance related to schemes in which there are viability concerns.
177	<b>CIL_DCS21: Queen Mary University of London ( Turley Associates )</b>	
178	The proposed charge for student housing is broadly twice the liability of any other land use. The proposed charge will make future QMUL development unviable (Indicated it may wish to provide up to 700 rooms for QMUL students).	The rate identified is based on viability assessments. The requirement for Student Housing developments to provide affordable housing will not always apply and the rate set has accounted for this. In addition, a higher buffer of 35% has been applied to Student Housing developments.
179	The Council should consider providing CIL exemption to development either led and operated by QMUL or leased by QMUL for a term of 25 years or more.	The Council is minded to implement an exceptional circumstances relief policy in line with the CIL Regulations. It is noted that this is not an examination matter or a component of the Charging Schedule preparation process. The Council will confirm its approach in due course.
180	The Council should provide further clarification for paragraph 6.37 (charitable status) of the CIL Viability Study (2013) in respect of the 'likely' exemption.	Policy in this regard is set out by the Department for Communities and Local Government and is untested in the borough so it is difficult to provide further clarification at this stage.
181	The Council should provide details of consideration regarding relief on exceptional circumstances in the context of student accommodation provided by Higher Education Institution.	Noted. As indicated in Appendix 2 of the Charging Schedule, the Council is minded to implement an exceptional circumstances relief policy in line with the CIL Regulations. It is noted that this is not an examination matter or a component of the Charging Schedule preparation process.
182	<b>CIL_DCS22: Express Newspapers (DP9)</b>	

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
183	The Council has not addressed the previous concerns raised during the consultation of PDCS stage, in respect of its compliance with planning policy and statutory guidance.	The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.
184	The quantity of strategic sites tested is insufficient and it is not clear how these sites have been chosen.	In accordance with the CIL Guidance 2013, the Council has tested the viability of eight strategic sites across the whole borough. These are all sites which have been identified in the Council's Managing Development Document, which represent a range of different viability scenarios.
185	The findings suggest that the imposition of CIL will clearly reduce the further prospects of strategically important sites coming forward, which will have negative impacts on meeting the housing targets.	The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. In addition, it should be noted that CIL will constitute a maximum of 5% of development costs of residential development. It is therefore highly unlikely that CIL would be the determining factor that would make developments unviable.



<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
186	The appraisal in relation to Westferry Printworks is inconsistent with the adopted Managing Development Document (2013).	The appraisal in the latest Viability Study (October 2013) has considered the appraisal undertaken for the Managing Development Document and it has been appropriately updated to reflect the purpose of the appraisal and the change in circumstances.
187	The previous concerns in respect of variation of residential values across the Borough still remain.	<p>It is acknowledged that a range of residential values will be achieved on new build schemes in each Zone. Indeed, there will always be a range of values per square foot that could be achieved on new build units within an area. For a strategic exercise such as this, an approach of taking an average value that reflects the likely values that could be achieved in new developments in the area has been sought to be defined.</p> <p>Extensive research into residential values across the borough has been undertaken. A number of sources have been used, which include Land Registry data on sub-post code areas, EGi London Residential Research data, the Moliior database, BNPPRE information on viability assessments of proposed new developments in the borough and data from the Rightmove website (both sold and asking process). As such, we consider variation in residential values across the borough has been appropriately accounted for.</p>
188	The viability study lacks explanation of the level of S106 contributions that would be payable by schemes, which also leads to concerns that the Council has not considered S106 costs sufficiently.	The residential appraisals incorporate an allowance of £1,220 per unit for S106 and the commercial appraisals have also been amended to incorporate an allowance of £5 per square foot (£53.82 per square metre). These figures are considered to be a reasonable proxy for likely sums to be sought after CIL is adopted, based on the requirements set out in the Revised Draft Planning Obligations SPD where it can be quantified, and figure adopted is broadly in line with those adopted by many other London boroughs for CIL testing purposes.
189	The Draft Regulation 123 list is very generic and does not provide any clarity on what infrastructure will be provided as part of CIL.	In accordance with the CIL Regulations 2010 (as amended) and CIL Guidance 2013 (paragraph 15) the Council has set out for examination a draft list of the projects or types of infrastructure that are to be funded in whole or in part by the levy. The list has been published alongside a revised Planning Obligations SPD to provide transparency on what the charging authority intends to fund in whole or part through the levy and those known matters where section 106 contributions may continue to be sought. As such, we consider that the Regulation 123 List, when reviewed in conjunction with the Draft Planning Obligations SPD, does provide certainty in respect of what infrastructure will be funded through CIL.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
190	The Council should provide clarification on how 'payment in kind' in relation to strategic sites identified in the Managing Development Document, has been factored into the overall viability assessments when setting the proposed CIL rates.	BNP PARIBAS The development site area has been reduced by an assumption of the area of land required to deliver the infrastructure identified in the site allocation. The Council has indicated that in line with CIL Regulations (2010 as amended) it is may accept CIL payments in kind. It is further noted that Government recently consulted on proposals to allow the acceptance of facilities in kind. The final costs of such in kind provision is unknown and the appraisals assume the full liability without any discounts for value of the land that the developer is providing.
191	This document would benefit from greater clarity on its application in circumstances where infrastructure is provided on site.	The Draft Planning Obligations SPD sets out the Council's approach to mitigating the impacts of development. The Council's Draft Regulation 123 List provides an overview of where CIL and where Section 106 contributions will be used. The SPD states that, following the adoption of the local CIL, Section 106 will be limited to mitigating site-specific impacts of development (Regulation 123 CIL Regulation 2010 (as amended)). Where a site allocation requires the provision of infrastructure on-site CIL, or in-kind provision to an equivalent value, will be used to ensure the provision, rather than Section 106.
192	The term 'Local Parks' is not consistent with the MD DPD.	The Managing Development Document does include reference to Local Parks - and the use of this terminology is consistent.
193	Sites that are unable to meet their Carbon Reduction or Biodiversity targets due to physical constraints shouldn't have to pay a contribution. The SPD doesn't clarify what contributions will actually be sought.	The Draft Planning Obligations SPD clearly describes the thresholds and circumstances under which a Section 106 Agreements may be required to mitigate any impacts of development which are site specific. In such instances the value of any financial contribution sought as part of a Section 106 agreement will be dependent upon the extent to which a scheme deviates from policy compliance or causes harmful site-specific impacts. It is not therefore appropriate to provide an indicative value for each principal clause within a Section 106 Agreement. When a S106 requirement correlates to the nature and scale of a scheme impacts, such as in the case of Crossrail contributions, standard formulae are available.
194	<b>CIL_DCS22: Gateway Housing Association</b>	
195	The social housing relief calculation should include communal areas.	This point links to the social housing relief formula set in the CIL Regulations 2010 (as amended). This is not relevant to this consultation.
196	We expect the provision of community related spaces for charitable uses to benefit from CIL relief.	This is clarified by Paragraph 43 of the CIL Regulations 2010 (as amended).

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
197	The Council should reconsider the proposed boundary of Charging Zone 1 on the Isle of Dogs, as some housing areas are not materially impacted by the inflated prices associated with Canary Wharf (e.g. Mellish St off Tiller Rd).	It is acknowledged that a range of residential values will be achieved on new build schemes in each Zone. Indeed, there will always be a range of values per square foot that could be achieved on new build units within an area. The Council has sought to adopt an approach which merges areas together to avoid undue complexity in line with paragraph 37 of the CIL Guidance, 2013. As such, we consider that the boundary placement in the Isle of Dogs is appropriate.
198	<b>CIL_DCS24: Savills on behalf of Grosvenor, One Housing Group and Telford Homes</b>	
199	The Council should provide details of the sales values in the Viability Study (2013).	Extensive research into residential values across the borough has been undertaken. A number of sources have been used, which include Land Registry data on sub-post code areas, EGI London Residential Research data, the Molior database, BNPPRE information on viability assessments of proposed new developments in the borough and data from the Rightmove website (both sold and asking process). The Viability Study (October 2013), in particular Appendix 2, provides details of sales values used.
200	It lacks explanation of why the Council has made changes to the Charging Zone Boundaries since PDCS stage.	Charging Zone boundaries have been amended to ensure that each zone is subject to the most appropriate rate, based on relevant evidence. The principle reason for the changes is the availability of new sales value evidence.
201	The Council has not provided a response to the issue of not having included an allowance for infrastructure costs in development appraisals.	The Strategic Site appraisals account for on-site infrastructure provision. The development site area has been reduced by an assumption of the area of land required to deliver the infrastructure identified in the site allocation. The Council has indicated that in line with CIL Regulations (2010 as amended) it is may accept CIL payments in kind. It is further noted that Government recently consulted on proposals to allow the acceptance of facilities in kind. The final costs of such in kind provision is unknown and the appraisals assume the full liability without any discounts for value of the land that the developer is providing.
202	We disagree with the assumed affordable housing values (£136 – £ 202 per sq. m) in Tower Hamlets. We suggest the Council seek confirmation from the Registered Providers.	The Council's Affordable Housing Team has endorsed the approach adopted and we consider the values assumed appropriate. The Council has engaged Registered Providers through the consultation process and no evidence has been submitted to contradict the values assumed.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
203	We welcome the introduction of an instalments policy and are disappointed that the policy was not available for public consultation.	It is noted that an instalments policy can be amended at any time by a Charging Authority and is not a matter that the Examiner is required to consider. Notwithstanding this, the Council does intend to introduce an instalment policy. The starting position was the Mayor of London's approach; however, the comments on the impacts of instalments are noted, particularly in the context of large schemes, and the Council intends to keep this issue under review.
204	The New Homes Bonus as not been factored in calculating the funding gap in the Infrastructure Delivery Plan.	The Council has collected c£11m of new homes bonus to date. This has all been allocated to the Council's Decent Homes Initiative. It is likely that this source of funding will continue to be allocated to decent homes as one of the Council's highest priorities. This money will not therefore be available for infrastructure.
205	<b>CIL_DCS25: Turley Associates on behalf of Sainsbury's Supermarkets Ltd</b>	
206	The viability study lacks adequate evidence to explain why the sale of retail goods within a supermarket/superstore and in a retail warehouse are each different intended uses (For Regulation 13 purposes) to the sale of goods from all other use classes (A1 – A5). They are all shops therefore should be treated equally.	The Draft Charging Schedule differentiated between the scale and type of retail development proposed. This was an approach recognised as a the Inspectors report for Wycombe District Council CIL Charging Schedules concluding: "there is nothing in the CIL regulations to prevent differential rates for retail developments of different sizes, provided they are justified by the viability evidence and differing retail characteristics or zones" (para 16, 2012). However, it is acknowledged that size does not necessarily result in the higher values generated by convenience based supermarkets and superstores and retail warehousing uses. Rather, is it a combination of factors (detailed in paragraph 6.31 – 6.34 of the Viability Study, October 2013). Accordingly, the definition now refers to the use rather than the scale of use. The use and viability characteristics of these different types of retail uses are markedly different, justifying the council's approach.
207	The Viability Study (2013) suggests that all retail development have been tested as a 30,000sq ft. net proposal, a generic scheme size. We recommend fine-grained evidenced approach should be undertaken to justify differential retail rates.	Noted: Appraisals of schemes of 1,000 square metres and 5,000 square metres have now been undertaken as these reflect the sizes for which build cost vary according to the BCIS. Please refer to the updated Viability Study (October 2013).
208	We recommend the Council adopt a sampling approach that will reflect a greater selection of different typologies of strategic residential sites allocated within the local plan.	In accordance with the CIL Guidance 2013, the Council has tested the viability of eight strategic sites across the whole borough. These are all sites which have been identified in the Council's Managing Development Document, which represent a range of different viability scenarios. As such, we consider the sample adopted is appropriate.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
209	The Council has not proactively engage with development industries in testing strategic sites identified in the local plan.	On 22nd April 2013, the Council published the CIL Draft Charging Schedule for consultation between until 5th June 2013. The consultation was advertised in the local press – East End Life, and on the Council's website. The advertisements stated its duration, location for inspection and two drop-in sessions. Developer Drop-in Sessions were also held at the Council's offices, where developers were invited to drop in to discuss issues 1st May 2013 and 3rd June 2013. The Council has also met with some of the agents for two of the strategic sites. This followed consultation the Preliminary Draft Charging Schedule (between 16th November 2012 and 2nd January 2013) and a workshop was run on 6th July 2012 right at the start of the process to invite input as to the proposed methodology and assistance with inputs into the appraisals. The Council has also met with owners of strategic sites and invited submission of appraisal information and other evidence to help inform the rate setting process. The Council has met all the regulatory and local consultation requirements, and made extra efforts to encourage proactive participation from a wide range of stakeholders.
210	No mixed use scenarios have been considered.	Mixed use schemes have not been included in the generic typologies as they will be different and contain varying proportions of different uses. Such schemes will not provide a useful evidence base for setting a CIL for the different types of developments included in such schemes. All that this will reflect is that the more viable uses will have to subsidise the less viable uses. In this regard we have sought to establish the viability of individual uses so that only the uses identified as being viable and able to bear a CIL charge will be liable to pay LBTH's CIL. Notwithstanding this it is noted that the Strategic Sites – which included a mixture of uses - have been tested.
211	The documents published lack information on how the proposed rates will impact on the deliverability of the development plan, particularly to meet the housing target.	The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the

<b>No.</b>	<b><u>Nature of Representation</u></b>	<b><u>Council's Response</u></b>
		development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.
212	The proportion of income projected to be derived from convenience retail is disproportionate to that expected from other retail.	Noted: The approach has been amended. The calculation of CIL income has taken into account a retail capacity study undertaken for the borough, which provides a projection of a typical sales density through to 2025 to provide a basis for the proportion of retail that is likely to come forward as either convenience or comparison retail. This proportion has been applied to the floorspace areas projected within the development trajectory to provide a reasonable estimate of the likely CIL income resulting from retail development in each typology.
213	There has no evidence to show that the Council has considered the State Aid issue in relation to differential retail rates by size and by areas.	We have adopted an approach in line with the approach adopted by other boroughs that have had their approach approved at examination. We do not consider that this results in any State Aid issues.
214	Further clarification in relation to an instalments policy is required within the Charging Schedule.	It is noted that an instalments policy can be amended at any time by a Charging Authority and is not a matter that the Examiner is required to consider. Notwithstanding this, the Council does intend to introduce an instalment policy. The starting position was the Mayor of London's approach; however, the comments on the impacts of instalments are noted, particularly in the context of large schemes, and the Council intends to keep this issue under review.
215	Further clarification in relation to an exceptional circumstances policy is required within the Charging Schedule.	Noted. As indicated in Appendix 2 of the Charging Schedule, the Council is minded to implement an exceptional circumstances relief policy in line with the CIL Regulations. It is noted that this is not an examination matter or a component of the Charging Schedule preparation process.
216	<b>CIL_DCS26: DP9 on behalf of Canary Wharf Group</b>	

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
217	There is concern that the NPPF has not been adequately considered.	<p>The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.</p>

<b>No.</b>	<b><u>Nature of Representation</u></b>	<b><u>Council's Response</u></b>
218	There is concern that the statutory guidance in relation to CIL has not been adequately considered.	<p>The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.</p>



<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
219	Clarification needs to be provided in relation to how the Council's evidence base accounts for the Development Plan. Furthermore there is no detailed analysis of the site's policy requirements.	The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.
220	The Council should consider adopting a market value approach in respect of the assumption of what price will be bought forward for development.	The approach we have adopted was considered in depth at the London Mayoral CIL examination. The merits of the Market Value and Existing Use Value plus a premium approach were considered in detail by the Examiner. It was accepted that market transactions are of limited relevance to testing a new planning requirement, as they are historic and relate to prevailing planning policies at the time. As such, the Market Value approach was found to be an unsound basis for testing the viability of CIL It should also be noted that this approach has been accepted in numerous other CIL Examinations both inside and out of London including Croydon, Redbridge, Bristol, Poole, Havant, Harrow, Brent, Waveney.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
221	We concern that the Council's Viability Study lacks market testing evidence, which could be gained by engaging with development industry.	On 22nd April 2013, the Council published the CIL Draft Charging Schedule for consultation between until 5th June 2013. The consultation was advertised in the local press – East End Life, and on the Council's website. The advertisements stated its duration, location for inspection and two drop-in sessions. Developer Drop-in Sessions were also held at the Council's offices, where developers were invited to drop in to discuss issues 1st May 2013 and 3rd June 2013. The Council has also met with some of the agents for two of the strategic sites. This followed consultation the Preliminary Draft Charging Schedule (between 16th November 2012 and 2nd January 2013) and a workshop was run on 6th July 2012 right at the start of the process to invite input as to the proposed methodology and assistance with inputs into the appraisals. The Council has also met with owners of strategic sites and invited submission of appraisal information and other evidence to help inform the rate setting process. The Council has met all the regulatory and local consultation requirements, and made extra efforts to encourage proactive participation from a wide range of stakeholders.
222	Concerned that the Council has assumed a standard borough-wide assumption for residual S106 and S278. This approach requires justification, particularly in relation to strategic sites, where investment in infrastructure is required to enable and mitigate development. The Council has also not published any evidence on the cost implications of residual S106 and there is no cross referencing between the Planning Obligations SPD and the Draft Charging Schedule.	The Council has included cost assumptions for Section 278 and residual Section 106 requirements in a CIL context (thereby reducing the probable CIL charge) even though there are likely to be instances in which such contributions may not be required e.g. minor schemes. The residential appraisals incorporate an allowance of £1,220 per unit and the commercial appraisals have also been amended to incorporate an allowance of £5 per square foot (£53.82 per square metre). These figures are considered to be a reasonable proxy for likely sums to be sought after CIL is adopted, based on the requirements set out in the Revised Draft Planning Obligations SPD where it can be quantified, and the figure adopted is broadly in line with those adopted by many other London boroughs for CIL testing purposes.
223	The Council has not provided information on historic Section 106 Agreements, including the extent to which affordable housing and other targets have been met.	The Council has published additional information on historic section 106 receipts as part of the Revised Draft Charging Schedule consultation (Section 106 Receipts Background Report, October 2013). This includes affordable housing targets.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
224	We recommend the Council undertake a thorough review of previous site specific viability appraisals, levels of affordable housing, S106 contribution and make clear why any different when compared to the proposed CIL rates.	Whilst of course the Council has, to an extent, considered historic site specific appraisals it should be borne in mind that area wide viability work should avoid scrutinising individual sites. A thorough review of the site specific appraisals has been undertaken. Please see the latest Viability Study (October 2013). The Bristol CIL examiner identified this at Para 26 of his report dated July 2012, stating that, 'The rates have to be based on a generic analysis of a variety of size and type of schemes across the area, taking into account average local build costs, not the individual circumstances of particular sites..'
225	We are concerned that the items on the Draft Regulation 123 List have not been appropriately considered.	In accordance with the CIL Regulations 2010 (as amended) and CIL Guidance 2013 (paragraph 15) the Council has set out for examination a draft list of the projects or types of infrastructure that are to be funded in whole or in part by the levy. The list has been published alongside a revised Planning Obligations SPD to provide transparency on what the charging authority intends to fund in whole or part through the levy and those known matters where section 106 contributions may continue to be sought.
226	The Strategic Site Appraisals are not accompanied by an explanation for why eight have been chosen.	In accordance with the CIL Guidance 2013, the Council has tested the viability of eight strategic sites across the whole borough. These are all sites which have been identified in the Council's Managing Development Document, which represent a range of different viability scenarios.
227	The Mayor's CIL rate should be treated as a development cost. The Council have approached this instead by subtracting the Mayor's CIL rate from the maximum rate which could possibly be sought.	Noted: The Mayoral CIL has now been accounted for as a development cost.
228	It is difficult to analyse the strategic site appraisal summaries included within the viability report. A request has been made for this information but it hasn't been forthcoming.	The Council invited submission of appraisal inputs/ information and has reflected specific comments - where received - in amendments to the strategic site appraisals. It is noted all inputs into the appraisals are provided within the Viability Study (October 2013). Should developers or stakeholders wish to test these they are able to do so. The focus should be on whether the inputs are reasonable or whether there is evidence to suggest otherwise.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
229	<p>The way the Mayor of London's Crossrail charge has been taken into account is not clear.</p>	<p>Crossrail is a priority for London Borough of Tower Hamlets and an important one but it should not obliterate the pressing need for other local infrastructure. In response to the representations, the Council has amended its approach from that of the Draft Charging Schedule of assuming 30% of the Mayor of London's Crossrail 'top up' in its appraisals in setting its rates. It is expected that the rates set out in the Revised Draft Charging Schedule will allow for the full 'top up' required under the Crossrail SPG 2013 where the viability of individual schemes allow for it in line with the approach set out in the Crossrail SPG, 2013, paragraph 3.34. However, it is acknowledged that achieving the full top up may be more challenging in certain office schemes in the North Docklands in the current market and in light of the fact that it has the highest 'top up' charge in London. Accordingly, a lower Crossrail SPG top is assumed for office floorspace in North Docklands (please refer to paragraph 4.55 of the Viability Study (October 2013)). This has resulted in a reduction in the CIL rate for offices in North Docklands. This approach reflects the Crossrail funding requirements arising from office development in this part of the borough while recognising the need to fund local infrastructure to enable sustainable development.</p>
230	<p>The Council needs to clarify a number of inputs into the Wood Wharf Appraisal, including: -</p> <ul style="list-style-type: none"> <li>• How the site area has been derived. ·</li> <li>• How the unit density has been assumed.</li> <li>• The Viability Study assumes a residential mixed use whereas the site allocation in the Managing Development Document assumes a mixed use.</li> <li>• How the development quantum has been derived.</li> <li>• How the unit mix has been derived.</li> <li>• What are the reasons to assume the gross to net ratio of 82%? 65 – 70% is more reasonable.</li> <li>• How the 'Construction pre sales start' has been derived.</li> <li>• Whether an IRR approach to profit is more suitable.</li> <li>• The build cost assumption of £177 per sq. ft. £220 - £250 is more appropriate.</li> <li>• The 'Exceptionals/Abnormals' assumed. £100m - £150m would be more appropriate</li> <li>• The marketing costs assumed. 2% is more appropriate.</li> </ul>	<p>The Council has, where appropriate, updated appraisals to address comments made during the Draft Charging Schedule consultation. The approach to assessing the largest sites has been amended to an Internal Rate of Return ('IRR') approach in response to representations. It is noted that although developers commonly identify that they are targeting an IRR of 20%, BNP Paribas Real Estate have advised that large schemes in London, particularly in the current economic climate, developers have agreed to proceed with developments identified as generating IRRs of between 11% and 13%. In addition:</p> <ul style="list-style-type: none"> <li>• The Strategic Site inputs data has been updated to include the development programmes and we can confirm that S106 and CIL costs are included as upfront costs at the beginning of construction</li> <li>• The professional fees on strategic sites and all schemes larger than 250 units have been increased to 12% in line with the assumptions in the typologies for consistency.</li> <li>• With respect to energy requirements on large sites, the provision of such</li> </ul>

No.	Nature of Representation	Council's Response
	<ul style="list-style-type: none"> <li>• The sales costs assumed. 2% is more appropriate.</li> <li>• The letting fee assumed. 15% is more appropriate.</li> <li>• Professional fees assumed. 12 – 14% is more appropriate.</li> <li>• Finance costs assumed. 9% is more appropriate.</li> </ul>	<p>technologies will be included in the cost to achieve CSH level 4 on such sites. A 5% contingency is also allowed for the on the uplift of the build costs associated with achieving CSH level 4, which should allow for any unforeseen costs relating to the provision of such elements.</p> <ul style="list-style-type: none"> <li>• Allowances have been made for the onsite infrastructure that is sought by the Council's policies such as schools, health facilities through land in kind.</li> <li>• The higher abnormal costs identified on the Wood Wharf (and Bishopsgate Goodsyrd) site have been taken into account in line with comments made to the DCS consultation. These site appraisals have been updated to include commercial uses in line with the quantum identified in relevant planning policies and guidance which will inform the planning application on this site</li> <li>• Assumptions with respect to marketing have been amended and a rent free period to 24- months for the office elements included.</li> </ul>
231	<p>We are concerned that other adopted planning policies have not been considered in viability testing, e.g. strategic sites allocated in the Managing Development Document. The explanation of policy and guidance is considered too brief and does not explain the relationship between the draft SPD and infrastructure planning.</p>	<p>Local, regional and national planning policies have been considered in the rate setting process. The Viability Study (October 2013) in particular contains explains the policy context. In addition, the testing of strategic sites - informed by the Council's Managing Development Document (2013) have been undertaken to inform the rate setting process.</p>
232	<p>Complications around in kind transfer of land have not been considered and need to be properly addressed.</p>	<p>The Draft Planning Obligations SPD sets out the Council's approach to mitigating the impacts of development. The Council's Draft Regulation 123 List provides an overview of where CIL and where Section 106 contributions will be used. The SPD states that, following the adoption of the local CIL, Section 106 will be limited to mitigating site-specific impacts of development (Regulation 123 CIL Regulation 2010 (as amended)). Where a site allocation requires the provision of infrastructure on-site CIL, or in-kind provision to an equivalent value, will be used to ensure the provision, rather than Section 106.</p>
233	<p>Complications around in kind transfer of land have not been considered and need to be properly addressed in the Planning Obligations SPD.</p>	<p>Regulation 72 of the CIL Regulations 2010 (as amended) prescribes this, and further proposals related to in-kind measures were published by DCLG in April 2013. The Council is therefore awaiting further guidance on this matter.</p>
234	<p>Reference to circular 5/05 needs to be removed and replaced with provisions of NPPF</p>	<p>Noted: References to Circular 5/05 have been deleted.</p>

<b>No.</b>	<b><u>Nature of Representation</u></b>	<b><u>Council's Response</u></b>
235	Para 4.16 refers to two DPD documents, but lists only Managing Development Document. The publication date of the National Planning Policy Framework is cited as 2011 however this was adopted in 2012. The commentary around Managing Development Document needs to be updated following the adoption of the document.	The Draft Planning Obligations SPD has been updated to reflect the current Development Plan and national guidance.
236	<b>CIL_DCS27: DP9 on behalf of Londonnewcastle</b>	
237	The Proposed Draft Charging Schedule does not comply with the NPPF (Para 173 and 175), the Statutory Guidance (Para 8, 9, 15, 21, 22, 25, 27, 30, 34, 85) and the Development Plan.	The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.
238	We concern that insufficient evidence has been provided in the Viability Study (2013) to support differential rates for residential uses by areas.	The Viability Study (October 2013) demonstrates the variation in sales values across the borough and therefore demonstrates the appropriateness of differential rates for residential users by area.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
239	We recommend that three proposed Charging Zones are too broad brush and a more detailed assessment is required to identify more Charging Zones and a more diverse Charging Rate.	It is acknowledged that a range of residential values will be achieved on new build schemes in each Zone. However the approach to proposing three residential charging zones in done so to avoid undue complexity in line with paragraph 37 of the CIL Guidance, 2013.
240	The Council should provide explanation on the assumption of the level of S106 contributions payable by scheme at £1,220 per residential unit.	The figures assumed are considered to be a reasonable proxy for likely sums to be sought after CIL is adopted, based on the requirements set out in the Revised Draft Planning Obligations SPD where it can be quantified, and the figure adopted is broadly in line with those adopted by many other London boroughs for CIL testing purposes.
241	The Draft Regulation 123 list is very generic and does not provide clarity on what infrastructure will be provided under the Borough's CIL.	In accordance with the CIL Regulations 2010 (as amended) and CIL Guidance 2013 (paragraph 15) the Council has set out for examination a draft list of the projects or types of infrastructure that are to be funded in whole or in part by the levy. The list has been published alongside a revised Planning Obligations SPD to provide transparency on what the charging authority intends to fund in whole or part through the levy and those known matters where section 106 contributions may continue to be sought.
242	With regard to energy contribution stated within the Draft Planning Obligations SPD we object to paying a contribution if targets are not met. There is no clarity on threshold levels before payment is triggered.	Policy DM 29 of the Managing Development Document clearly sets out the extent to which residential and non-residential developments will be expected to reduce Carbon emissions up to the year 2031. Should a development fail to meet these targets through on-site provision, and all opportunities to do so have been exhausted, financial contributions towards carbon reduction projects will be secured through Section 106 Agreements. It is appropriate to mitigate any environmental sustainability impacts of development on a scheme by scheme basis, rather than through CIL as the opportunity to enter into a Section 106 Agreement on non-policy compliant schemes allows for a proactive and flexible approach to development in circumstances where environmental sustainability is an issue. Additionally, it is important to reserve the opportunity to penalise non-compliant schemes to ensure incentives to reduce carbon emissions on-site are not undermined.

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243	With regard to biodiversity contribution stated within the Draft Planning Obligations SPD we object as it will penalise sites that for physical reasons cannot contribute to biodiversity.	Policy DM 11 of the Managing Development Document clearly sets out the Council's approach to ensuring all new developments enhance, and do not harm, the borough's natural environment and biodiversity value. Potential developments which fail to achieve on-site policy compliance in respect of this policy will be required to mitigate the impacts of the development through financial contributions. It is appropriate to mitigate any environmental impacts of development on a scheme by scheme basis, rather than through CIL as the opportunity to enter into a Section 106 Agreement on non-policy compliant schemes allows for a proactive and flexible approach to development in circumstances where environmental sustainability is an issue. Additionally, it is important to maintain the opportunity to penalise non-compliant schemes to ensure incentives to enhance biodiversity value and habitats on-site are not undermined.
244	Greater clarity in the Planning Obligations SPD is required relating to when obligations will apply.	The Draft Planning Obligations SPD clearly describes the thresholds and circumstances under which a Section 106 Agreement may be required to mitigate any impacts of development which are site specific. In all such instances the value of any financial contribution sought as part of a Section 106 agreement will be dependent upon the extent to which a scheme deviates from policy compliance or causes harmful site-specific impacts. It is not therefore appropriate to provide an indicative value for each principal clause within a Section 106 Agreement. When a S106 requirement does bare a direct correlation to the nature and scale of a scheme, such as in the case of training contributions and Crossrail contributions, standard formulae are available which can be used to indicative a value.
245	<b>CIL_DCS28: Turley Associates on behalf of Travelodge Hotels Ltd</b>	
246	A creation of variable charging zones for hotel development with corresponding mapping will reflect the differential rates of CIL charge. The proposed CIL rates failed to appropriately address the economic disparities across the Borough has resulted a single charge rate for hotel development.	The variation in viable hotel rates does not warrant the creation of separate zones. The rate set for hotel development is reflective of the lowest viable rate established for this type of development. The creation of zones would make the charging schedule too complex and the rates of some of the zones would be higher than the current rate proposed.
247	We recommend any update to the economic viability evidence to inform CIL rates should be made available for the public.	The Viability Study (October 2013) has been updated and published accordingly.



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248	We are unclear about how the buffer has accounted for site specific factors.	The buffer is designed to help mitigate against a number of risk factors that involve abnormal costs. These involve differences in circumstances between sites and account for potential changes in the market.
249	The rent per sq. ft assumed for Hotel uses in the Viability Study is significantly higher than what is achievable for a Travelodge.	BNP PARIBAS The rates have been set having taken account of comparable market transactions for Hotel uses. As such, we consider the rates assumed to be appropriate.
250	An appropriate number of hotel appraisals have not been undertaken. Engagement with the hotel development sector needs to occur.	The Viability Study (October, 2013) includes hotel appraisals which reflect the scale and type of such developments coming forward in Tower Hamlets. Sensitivity analysis of these appraisals - across a wide range of rental levels -has been undertaken.
251	Appendix 4 does not include the two viability appraisals for hotel use as intended but includes the Hotel (2) appraisal twice. As a result, it is unknown of the contents of the appraisal and how the appraisals have informed the CIL rate for hotels in Tower Hamlets.	Noted: The second hotel appraisal is included in the updated Viability Study (October 2013).
252	The appraisal Hotel (2) is not representative as it only represents the values of the budget hotel market in the City Fringe. We recommended the Council selects a greater number of hotel comparables for development appraisals and with hotel sector input.	The Council considers that the fact that multiple hotel appraisals have been undertaken with sensitivity testing means that the methodology adopted is suitable.
253	<b>CIL_DCS29: DP9 on behalf of MPG St Katherine LP</b>	
254	The Proposed Draft Charging Schedule does not comply with the NPPF (Para 173 and 175), the Statutory Guidance (Para 8, 9, 15, 21, 22, 25, 27, 30, 34, 85) and the Development Plan.	The NPPF, Statutory Guidance and Development Plan have all been considered in the CIL rates setting process. The CIL Regulations 2010 as amended and associated guidance acknowledge that it is for the charging authority to aim to strike an appropriate balance between infrastructure provision and viability when setting its charging rates. The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. The Council has proposed a CIL charge that amounts to less than 5% of the development costs of residential development; a modest proportion of development costs. The Council has also proposed a minimum discount of 25% of the maximum CIL chargeable in the rates reflected in the Revised Draft Charging Schedule. It is highly unlikely therefore that CIL would be the determining factor

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		that would make developments unviable. In addition, the Council's policy for affordable housing and other policy requirements have been factored into the viability appraisals undertaken to arrive the Revised Draft Charging Schedule CIL rates proposed. Accordingly, the Council is of the view that it has fully considered the implication of the development plan for the CIL charge and the impacts of the proposed CIL on the development plan.
255	We concern that insufficient evidence has been provided in the Viability Study (2013) to support differential rates for residential uses by areas.	The Viability Study (October 2013) demonstrates the variation in sales values across the borough and therefore demonstrates the appropriateness of differential rates for residential users by area.
256	We recommend that three proposed Charging Zones are too broad brush and a more detailed assessment is required to identify more Charging Zones and a more diverse Charging Rate.	It is acknowledged that a range of residential values will be achieved on new build schemes in each Zone. However the approach to proposing three residential charging zones in done so to avoid undue complexity in line with paragraph 37 of the CIL Guidance, 2013.
257	The Council should provide explanation on the assumption of the level of S106 contributions payable by scheme at £1,220 per residential unit.	The figures assumed are considered to be a reasonable proxy for likely sums to be sought after CIL is adopted, based on the requirements set out in the Revised Draft Planning Obligations SPD where it can be quantified, and the figure adopted is broadly in line with those adopted by many other London boroughs for CIL testing purposes.
258	The Draft Regulation 123 list is very generic and does not provide clarity on what infrastructure will be provided under the Borough's CIL.	In accordance with the CIL Regulations 2010 (as amended) and CIL Guidance 2013 (paragraph 15) the Council has set out for examination a draft list of the projects or types of infrastructure that are to be funded in whole or in part by the levy. The list has been published alongside a revised Planning Obligations SPD to provide transparency on what the charging authority intends to fund in whole or part through the levy and those known matters where section 106 contributions may continue to be sought.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
259	With regard to energy contribution stated within the Draft Planning Obligations SPD we object to paying a contribution if targets are not met. There is no clarity on threshold levels before payment is triggered.	Policy DM 29 of the Managing Development Document clearly sets out the extent to which residential and non-residential developments will be expected to reduce Carbon emissions up to the year 2031. Should a development fail to meet these targets through on-site provision, and all opportunities to do so have been exhausted, financial contributions towards carbon reduction projects will be secured through Section 106 Agreements. It is appropriate to mitigate any environmental sustainability impacts of development on a scheme by scheme basis, rather than through CIL as the opportunity to enter into a Section 106 Agreement on non-policy compliant schemes allows for a proactive and flexible approach to development in circumstances where environmental sustainability is an issue. Additionally, it is important to reserve the opportunity to penalise non-compliant schemes to ensure incentives to reduce carbon emissions on-site are not undermined.
260	With regard to biodiversity contribution stated within the Draft Planning Obligations SPD we object as it will penalise sites that for physical reasons cannot contribute to biodiversity.	Policy DM 11 of the Managing Development Document clearly sets out the Council's approach to ensuring all new developments enhance, and do not harm, the borough's natural environment and biodiversity value. Potential developments which fail to achieve on-site policy compliance in respect of this policy will be required to mitigate the impacts of the development through financial contributions. It is appropriate to mitigate any environmental impacts of development on a scheme by scheme basis, rather than through CIL as the opportunity to enter into a Section 106 Agreement on non-policy compliant schemes allows for a proactive and flexible approach to development in circumstances where environmental sustainability is an issue. Additionally, it is important to maintain the opportunity to penalise non-compliant schemes to ensure incentives to enhance biodiversity value and habitats on-site are not undermined.
261	Greater clarity in the Planning Obligations SPD is required relating to when obligations will apply.	The Draft Planning Obligations SPD clearly describes the thresholds and circumstances under which a Section 106 Agreement may be required to mitigate any impacts of development which are site specific. In all such instances the value of any financial contribution sought as part of a Section 106 agreement will be dependent upon the extent to which a scheme deviates from policy compliance or causes harmful site-specific impacts. It is not therefore appropriate to provide an indicative value for each principal clause within a Section 106 Agreement. When a S106 requirement does bare a direct correlation to the nature and scale of a scheme, such as in the case of training contributions and Crossrail contributions,

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		standard formulae are available which can be used to indicative a value.
262	<b>CIL_DCS30: GVA on behalf of GMV Ten Ltd</b>	
263	The policy target of providing 35% affordable housing is only subject to individual viability case. CIL should support and incentivise development rather than burdening developers/landowners. Paragraph 5.3 of the Draft Charging Schedule should be amended: <i>"In establishing the rates, set out in the table below, a policy compliant target level of affordable housing of 35% was assumed."</i>	Policy SO2 of the adopted Core Strategy seeks a minimum target of 35% affordable housing, subject to viability. In this regard and on reflection of the level of affordable housing being achieved on developments in the Borough, as evidenced in the S106 Report, it is considered appropriate to establish the CIL rate based on the results of the appraisals assuming 35% affordable housing. It is further noted that the appraisals have been undertaken assuming Social Rented accommodation, rather than Affordable Rent, for the rented element and as such is considered to take a cautious approach to the provision of affordable housing in schemes. The recent Newham CIL examination allowed the appraisals assuming 35% to set the CIL rates. Newham have a very similar affordable housing policy to Tower Hamlets.
264	The proposed CIL rates would undermine the delivery of other policy targets set out in the Development Plan, especially affordable housing targets.	The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. In addition, it should be noted that CIL will constitute a maximum of 5% of development costs of residential development. It is therefore highly unlikely that CIL would be the determining factor that would make developments unviable.
265	<b>CIL_DCS31: GVA on behalf of Safestore Ltd</b>	
266	The policy target of providing 35% affordable housing is only subject to individual viability case. CIL should support and incentivise development rather than burdening developers/landowners. Paragraph 5.3 of the Draft Charging Schedule should be amended: <i>"In establishing the rates, set out in the table below, a policy compliant target level of affordable housing of 35% was assumed."</i>	Policy SO2 of the adopted Core Strategy seeks a minimum target of 35% affordable housing, subject to viability. In this regard and on reflection of the level of affordable housing being achieved on developments in the borough, as evidenced in the S106 Report, it is considered appropriate to establish the CIL rate based on the results of the appraisals assuming 35% affordable housing. It is further noted that the appraisals have been undertaken assuming Social Rented accommodation, rather than Affordable Rent, for the rented element and as such is considered to take a cautious approach to the provision of affordable housing in schemes. The recent Newham CIL examination allowed the appraisals assuming 35% to set the CIL rates. Newham have a very similar affordable housing policy to Tower Hamlets.

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267	The proposed CIL rates would undermine the delivery of other policy targets set out in the Development Plan, especially affordable housing targets.	The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. In addition, it should be noted that CIL will constitute a maximum of 5% of development costs of residential development. It is therefore highly unlikely that CIL would be the determining factor that would make developments unviable.
268	<b>CIL_DCS32: GVA on behalf of Tameric Investments</b>	
269	The policy target of providing 35% affordable housing is only subject to individual viability case. CIL should support and incentivise development rather than burdening developers/landowners. Paragraph 5.3 of the Draft Charging Schedule should be amended : <i>"In establishing the rates, set out in the table below, a policy compliant target level of affordable housing of 35% was assumed."</i>	Policy SO2 of the adopted Core Strategy seeks a minimum target of 35% affordable housing, subject to viability. In this regard and on reflection of the level of affordable housing being achieved on developments in the borough, as evidenced in the S106 Report, it is considered appropriate to establish the CIL rate based on the results of the appraisals assuming 35% affordable housing. It is further noted that the appraisals have been undertaken assuming Social Rented accommodation, rather than Affordable Rent, for the rented element and as such is considered to take a cautious approach to the provision of affordable housing in schemes. The recent Newham CIL examination allowed the appraisals assuming 35% to set the CIL rates. Newham have a very similar affordable housing policy to Tower Hamlets.
270	The proposed CIL rates would undermine the delivery of other policy targets set out in the Development Plan, especially affordable housing targets.	The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. In addition, it should be noted that CIL will constitute a maximum of 5% of development costs of residential development. It is therefore highly unlikely that CIL would be the determining factor that would make developments unviable.
271	<b>CIL_DCS33: GVA on behalf of various clients</b>	

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272	The policy target of providing 35% affordable housing is only subject to individual viability case. CIL should support and incentivise development rather than burdening developers/landowners. Paragraph 5.3 of the Draft Charging Schedule should be amended : <i>"In establishing the rates, set out in the table below, a policy compliant target level of affordable housing of 35% was assumed."</i>	Policy SO2 of the adopted Core Strategy seeks a minimum target of 35% affordable housing, subject to viability. In this regard and on reflection of the level of affordable housing being achieved on developments in the borough, as evidenced in the S106 Report, it is considered appropriate to establish the CIL rate based on the results of the appraisals assuming 35% affordable housing. It is further noted that the appraisals have been undertaken assuming Social Rented accommodation, rather than Affordable Rent, for the rented element and as such is considered to take a cautious approach to the provision of affordable housing in schemes. The recent Newham CIL examination allowed the appraisals assuming 35% to set the CIL rates. Newham have a very similar affordable housing policy to Tower Hamlets.
273	The proposed CIL rates would undermine the delivery of other policy targets set out in the Development Plan, especially affordable housing targets.	The Council has to take a holistic and balanced view to meeting all of their plan requirements; this includes meeting their anticipated growth targets, providing affordable housing, delivering sustainability objectives and providing supporting infrastructure. These targets are set across the life of the development plan and it is acknowledged that not all the targets will be achieved on all the sites, as is currently being experienced on sites at the current point in the economic cycle. In addition, it should be noted that CIL will constitute a maximum of 5% of development costs of residential development. It is therefore highly unlikely that CIL would be the determining factor that would make developments unviable.
274	<b>CIL_DCS34: CGMS Consulting on behalf of Unite Group PLC</b>	
275	There has no evidence provided to justify the blanket £200p/w (term time) rental level and a higher non-term rental period.	Research into private student accommodation schemes across the borough has been undertaken and for many of Unite's schemes the rent starts at £200 per week.
276	We do not support a flat rate of £425/sq.m for student accommodation. This is because that the current rate cannot be relied upon where market values have not been tested across the proposed Charging Zone boundaries (in the lower values area), particularly where evidence for residential accommodation confirms a significantly reduced CIL rate is viable when comparing Zones 1 and 2.	The difference in zone values relates to residential development and not student accommodation. Research of unit schemes clearly identifies that rents of £200 per week in schemes located within residential CIL Charge Zone two of the borough is currently being charged by Unite. As such, the rate set is justified.
277	A high proportion of the anticipated student accommodation delivery is directed to Charging Zone 2 which is characterised by lower values. The flat rate approach conflicts with Paragraph 175 of the NPPF.	The difference in zone values relates to residential development and not student accommodation. Research of unit schemes clearly identifies that rents of £200 per week in schemes located within residential CIL Charge Zone two of the borough are currently being charged by Unite.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
278	We recommend that the Council should adopt a similar approach to the proposed hotel rates and reduced single-tier levy for student accommodation is proposed - by adjusting rental level and commercial yield assumptions.	The Council has reviewed the student housing appraisals - including updating appraisal inputs - and considers the rate proposed is appropriate. The need to avoid a complicated schedule is noted and reflected in the single charge proposed.
279	The Viability Study (2013) has suggested that minor variations in scheme value would trigger a significantly reduced maximum viable CIL rate. Taking a recent development example of a student led scheme at 438-490 Mile End Road (PA/09/01916) comprising 7788sq.m student accommodation. The S106 agreement confirmed a total financial contribution of £2.25million. The same scheme would attract a CIL payment of £3.30million, representing an increase of 32%, which cannot be justified mindful of the economic context and the Government Growth Agenda.	This scheme (PA/09/01916) was granted planning permission in May 2010. This is not a recent example it predates the Council's current Section 106 Supplementary Planning Document. In addition, an appropriate buffer has been factored in to the viability appraisals to deal with any minor variations such as this.
280	Students generate less pressure on public infrastructure as most universities provide on-site health/ sport and educational facilities. Therefore the increasing contribution from CIL cannot be justified.	No evidence has been submitted which demonstrates there is a weak link between development of student accommodation and the requirement for infrastructure. The Council has the right to adopt the Community Infrastructure Levy to mitigate the impacts of development on a wide variety of infrastructure types, as specified in the Council's Regulation 123 list. The Council considers student accommodation does indeed impact on many forms of infrastructure and it is therefore a justified approach to levy a charge on student accommodation.
281	We recommend a reduced CIL rate for students (mindful of viability above) would assist in justifying a reasonable comparison with S106 contributions, and ensure the Council can demonstrate positive implementation of the development plan and that delivery would not be prejudiced. This approach also ensures no disproportionate impact upon one specific development sector occurs, in accordance with the Statutory Guidance.	The Council consider the proposed charging rate for student accommodation is based on robust viability evidence, see the latest CIL Viability Study (October 2013). The Council consider the rates have been set in a way that will enable the delivery of the development plan.
282	<b>CIL_DCS35: CGMS Consulting on behalf of The Mayor's Office for Policing and Crime</b>	
283	The inclusion of policing facilities (which require public subsidy and are by definition not be able to support CIL payment) in the Infrastructure Schedule is supported.	Noted

No.	Nature of Representation	Council's Response
284	Offices that are police facilities should be exempt from the charge as was the case in Brent and Bristol's adopted CIL Charging Schedule.	The Council has sought to set a CIL charge which avoids undue complexity in line with paragraph 37 of the CIL Guidance, 2013. The CIL Guidance allows different uses to be set with reference to the use and area - not the occupier (although it is noted that mandatory charitable relief will apply where relevant). In addition, a nil charge is proposed for community facilities such as those occupied by emergency services.
285	Seeks more clarity relating to how community facilities that are not included in the infrastructure list in the Infrastructure Planning and Funding Gap report, such as policing facilities will be accommodated. The scale of development may increase demands on police resources which can be delivered through on-site provision through Section 106 agreements e.g. onsite policing facilities, front counter, safer neighbourhood team base.	The Council's draft Regulation 123 List identifies that the provision, improvement, replacement, operation or maintenance of new and existing community facilities will be funded through CIL, rather than Section 106. The Council's infrastructure planning process is on-going so and we will continue to consult with The Mayor's Office for Policing and Crime.
286	MOPAC use a national digital trunked radio service - the scale and proximity to buildings may impact functionality and possibly cause disruption to the service. The existing equipment may require upgrading as a result of the proposed development.	Section 2 of the Draft Planning Obligations 123 List has been amended to explicitly state that the site specific impacts of development which have not been described elsewhere and which will not be funded through CIL receipts will be mitigated using Section 106 Agreements.
287	<b>CIL_DCS36: Deloitte on behalf of Aldgate Place (GP) Ltd</b>	
288	The residential appraisal typologies should have been sensitivity tested across the range (35%-50%) of affordable housing, and those results used to inform the proposed CIL rates. Therefore the Council has not followed the CIL Statutory Guidance, and the recommended CIL rates are therefore higher than is viable, taking into account policies in the relevant Plan.	A sensitivity analysis assuming 50% affordable housing has been undertaken. Please refer to the updated CIL Viability Study (October 2013). However, the Council consider that the policy position of seeking a minimum of 35% affordable housing - and levels of affordable housing delivery to date - justifies the focus on the lower end of the range. The examination of Newham's Charging Schedule addressed this point and allowed the lower end of a range of affordable housing to be accounted for in the rate setting process.
289	An average rent of £30psf assumed for small retail development appraisal typologies within the viability study is too high and the yield of 6.25% assumed is too low.	The latest Viability Study (October 2013) was derived having undertaken further research into comparable transactions and discussions the Council's viability consultants' in-house City Agency team. Following this we maintain that the base rent adopted of £30 per square foot is a reasonable assumption for this location. Please refer to the latest Viability Study (October 2013).
290	It is challenging to achieve the £35 per sq. ft for office accommodation in the City fringe, as assumed in the Viability Study.	The latest Viability Study (October 2013) was derived having undertaken further research into comparable transactions and discussions the Council's viability consultants' in-house City Agency team. Following this we maintain that the base rent adopted of £35 per square foot is a reasonable assumption for this location. Please refer to the latest Viability Study (October 2013).



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291	Investment yields for office accommodation in the City Fringe are typically 6.25% – 6.5% this should be reflected in the viability study.	The latest Viability Study (October 2013) was derived having undertaken further research into comparable transactions and discussions with the Council's viability consultants' City Agency team. Following this we maintain that a yield of 5.75% is a reasonable assumption for a range of new office space in this location. See the latest Viability Study (October 2013).
292	The market for office occupiers is highly competitive. The viability study needs to account for the current market conditions and marketing void periods.	The latest Viability Study (October 2013) was derived having undertaken further research into comparable transactions and discussions with viability consultants' City Agency team. Following this we maintain that a rent free/void of 24 months is a reasonable assumption for a range of new office space in this location. See the latest Viability Study (October 2013).
293	The benchmark land values (BLV's) used are significantly lower than the figures that land will transact at and therefore does not represent "a willing landowner".	Actual land transactions are fundamentally misleading as a means of assessing viability of a planning policy. Market transactions will always (or should be) based on current planning policy requirements; they are of no assistance to a Planning Authority in determining what planning requirements could be sought in the future. Furthermore, market transactions often fail to take full account of planning policy requirements and frequently include expectations of increasing sales values, so they do not reflect the current market.
294	There appears to be no weight given to the type of land likely to come forward for development in the Borough and the likely land values expected to be achieved by landowners.	The BLV's assumed do give weight to the type of land likely to come forward for development. A reasonable assumption (EUV+ approach), approved at numerous other CIL Examinations, has been made with regard to likely land values expected to be achieved by land owners.
295	There also does not appear to be any weighting given to the very low value community land in informing the CIL charges.	We consider appropriate weighting has been given to the community land value in assuming the CIL charges.
296	There is no reference made to residential land values in respect of the BLV's assumed.	Residential values have not been assumed as residential sites are not going to constitute a predominant source of land coming forward for development in the borough.
297	The percentage of net additional floorspace assumed for office appraisals is inconsistent.	Noted: Please refer to the latest Viability Study (October 2013).
298	Landowner premiums relating to BLV's of 15% in some instances and 20% in other instances	Some of the uses of sites assumed to establish the BLVs would be more appropriate to apply a lower premium of 15%. Owners of sites in existing uses with lower rents and higher yields in comparison with other BLV sites would likely require less on an incentive to dispose of the site.

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299	We do not support the 30% viability buffer and require to see a re-run of the appraisal with known costs included, or alternatively a sufficient viability buffer to account for the additional costs, which were omitted such as abnormal costs, basement works, car parking costs, London Mayoral CIL, s106 Crossrail Tariff, sustainability costs, affordable housing etc. ; a buffer between 22% - 25% was allowed in setting recommended CIL rates (see Table 1.5.1 of the Viability Study March 2013), despite the descriptive text of the Viability Study suggesting a 30% buffer is recommended for this Borough.	The Viability Study (October 2013) has been updated to reflect new assumptions in the appraisals.
300	We are unclear if the London Mayoral CIL Instalment Policy has been tested in terms of viability (See Paragraph 3.2 of Appendix 2 of the DCS).	The Mayoral CIL instalments policy has been tested as part of a sensitivity analysis in the updated Viability Study (October 2013). It was established that it has very little bearing on the rates set. In any case, it is noted that an instalments policy can be amended at any time by a Charging Authority and is not a matter that the Examiner is required to consider. Notwithstanding this, the Council does intend to introduce an instalment policy. The starting position was the Mayor of London's approach; however, the comments on the impacts of instalments are noted, particularly in the context of large schemes, and the Council intends to keep this issue under review.
301	We are unclear how Mayoral CIL was accounted for in the appraisals.	The viability appraisals now include Mayoral CIL as a cost, so the outputs identified are the maximum viable levels of Borough CIL.
302	The 'viability buffer' does not account for additional obligations, including the Mayoral Crossrail SPG contributions which will be required of developers.	The Crossrail SPG contributions have been accounted for separately to the viability buffer.
303	The assumption relating to purchaser's costs requires to be amended from 5.75% to 5.8%.	Noted: According amendment has been made.
304	We support the principle but request to understand whether the Council is electing Exceptional Circumstances Relief in its borough.	Noted. As indicated in Appendix 2 of the Charging Schedule, the Council is minded to implement an exceptional circumstances relief policy in line with the CIL Regulations. It is noted that this is not an examination matter or a component of the Charging Schedule preparation process.
305	CIL should be accounted for as a development cost.	Mayoral and Borough CIL are both accounted for as a development cost, payable at intervals prescribed within the updated Viability Study (October 2013).
306	We question whether the build costs used are reflective of the London market, in particular, as a limited allowance has been granted for external works at 15%. Expected costs for external works in London to be significantly higher than those adopted by BNP Paribas.	BNP PARIBAS The appraisals use the BCIS (adjusted for Tower Hamlets) to establish appropriate build costs. The 15% assumption is widely regarded as appropriate for the purpose of setting CIL rates. This cost will vary from site to site but it should be noted that a 5% contingency has been included on top of this allowance.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
307	We wish to understand how the charging authority intended to prioritise, capture and spend CIL.	The prioritisation and expenditure process will confirmed in due course and is not the subject of this consultation.
308	<b>CIL_DCS37: Rolfe Judd on behalf of Downing</b>	
309	The development appraisals used to establish the CIL rate assume a scheme of 500 units, which is at the high end of the scale. This assumption does not accurately reflect the existing use values and build costs associated with smaller and medium sized student accommodation developments.	The Council consider the existing use values and build costs used are reflective of typical student accommodation developments that are carried out in the borough.
310	The assumption of 20% over the existing use value for the landowner premium appears very low and would not reflect the likely land costs for a large development site in some of the Borough's more attractive locations.	The 20% premium adopted over and above the EUV is at the higher end of premiums applied; this has been accepted at appeals and examinations for CIL and other policy viability testing as an appropriate return to landowners.
311	There is inconsistency in total floor area figures used in relation to Student Housing in the development appraisal in Appendix 4 of the Viability Study (March 2013). Clarification on the total new floor area used in the development appraisal is requested.	The total floor area has been updated to 161,460 sq. m.
312	A term-time occupancy rate of 98% has been used for the appraisal although it is also stated in brackets in the same assessment sheet in Appendix 4 that a 95% occupancy rate is used. As 95% is the more generally accepted industry standard rate it is requested that this is applied to the appraisal which will have a consequent impact on the Gross Development Value.	Noted: Term time occupancy has been reduced to 95%.
313	A 52 week academic year (42 week term-time and 10 week summer time) has been used when it is common practice to use a 51 week period with a 9 week summer period.	Market research indicates that a 51 week assumption for term time occupancy is accurate and as such this has been adopted.
314	Whilst the term-time rent of £200 per week for student units is largely reflective of the schemes that have been developed in the borough to-date there is a drive by local authorities and student developers to provide 'more affordable' student accommodation to meet the demand from UK/EU based students. This would therefore support a reduction in the term-time rent from £200 to £190 that would have a consequent impact on the Gross Development Value for the proposed scheme. An operating cost of £2,100 per unit is applied in the appraisals. This is more reflective of a high density and high value student accommodation scheme and is not indicative of the higher operating costs associated with smaller student accommodation schemes.	Research undertaken on rents for student accommodation identify that the rents achievable for student accommodation start at £200 per week, whilst those in the city fringe area are able to achieve higher rents. As such, the approach adopted is suitable. We consider the operating cost assumed is reflective of typical student accommodation developments that are carried out in the borough. We consider the operating cost assumption made is reflective of typical student housing schemes that have been delivered in the borough.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
315	No allowance has been made for third party costs which are particularly prevalent in London e.g. Rights of Light/Section 106 Agreement/Party Wall Costs. These would not be covered within the Professional Fees.	These costs are covered in the professional fees. A 5% contingency is also assumed on top of this.
316	The stated assumptions of 5% contingency did not seem to appear in the appraisals.	The appraisals do account for the 5% contingency. Please refer to the Viability Study (October 2013)..
317	In the current economic client, banks (and other lenders/funders) are highly unlikely to fund new development unless a minimum 25% developer (not 20%) profit can be guaranteed, thereby further limiting the Residual Land Value.	An allowance of 20% profit on cost for student accommodation is a reasonable market assumption for such developments and as such this assumption has not been amended.
318	The net additional floorspace figure of 92,625 sq. ft (8,600 sq. m) used in Student Housing appraisals assumes that the existing floorspace can be discounted on the basis that it had been occupied for 6 of the last 12 months prior to the scheme being approved. This is not always the case which will have a significant impact on the affordable CIL levy rate per square metre.	Noted: The Viability Study (October 2013).has been updated and does not assume a discount.
319	The calculation of the student CIL rate by BNPP is based extensively on misguided commercial assumptions with a distinct lack of any detailed evidence base such as an analysis of previous financial contributions raised through section 106 contributions. This thereby results in a levy rate for student accommodation which is grossly inconsistent with historical financial contributions for such uses in the Borough and will impact significantly on the economic viability of student developments, which is contrary to the objectives of the CIL Regulations and the NPPF.	The Council consider the proposed charging rate for student accommodation is based on robust viability evidence, see the latest CIL Viability Study (October 2013). The Council consider the rates have been set in a way that will enable the delivery of the development plan.
320	The Tower Hamlets CIL should not be used as a means of deterring certain forms of development in the Borough which the excessively high levy for student accommodation appears to suggest.	The Viability Study (October 2013) shows that the proposed rate for Student Accommodation is financially viable. No evidence has been submitted which shows the proposed rate for student accommodation is excessively high. For this reason the Council does not agree with the assertion that the rates will deter development of student accommodation.

<b>No.</b>	<b>Nature of Representation</b>	<b>Council's Response</b>
321	The development appraisals of the Viability Study (March 2013) suggested that student development of 500 units would only be able to accommodate a CIL of £250 per square metres (£187 with a 25% buffer excluding the Mayoral CIL). It is quite likely that the developer will be required to demonstrate compliance with the affordable housing requirement for most emerging student schemes in the Borough. This means that developers will be required to meet the £425 per square metre CIL rate and affordable housing requirements. This will create the undesirable requirement to agree a significantly reduced or non-existent affordable housing provision/contribution with the Council to be able to afford the CIL levy.	The Council's requirement for affordable housing is not all encompassing and applies in those instances where accommodation is not provided specifically for accredited colleges and universities. A specific threshold for affordable housing is not defined in relation to student housing – instead this is calculated 'taking into consideration' relevant affordable housing policies (Managing Development Document, DM3 Student Accommodation. Accordingly, affordable housing contributions have not been factored into appraisals as unlike for general housing the requirement will not always apply. In line with the Council's affordable housing policy approach the level of affordable housing sought will depend on the viability of the scheme which will be assessed accommodating the CIL charge.
322	The Council should consider applying differential rates to student developments. The proposed £425 per sq. m could link with third level institutions and a lower rate would apply to those which are not able to demonstrate such a link at pre-planning stage.	The Council has reviewed the student housing appraisals - including updating appraisal inputs - and considers the rate proposed is appropriate. The need to avoid a complicated schedule is noted and reflected in the single charge proposed.
323	Student accommodation has less impact on infrastructure and it could therefore be argued that a substantial percentage of the costs to be accumulated through the application of the CIL charge would not directly benefit or mitigate the impact of student development. There is therefore strong justification for a reduction in the levy rate on this basis.	No evidence has been submitted which demonstrates there is a weak link between development of Student Accommodation and the requirement for infrastructure. The Council considers Student Accommodation does indeed impact on many forms of infrastructure and it is therefore a justified approach to levy a charge on Student Accommodation.
324	It is recommended that the borough re-examines the methodology for calculating the student CIL rate so that it includes a more detailed evidence base to support the proposed levy.	We consider the evidence base used to establish the CIL rate is detailed enough and therefore the rate set is appropriate. Please refer to the updated Viability Study (October 2013).
325	Charging zones for student accommodation should be introduced.	The Council has taken the view that they wish to charge a flat rate for student accommodation across the borough to avoid an unduly complex Charging Schedule. Research on rents for student accommodation has identified that the rents achievable in CIL Zone 2 start at £200 per week, whilst those in the city fringe area are able to achieve higher rents. The lower rent of £200 per week has been adopted to establish the CIL rate.
326	<b>CIL_DCS38: English Heritage</b>	

<b>No.</b>	<b><u>Nature of Representation</u></b>	<b><u>Council's Response</u></b>
327	Concerned that the application of a local CIL charge on developments could have an impact upon the significance and/or viability of regenerating heritage assets. For example, it is recognised that when calculating the appropriate level of charge for CIL that the economic viability of development needs to be considered.	The Council has adopted an areas based approach to the assessment of economic viability in line with CIL Guidance, 2013. The Council has set a CIL rate that allows a buffer of exceptional costs - such as could be associated with heritage assets.
328	Suggested that where sites include Heritage at Risk Assets that the charging schedule offers discretionary relief from the need to make a CIL payment.	Noted. As indicated in Appendix 2 of the Charging Schedule, the Council is minded to implement an exceptional circumstances relief policy in line with the CIL Regulations. It is noted that this is not an examination matter or a component of the Charging Schedule preparation process.
329	Strongly advised that the local authority's conservation staff are involved throughout the preparation and implementation of the Draft Charging Schedule.	The preparation of the Council's Draft Charging Schedule has been a collaborative process with all key decisions taken by a panel of officers with responsibilities for many aspects of infrastructure planning, funding and delivery. The views of staff with responsibility for borough conservation have been considered throughout the preparation of the documentation.
330	The Draft Planning Obligations SPD should recognise the value of conserving and enhancing the historic environment as one of the key objectives - e.g. on a par with public realm and public art. Some development proposals may have an impact upon heritage assets. This can be expressed as the need for direct action where the significance of a heritage asset is affected, triggering contributions to mitigate the impact. In addition the council will seek contributions towards improving heritage assets, especially when they are at risk (as identified in the EH Risk register) in proximity to the proposed development.	Policy DM27 of the Managing Development Document sets out how the Council will conserve and enhance the historic environment through the development management process. The Revised Draft Section 2 of the Draft Planning Obligations 123 List has been to explicitly state that the issues identified site specific impacts of development which have not been described elsewhere, and which will not be funded through CIL receipts will be mitigated using Section 106 Agreements. The Council may seek to mitigate site-specific impacts of development through the Section 106 process where the necessary mitigation measures cannot be addressed through CIL.