ADDITION OF HACKNEY COMMUNITY INFRASTRUCTURE LEVY (CIL)

Key Decision No. LHR K39

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<th>CABINET MEETING DATE (2014/15)</th>
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<th>CABINET MEMBER</th>
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<tr>
<td>Cllr Nicholson</td>
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<td>Regeneration</td>
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<th>CORPORATE DIRECTOR</th>
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<td>Gifty Edila, Corporate Director of Legal HR and Regulatory Services</td>
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1. **CABINET MEMBER’S INTRODUCTION**

1.1 The Community Infrastructure Levy (CIL) was introduced by the previous government as the recommended method for new development to contribute to the funding of infrastructure to serve the residents and occupiers of both new and existing development. It came into force in April 2010 through the Community Infrastructure Levy Regulations 2010 (as amended) (the *CIL Regulations*).

1.2 The Government decided that CIL, a tariff-based approach with charging rates determined locally by locally elected representatives based on viability, is fairer, faster, and provides greater certainty and transparency than the current system of seeking planning contributions through s106 of the Town and Country Planning Act 1990.

1.3 At present, s106 is generally agreed through negotiation on a development scheme by development scheme basis (with the Council’s Planning Contributions Supplementary Planning Document [PCSPD] used as a basis for negotiation). Such negotiation can cause lengthy delays in the granting of planning permission, and can be inconsistent in the amount and type of contributions agreed between planning permissions. CIL is designed to provide developers and communities with much more certainty ‘up front’ about how much funding will be expected through the development management process.

1.4 As this report outlines, the use of CIL will ensure that the Council receives increased funding to help deliver major infrastructure, as CIL will apply to the majority of developments rather than just major developments which s106 generally apply to.

1.5 It should be noted that Local authorities that do not have their rates adopted by April 2015 will not have the ability to collect the full amount of possible funding from new development.

1.6 Section 106 will still exist, but with a much narrower focus, as a mechanism to deliver affordable housing and to mitigate the impacts of development within the immediate area of a development. CIL, on the other hand, will assist in the delivery of major strategic infrastructure (for example, education and health facilities) across the Borough.

1.7 It should also be noted that the Mayor of London currently applies a ‘Mayoral CIL’ across London boroughs requiring new development to contribute to the provision of Crossrail. The Council currently collects this on behalf of the Mayor of London.

1.8 Council officers have developed a Hackney CIL ‘Charging Schedule’ (setting out the rates that will be applied to new development). As a statutory planning document the CIL charging schedule sits alongside the Council’s Local Development Framework (LDF) and will be used as the
The main tool to raise contributions from development occurring in the Borough.

1.9 The Hackney CIL Charging Schedule has been developed using the rates set out in the Draft Charging Schedules. The Draft Charging Schedule and the earlier Preliminary Draft Charging Schedule have previously been presented to Cabinet in December 2013 and April 2013 respectively and been out for consultation as detailed later in this report. These rates have been revised where necessary following a review of the consultation responses received as described in this report. Most of the rates though have remained unchanged across the process; for instance in respect of residential development and student housing while some minor changes have been made to the retail, hotel and office rates.

1.10 The Hackney CIL Charging Schedule has now been examined by an independent Examiner and approved for Council to adopt. This report seeks Cabinet approval to proceed with the adoption of this document in accordance with statute.

1.11 The CIL will enable the Council to continue to address its manifesto commitments through infrastructure to support our growing communities, by listing the intended CIL spending items in the Regulation 123 List which is also included in this report, and is also being put forward for adoption, along with other polices required to assist in the operation of the Hackney CIL.

1.12 The adoption of the CIL Charging Schedule will ensure that the Council continues to deliver and manage the demands of development on infrastructure and support growth and regeneration in the Borough.

1.13 As the CIL rates have been developed through a cycle of growth following a period of economic uncertainty, an initial review of the charging schedule will be undertaken during 2016 /17, one year after adoption, and will be reviewed thereon as required to ensure Hackney’s CIL rates reflect the viability of development coming forward.

1.14 I commend this report to Cabinet.

2. CORPORATE DIRECTOR’S INTRODUCTION

2.1 The CIL Charging Schedule is a key statutory planning document which sits alongside the Council’s Local Development Framework. It will permit Hackney to raise contributions from developers to help pay for infrastructure that is needed as a result of development. CIL will replace s106 agreements as the principal means by which developer contributions are collected towards providing the necessary infrastructure to support new development.
2.2 This report outlines work undertaken by Officers to date to develop and seek the approval of Cabinet and Council for the adoption of the Hackney CIL Charging Schedule and for it to become effective on 1 April 2015.

2.3 This report also seeks approval for the adoption of a list of projects that can be supported through CIL receipts (Regulation 123 List) and other supplementary policies needed to assist the implementation of Hackney’s CIL; these being the Instalments Policy, the Exceptions Policy and the In-Kind Policy and for these to also become effective on 1 April 2015. These will assist in the implementation and ongoing management of the Hackney CIL Charging Schedule.

3. RECOMMENDATION(S)

Cabinet recommends Council to approve:

3.1 The adoption of the Hackney Community Infrastructure Levy (CIL) Charging Schedule as recommended by the Examiner in Appendix A of his report, to take effect on the 1 April 2015, in accordance with Section 213 of the Planning Act 2008 and Regulation 25 of the CIL Regulations. The Examiner’s report is included as Appendix 1 of this report.

3.2 The adoption of the Regulation 123 List set out in the body of the Report for adoption, to take effect on the 1 April 2015, in accordance with Section 216 of the Planning Act 2008, Regulation 123(4) of the CIL Regulations and the relevant sections of the National Planning Practice Guidance for CIL. The Regulation 123 List is included as Appendix 2 of this report.

3.3 The adoption of the Instalments Policy, to take effect on 1 April 2015 in accordance with Regulation 69B of the CIL Regulations. The Instalments policy is included as Appendix 3 of this report.

3.4 The adoption of the Exceptions Policy, to take effect on the 1 April 2015 in accordance with Regulations 55 and 56 of the CIL Regulations. The Exceptions Policy is included as Appendix 4 of this report.

3.5 The adoption of the In-Kind Policy, to take effect on 1 April 2015 in accordance with Regulations 73, 73A, and 73B of the CIL Regulations. The In-Kind Policy is included as Appendix 5 of this report.

And that Cabinet and Council note:
3.6 That Hackney’s Revised Planning Contributions SPD which has been prepared in parallel with the CIL Charging Schedule will be presented to Full Council for adoption in the summer of 2015.

4. REASONS FOR DECISION

4.1 This decision is to approve the adoption of the Hackney CIL Charging Schedule along with the Regulation 123 List, Instalments Policy, Exceptions Policy and In-Kind Policy to take effect on 1 April 2015 and ensure compliance with relevant legislation and national guidance.

4.2 Hackney’s CIL is considered to be more effective in collecting monies to contribute to the funding of strategic infrastructure compare to s106 as will apply to more development. In this regard CIL is likely to generate on average an extra £0.5 million to £1 million per year compared to s106.

5. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

5.1 An alternative option not to proceed with the Hackney Charging Schedule was rejected as it would mean not being able to introduce the CIL levy in Hackney. This course of action would severely limit the Council’s ability to raise funds for the identified infrastructure needs of the Borough. From April 2015 the scope for securing infrastructure funding through s106 agreements will be seriously constrained as the CIL Regulations dictate that only mitigation measures specific to the site should be requested. Also should Hackney not adopt a CIL, s106 would still remain in place but would be restricted to pooling funds from no more than 5 schemes before it needs to be spent. This drastically curtails the ability to pool monies to fund more expensive strategic infrastructure. No such funding restricts apply to CIL.

6. BACKGROUND

6.1 As set out in the paragraphs above, the concept of the Community Infrastructure Levy (CIL) was introduced in April 2010 giving local authorities the ability to develop and raise CIL.

6.2 From April 2015, Regulation 123(3) (b) of the CIL Regulations limits the Council to pooling not more than five s106 obligations (that have been entered into since April 2010) for a particular project or type of infrastructure. Therefore the Council will not be able to pool more than five s106 contributions to fund strategic infrastructure items, such as schools, libraries, large transport projects, and leisure facilities or any other infrastructure. If the Council was not to adopt CIL, the CIL Regulations restriction on pooling s106 agreements, would result in a significant reduction in income for the Council.
6.3 The Government considers CIL to provide the best framework to fund new infrastructure required to support new development and to ensure existing infrastructure is supported. CIL has been considered to be fairer, faster and more certain and transparent than the current system of seeking planning contributions through S106. Importantly, the use of CIL will ensure that the Council will receive increased developer contributions to fund major infrastructure linked to development, as it will apply to the majority of developments.

6.4 The Council therefore proposes to implement CIL for the following reasons:

- CIL will help to fund the infrastructure needed to support development and growth set out in the Council’s Sustainable Communities Strategy, Regeneration Delivery Framework and the Council’s Core Strategy (which is supported by the Infrastructure Delivery Plan);

- CIL will be applicable to more developments than s106, better reflecting the impacts that every development has on infrastructure and will ultimately generate more revenue than currently is the case through the negotiation of s106 agreements.

- From 2001-2010 the Council negotiated £31.5m from s106 contributions. Had the Council applied the proposed CIL rates the Council could have collected £4.5 to £5.5 million from CIL annually.

- CIL is a fixed charge meaning greater transparency and certainty for developers. This should mean a faster and more predictable system of securing funds for infrastructure than is currently the case.

- Hackney CIL rates are based on viability including delivery against Hackney’s full range of Local Plan policies including the achievement of 50 per cent Affordable Housing and therefore is considered to not jeopardise delivery of key planning policy objectives of the Council.

6.5 CIL will be payable on most new buildings that are intended for people to normally use. It will be levied on all new dwellings that are not self build and/or the net additional floorspace created by any given development scheme, where the increase is greater than 100m2 (therefore, it does not apply to changes of use where there is no new floorspace), however, this does not apply to domestic extensions. A full list of where CIL is not payable is included in page 17 of Appendix A, of the Examiner’s report (this report is included as Appendix 1 to this report).

6.6 There are two specific exemptions from the requirement to pay CIL. First, a landowner will get full relief from their portion of the liability where the chargeable development will be used wholly, or mainly, for charitable
purposes. Secondly, Affordable Housing has complete relief from the payment of CIL and remains part of the s106 regime.

6.7 Section 106 agreements will remain in operation but with a much narrower focus to help address the site specific impact of new development such as provision of affordable housing, public realm improvements adjacent to the site, access upgrades to the site, securing local employment, and addressing impacts associated with managing the night time economy.

6.8 Highways improvement/alterations needed as the result of development will still be covered by s278 agreements negotiated with the developer. There are no limitations as to the number of s278 agreements that can be pooled provided that the project the s278 agreements are funding is not on the Regulation 123 List.

6.9 While the introduction of CIL will, in general, limit the matters addressed by s106 agreements, Hackney is intending to allow discretionary relief from CIL under exceptional circumstances (Regulation 55 of the CIL Regulations). This would be used to avoid rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arise. Hackney’s Exceptional Relief policy is included as Appendix 4 to this report.

6.10 Other than ‘exceptional circumstances’ relief, the other instances where development would not be CIL liable and where a full s106 agreement will be negotiated include:

- where the development is delivering 100% Affordable Housing;
- where there is a planning permission granted for a change of use e.g. office to residential where there is no change in total floor space.

6.11 Under these circumstances a full s106 would be negotiated and the Council’s Planning Contributions SPD will underpin negotiations. This SPD is currently being revised in parallel to ensure it can with work together with Hackney’s CIL Charging Schedule. Given some required changes have recently come to light which impact the contents of the Revised Draft Planning Contributions SPD, namely revised Child Yield figures produced by the GLA and how Open Space contributions are to be calculated, the SPD is to undergo a second round of consultation in February/March 2015 before being presented to Full Council for adoption in the summer 2015.

Setting CIL

6.12 In determining CIL rates, the Council is required to take into account Regulation 14 of the CIL Regulations 2010, which states:
In setting rates (including differential rates) in a charging schedule, a charging authority must aim to strike what appears to the charging authority to be an appropriate balance between—

a. the desirability of funding from CIL (in whole or in part) the actual and expected estimated total cost of infrastructure required to support the development of its area, taking into account other actual and expected sources of funding; and

b. the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across its area.

6.13 An Economic Viability Report identified the balance between funding and the delivery of development by using the Residual Land Value (RLV) methodology. This method calculates total scheme value, which includes firstly the sales receipts or rental income from the type of floorspace proposed (i.e. office, retail, hotel, residential etc.). For residential floorspace the scheme value will include any private housing and the payment from a Registered Provider for the completed affordable housing units. Secondly, the model then deducts the build costs, fees, interest, CIL (at varying levels) and developer's profit. A ‘residual’ amount is left after all these costs are deducted – this is the land value that the Developer would pay to the landowner. The RLV is normally a key variable in determining whether a scheme will proceed. If a proposal generates sufficient positive land value (in excess of current use value), it will be implemented. If not, the proposal will not go ahead, unless there are alternative funding sources to bridge the ‘gap’.

6.14 The need for infrastructure is documented in the Infrastructure Delivery Plan (IDP) which is available to view at: http://www.hackney.gov.uk/Assets/Documents/Infrastructure_Delivery_Plan_2013-17_JUNE_2014.pdf. The IDP identifies a number of key infrastructure items required to support growth in the borough for example a new secondary school; new 16-19 years school provision, an increase in the number of GPs in the borough; new/ expanded sports and leisure facilities; open space; an increase in the number of vehicles in the waste collection fleet; and improved drainage and flood water alleviation. This is by no means an exhaustive list but provides examples of what is likely to be required across a variety of services in Hackney.

6.15 The IDP forms the basis for the Regulation 123 List as the Council must demonstrate that the infrastructure funded by CIL is required to meet the demands that development is placing on the Borough. This is discussed in greater detail later in the report.

6.16 The population of 246,270 documented by the 2011 Census was 20% greater than the projections based on the previous 2001 Census and an 8% increase on the Mayhew study. If the estimates are correct the Hackney population could increase by 42,300 by 2026. Infrastructure
items that will be needed to address the demand created are likely to include a new secondary school; new 16-19 years old school provision, an increase in the number of GPs in the borough; new/expanded sports and leisure facilities; an increase in the number of vehicles in the waste collection fleet; and improved drainage and flood water alleviation. This is by no means an exhaustive list but provides examples of what is likely to be required across a variety of services in Hackney.

6.17 Funds accrued from CIL receipts are not expected to fund the full costs of infrastructure required as a result of development in the borough. Instead CIL will be used as one of a suite of funding sources (as s106 is now).

**Background to Hackney CIL**

6.18 Having undertaken the evidence base and identified suitable rates the Hackney’s Preliminary Draft CIL Charging Schedule (PDCS) was presented to Cabinet in April 2013 and then out for a six-week public consultation from 7 May to 17 June 2013.

6.19 The Hackney PDCS, received 23 responses, nine of which were from developers, some of whom Officers met with and who provided viability information to our economic viability consultant (BNP Paribas), which, where appropriate, was incorporated into a revised viability appraisal.

6.20 Key changes that were made as a result of the issues which were raised in the consultation on the Hackney PDCS include:

- The office rate in the City Fringe decreased from £74/sqm to £50/sqm to ensure that the London Mayor’s Crossrail s106 payments were included in the costs for development.
- The hotel rate was amended from a borough wide flat rate of £65 to two rates split so that there is one rate for City Fringe (£80/sqm) and one rate for the rest of the borough (£55/sqm). These is the same zones are used for retail and offices uses and answered the concerns of a representor.
- The large format retail rate increased from £65/sqm to £150/sqm after the Council’s viability expert reassessed the viability of the use in Hackney following a representation. The definition of large format retail was also amended to be in line with best practice.
- The table was also amended to explicitly recognise that the development of operational buildings by emergency services would not be charged a Hackney CIL.
- No changes were made to the residential rates as no representations were received that questioned the viability of the rates for residential development in Hackney.

6.21 The Draft Charging Schedule and associated amended/updated evidence documents and the draft Regulation 123 List were then presented to
Cabinet on 16 December 2013. Following agreement the documents were taken out to consultation from 15 January to 16 February 2014.

6.22 The Hackney DCS, received 36 responses, nine of which were from developers or parties interested in development in Hackney; twelve were from organisations such as the GLA and Transport for London. Fifteen responses were received from residents or residents’ groups. None of the responses from the residents expressed concern with the proposed rates; most were supporting the inclusion of the removal of the Stoke Newington Gyratory in the Regulation 123 List.

6.23 The key issues raised by the respondents to the Draft Charging Schedule were:
- The viability of the proposed Student Housing rates
- The viability of the proposed Large Format Retail rates
- The viability of the proposed Hotel rates
- The Bishopsgate Goods Yard site
- Woodberry Down proposed nil rate
- Requested minor amendments to the Regulation 123 List

6.24 In response to these concerns officers and the viability consultants met with the representors and undertook additional work to determine if there was an impact on the proposed rates from any of the additional information provided. The Addendum Viability Report and other officer reports that were produced confirmed that neither the representations nor any of the additional information provided required the rates to be altered.

6.25 The Draft CIL Charging Schedule and all supporting documentation was submitted to the Planning Inspectorate on 17 July 2014. Following the appointment of an Examiner the representors were provided with additional time to provide evidence to the Examiner that the Hackney rates were unviable.

6.26 The rates therefore put forward for examination were:

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<th>Type of Development and Zone</th>
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<tr>
<td>Residential – Zone A</td>
<td>£190</td>
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<td>Residential – Zone B</td>
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<tr>
<td>Residential – Zone C</td>
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<tr>
<td>Residential – Zone D</td>
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<tr>
<td>Use</td>
<td>Cost</td>
</tr>
<tr>
<td>----------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>Offices – City Fringe</td>
<td>£50</td>
</tr>
<tr>
<td>Offices – Rest of Borough</td>
<td>£0</td>
</tr>
<tr>
<td>Retail – City Fringe</td>
<td>£65</td>
</tr>
<tr>
<td>Retail – Rest of Borough</td>
<td>£0</td>
</tr>
<tr>
<td>Hotel - City Fringe</td>
<td>£80</td>
</tr>
<tr>
<td>Hotel – Rest of the Borough</td>
<td>£55</td>
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<tr>
<td>Large Format Retail(^1)</td>
<td>£150</td>
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<td>(whole Borough)</td>
<td></td>
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<tr>
<td>Student Housing (whole Borough)</td>
<td>£373</td>
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<tr>
<td>All Other Uses, including development of operational buildings by the emergency services</td>
<td>£0</td>
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**Regulation 123 List**

6.27 The Regulation 123 List is the list of strategic infrastructure the Council intends to fund - wholly or in part - through its CIL receipts to address the cumulative impacts of development. As stated above, s106 will still operate to mitigate the site-specific impacts of specific development schemes.

6.28 A Regulation 123 List is required to be adopted alongside the Hackney CIL Charging Schedule as part of the supporting documentation. The list is expected to be an accurate representation of what the Council intends to spend CIL on.

6.29 In developing Hackney’s Regulation 123 List there was a requirement to strike a balance between making the List too general and too specific. This is because the Council may not seek a s106 contribution for an item which

\(^1\)Convenience based supermarkets and superstores and retail warehousing. Superstores/supermarkets and shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit. Retail warehouses are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering for mainly car-borne customers.
is on the Regulation 123 List. This is to demonstrate that no double-counting between CIL and S106 is occurring.

6.30 Therefore if the Regulation 123 List is too general - for instance if it states we will spend CIL receipts on open space - Hackney will be unable to request a s106 contribution on that matter. On the other hand, if there is too much specificity to the list there could be issues in terms of the flexibility of spend when priorities change.

6.32 The List in Appendix 2 has been prepared to fulfil the requirements of the golden thread outlined above following extensive work with internal and external stakeholders to update Hackney’s IDP, and specific meetings with service areas to discuss the Regulation 123 List and the relationship between CIL and S106. It was modified slightly in relation to flooding, transport and canals to address matters raised during the January/February 2014 consultation. Paragraphs were also added to the end as a result of legal advice in relation to the relationship with s106.

6.33 No further issues were raised on the Regulation 123 List during the examination and officers therefore commend it for adoption. It is possible to change the Regulation 123 List, subject to “appropriate local consultation”. The level of consultation is not specified in the Statutory Guidance, but at Hackney this could mean advertising the intended changes to the List on the website for a period of 6 weeks. Changes to the charging schedule however are more difficult and would require re-running the viability assessment and completing the entire process including two rounds of public consultation followed by an EiP.

6.34 Infrastructure which relates to community safety, for example CCTV; and employment and training facilities has not been listed in the Regulation 123 List as it is envisaged that these items will be covered on a site specific basis, and will therefore fall under Section 106 the terms of which are covered by chapters in the Planning Contributions SPD. Therefore to avoid ‘double counting’ they do not appear on the Regulation 123 List.

6.35 The Regulation 123 List is specific in relation to transport, and open space infrastructure elements, but generic for other infrastructure items. This approach has been proposed in order to maximise possible development contributions whilst ensuring that the Council can demonstrate that no double-dipping has occurred. Whilst listing these infrastructure elements in a specific way means that it reduces Council’s flexibility in terms of spending CIL, listing such infrastructure items generically would mean that no s106 could be sought for such items once CIL is introduced. The rationale for listing these items specifically is as follows:

- **Transport** - Smaller more localised transport projects may be funded through s106 contributions using up to five pooled contributions, where appropriate, whereas larger more strategic transport infrastructure projects will require more investment than could be accrued via five pooled s106 contributions.
• **Open space** - similarly, in some instances it may be possible to seek open space contributions for localised open space projects through s106. It is therefore proposed that larger open space projects and those unlikely to receive s106 due to development not occurring in the vicinity of the open space, should be listed on the Regulation 123 List in order to maximise possible development contributions.

**Hackney CIL Examination**

6.36 The Hackney CIL Examination took place on 29 October 2014 in Hackney Town Hall; Terrence Kemmann-Lane was the appointed Examiner.

The matters for discussion were

1. Bishopsgate Goods Yard (BGY)
2. Woodberry Down Regeneration Site
3. Student Housing
4. Retail
5. Hotels
6. Zone boundaries in relation to Stamford Hill
7. Content and setting out of the Draft Charging Schedule

6.37 The consultants for BGY were contending the site was unviable with the Hackney CIL charge but did not provide evidence to substantiate their representation. The Examiner was therefore satisfied with the Council’s evidence.

6.38 The Council had prepared additional evidence for the Examiner in regards to the Woodberry Down Regeneration Site to demonstrate that the nil CIL rate proposed for the area was justified in viability terms. The Examiner was satisfied with the evidence provided.

6.39 A consultant for a student housing developer challenged the proposed Student Housing rates for Hackney, but was, however, unable to demonstrate that the Hackney evidence was inaccurate.

6.40 Although representations were received on Hotels and Retail those who made representations did not attend the hearing and therefore no discussion was had on these matters.

6.41 The discussion on zone boundaries in relation to Stamford Hill is concerned with the issue that all of Stamford Hill is not contained in its entirety within one of the residential charging zones. The Charging Schedule Map correctly identified Stamford Hill as being in residential Zones B and C and depending on the suburb definition Zone A as well. The Council did concede that this could be better clarified in the
supporting text by making clearer reference to the Charging Schedule map. The Examiner accepted the Council’s proposed change.

6.42 In regards to the content and setting out of the Draft Charging Schedule, the Examiner thought that the document was too detailed and went beyond the Government requirements for a Charging Schedule and therefore should be edited. It was therefore agreed that the document and charging tables be edited as per the discussion and sent to the Examiner at our earliest convenience. The edited Charging Schedule document including the tables was sent to the Examiner following the Examination, and is included in Appendix A of the Examiner’s report which in Appendix 1 to this report.

6.43 The Examiner provided his finalised report was received by Council in late December 2014. The following is a summary of the Examiners findings the full report is in Appendix 1.

<table>
<thead>
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<th>Non Technical Summary</th>
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<tr>
<td>This report concludes that the Hackney London Borough Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the borough. The Council has sufficient evidence to support the schedule and can show that the levy is set at a level that will not put the overall development of the area at risk.</td>
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<tr>
<td>One modification is needed to meet the statutory requirements. This can be summarised as follows:</td>
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<tr>
<td>• The Draft Charging Schedule should be replaced with a modified Schedule, with extraneous matters removed and a simplified Table of Rates</td>
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<tr>
<td>The specified modification recommended in this report is based on matters discussed during the public hearing sessions and does not alter the basis of the Council’s overall approach or the appropriate balance achieved.</td>
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The modified Charging Schedule to be adopted as agreed by the Examiner appears as Appendix A to the Examiner’s report. The entire Examiner’s report is included as Appendix 1 to this report.

**Hackney CIL Adoption**

6.44 If agreed and adopted by Cabinet and Council it is proposed that the Hackney CIL Schedule as modified by the Examiner and as it appears in Appendix A of the Examiner’s Report (Appendix 1 of this report) be implemented from 1 April 2015. This would then be commensurate with the start of the new financial year and meet the deadline set out in Regulations 123(3)(b) and 123(4)(b) of the CIL Regulations which places limitations on the ability of Local Authorities to pool Section 106 obligations as of 6 April 2015.
6.45 From the outset of the development of Hackney CIL Charging Schedule it has been the intention of the Council to recognise the need for infrastructure to support development in the Borough without putting the economic viability of that development at risk. While the Examiner has stated that the proposed rates do not place development at risk in the Borough the following policies further assist in providing developers with flexibility, in the payment of their Hackney CIL without impacting on the overall benefits that the Borough will receive from the development. These policies are:

- Instalments Policy
- Exceptions Policy, and;
- In Kind Policy

6.46 It is recommended that these policies are adopted individually and separately from the Hackney CIL Charging Schedule as they relate to the management of the Charging Schedule and are offered (in accordance with CIL Regulations). As these policies are separate to the CIL Charging Schedule the Council can decide to amend or rescind any or all of these policies at its discretion without needing to make material amendments to the Hackney CIL Charging Schedule.

6.47 The Instalments Policy (Appendix 3) allows for a developer to pay their CIL bill (for both Hackney and the Mayor of London) in instalments. The number of instalments is dependent on the amount of CIL they are required to pay. The London Mayor currently offers developers the ability to pay his CIL in two instalments, but as the Hackney CIL will increase a developer’s liability substantially, particularly in locations within the City Fringe, it is recommended that Hackney offer four instalments. This will allow large developments the ability to spread the cost of CIL over a longer period and recognises that cash flow differs as a development is built out. Only developments with a CIL liability of greater than £8 million will be offered four instalments, as is detailed in the proposed policy. This is similar to how section 106 agreements operate by providing payment triggers as the development is built out.

6.48 The Exceptions Policy (Appendix 4) relates to Regulation 55 of the CIL Regulations and allows the Council to enter into a traditional Section 106 Agreement with a Developer if that Developer can prove that their development would be unviable if they were forced to pay the Borough CIL (they would still need to pay the Mayoral CIL). There are strict protocols for the granting of exceptional circumstances which are detailed in the regulations and are only expected to be used in extraordinary instances.

6.49 The Payment In-Kind Policy (Appendix 5) allows developers to pay their CIL bill either in full or in part in infrastructure and/or land. For instance a developer may offer to build a community facility as part of their
development and if agreed by the Council the Hackney CIL bill would be reduced by the agreed value of the facility. Similarly a developer could offer land for the Council to use as open space or another purpose with the land value being removed from the Hackney CIL bill.

6.50 The use of both the Exceptions Policy and the Payment In-Kind Policy are strictly controlled by the CIL Regulations and have to take State Aid matters into consideration.

**Hackney CIL Implementation**

6.51 If adopted the Hackney CIL Charging Schedule will be implemented from 1 April 2015; however, it is likely to take between 12-18 months of collection before the Council begins to see significant levels of income being received. This is due to CIL payments becoming payable 60 days after the commencement of development and few developers start on site immediately upon gaining planning permission.

6.52 The CIL spend will be managed through the current s106 Corporate Group led by the Corporate Director of Finance and Resources, who will look at recommendations and align projects against the capital programme and other Member sighted programmes.

6.53 Spend will be agreed through the Capital Programme Review Panel (CPRP), then with the Mayor’s approval included on the capital programme Cabinet update.

6.54 As the CIL rates were developed through a cycle of growth and recovery from a period of economic uncertainty, an initial review of the charging schedule will be undertaken during 2016/17, one year after adoption, and will be reviewed thereon as required subject to conditions around economic viability.

6.55 After April 2015, CIL Regulations restricting the pooling of s106 contributions take effect. This means that funds from development which go towards funding the Borough’s key infrastructure requirements will be from CIL rather than s106. As previously stated, the Regulation 123 List, informed by the Infrastructure Delivery Plan, outlines the infrastructure which may be funded through CIL, in whole or in part.

6.56 Overall, s106 agreements will contribute much less to infrastructure improvements than is currently the case. The existing s106 agreement arrangements and internal process will continue to be used for the management of CIL receipts and S106, to deliver pre-determined infrastructure projects identified in the Council’s Regulation 123 List. Approval to spend will go through Cabinet, as is the case with spend on s106 currently.
6.57 There are stringent auditing requirements for s106 and CIL once CIL is operational. In accordance to Regulation 62 an annual report of CIL receipt and spend is required, guidance also recommends regular updates being made available on the Council website with detail of s106 spend to ensure that there is no double allocation on projects and the spend is as transparent as possible. The Council’s revised Planning Contributions Supplementary Planning Document (SPD) has been drafted to make it clear no double counting will exist between s106 and CIL moving forward. The SPD will be presented to Full Council for adoption in the summer of 2015 following a second round of consultation.

6.58 The Council is entitled to retain up to 5% of the Hackney CIL receipts for administrative purposes. The amounts and detail of spend for this administrative proportion must be included in the overall report on CIL spend. In the first three years of CIL the Council is entitled to the administrative expenses up to a maximum of 5% of the Hackney CIL incurred during those three years, including any expenses incurred before the charging schedule was published (i.e. the cost of developing and setting up the administration of the CIL, including the cost of new software).

6.59 The Council has invested in new software (Exacom) to assist with the administration of CIL as this has the potential to be onerous and administratively expensive without it, particularly as CIL spend must be made publicly available on the internet and is subject to regular audit.

6.60 Staff and Councillor training has begun, to enable as smooth a transition as possible and to provide an understanding of CIL and how it will operate in Hackney. Training is also occurring for staff who will be utilising the new Exacom system.

6.61 In terms of the Council’s management of the neighbourhood element or ‘meaningful proportion’ of CIL, officers have developed proposals for how this part of the CIL receipts will be managed to ensure that the mechanism is legislation-compliant. The detail of these proposals has been presented to Cabinet in a separate paper “The Neighbourhood Element of CIL” on the February Cabinet agenda.

7.0 Policy Context

7.1 The CIL Charging Schedule is being developed in compliance with the Council’s policy framework. The funds accrued as a result of the CIL Charging Schedule will contribute funding to the implementation of the Council’s six priorities as outlined in Hackney’s Sustainable Community Strategy (SCS), which was prepared by the Local Strategic Partnership and adopted by the Council in 2008. The six priorities are as follows:
1. Reduce poverty by supporting residents into sustainable employment, and promoting employment opportunities.
2. Help residents to become better qualified and raise educational aspirations.
3. Promote health and wellbeing for all, and support independent living.
4. Make the borough safer, and help people to feel safe in Hackney.
5. Promote mixed communities in well-designed neighbourhoods, where people can access high quality, affordable housing.
6. Be a sustainable community, where all citizens take pride in and take care of Hackney and its environment, for future generations.

7.2 The CIL Charging Schedule will support the implementation of the Council’s Core Strategy in terms of provided the necessary strategic infrastructure to support the spatial patterns of growth identified.

8.0 Equality Impact Assessment

8.1 An Equality Impact Assessment (EqIA) has been undertaken for Hackney’s CIL Charging Schedule and can be found at Appendix 6.

8.2 No negative impact on any of the nine protected characteristics identified in the Equality Duty has been identified in relation to the CIL charging rates. As Hackney’s existing policies, such as provision of 50% affordable housing, have been taken into account in setting viable CIL rates in Hackney, there should not be any negative impact on affordable housing resulting from the CIL rate.

8.3 Furthermore, as the money generated through CIL is for the purpose of funding infrastructure (in whole or in part) needed as a result of new growth, it can be spent on a wide range of infrastructure that may improve access to, for example, education and training, community, and recreational facilities, and walkways or cycleways. Such improved provision may have a positive impact on a number of different groups in the borough. All individual projects funded either partially or wholly through CIL will have separate EqIAs completed to determine their compliance with the nine protected characteristics identified in the Equality Duty.

9.0 Sustainability

9.1 CIL can be used to raise monies from individual development projects that can contribute towards infrastructure which may include projects, to support environmental enhancement and aid sustainable development.

9.2 However the proposed Charging Schedule is not a plan or programme but a financial tool, and as such does not require a Strategic Environmental Assessment (EU Directive 2001/42/EC). According to Article 3(8) of the
SEA Directive certain types of plans and programmes are not subject to the requirements for SEA including financial or budget plans and programmes.

9.3 This is confirmed by paragraph 19 of the DCLG statutory guidance document for CIL ‘Charge setting and charging schedule procedures’ which states that “Charging Schedules will be short financial documents so will not require a Sustainability Appraisal”. This has been repeated in paragraph 20 of the 2013 DCLG Community Infrastructure Levy: Guidance document, which is the most relevant Guidance document for the development of the Hackney CIL Charging Schedule.

10 Consultations

10.1 The Hackney CIL Charging Schedule has been developed and informed through the Economic Viability Assessment and input received through engagement with relevant officers, Senior Management and Portfolio Holders and service providers (for example, health and education), which took place between April 2012 and June 2014. Ongoing discussions with key infrastructure providers have been undertaken, for example with the PCT, energy companies, Environment Agency, and their programmes for infrastructure have been taken into account in the development of the IDP.

10.2 A consultation exercise with developers also took place in March 2012, led by BNP Paribas as part of developing Hackney’s Economic Viability Assessment to determine viable levels of CIL. Developers who attended the consultation meeting provided the following key information:

- How viability changed across residential areas in Hackney;
- Shoreditch was the main area with commercial viability; elsewhere there was much lower demand for retail and commercial;
- Need to balance affordable housing requirements with CIL charge;
- Developers prefer not to have to work with too many different CIL charging areas and there is a danger that this could mean commercial uses in some areas not coming forward;
- Developers prefer certainty from the outset.

10.3 Following approval at Cabinet in April 2013, the Preliminary Draft Charging Schedule went out for six weeks of public consultation. Consultation on the PDCS involved the following:

- two advertisements were placed in Hackney Today;
- information was available on Hackney’s webpage;
- Council offices and libraries had copies of documents for consultation;
- officers attended the Planning User Forum, coordinated by Hackney’s planning department;
- all consultees on the LDF database were sent a letter or email;
an open day with relevant material on display and staff available to respond to queries was held in order to allow members of the public and other stakeholders to seek information or clarification.

10.4 As stated above in paragraph 6.19, 23 responses to the consultation on the PDCS were received, and these responses have informed the Draft Charging Schedule, where appropriate.

10.5 For the next round of consultation on the Draft Charging Schedule, a detailed consultation plan was formulated in accordance with the Council’s Statement of Community Involvement (SCI) and the CIL Regulations.

10.6 Following approval at Cabinet in December 2013, the Draft Charging Schedule went out for six weeks of public consultation in January/February 2104. Consultation on the DCS involved the following:

- two advertisements were placed in Hackney Today;
- information was available on Hackney’s webpage;
- Council offices and libraries had copies of documents for consultation;
- officers attended the Planning User Forum, coordinated by Hackney’s planning department;
- all consultees on the LDF database were sent a letter or email;
- an open day with relevant material on display and staff available to respond to queries was held in order to allow members of the public and other stakeholders to seek information or clarification.

10.7 As previously stated above in paragraph 6.22, the Council received 36 responses to the consultation on the DCS, and these responses informed further evidence sought to strengthen the evidence base of the Draft Charging Schedule, in preparation for submission for Examination in Public.

10.8 The Hackney CIL Charging Schedule was submitted to the Planning Inspectorate for Examination in Public on 17 July 2014. Publication of the documents included:

- two advertisements were placed in Hackney Today;
- information was available on Hackney’s website;
- Council offices and libraries had copies of documents submitted; and
- Statutory consultees and respondents to the DCS consultation were sent a letter or email.

10.9 Following the submission of the Draft Charging Schedule for Examination the Programme Officer undertook correspondence with the Examiner and the Respondents to the DCS Consultation.
10.10 Following the confirmation of the Examination date:

- notices were placed in Hackney Today and Hackney Gazette
- Hackney Libraries and Council Offices
- information was made available on the Hackney website
- Respondents to the DCS consultation were sent an email from the Programme Officer.

10.11 Following the release of the finalised Examiner’s report:

- Respondents to the DCS consultation were sent an email with the report attached.
- The report was made available on the Hackney website; and at Hackney Libraries and Council Offices.

11 Risk Assessment

11.1 A risk register and assessment has been undertaken as part of the project management of the document. The key risks for the project were that an Examiner will find that the proposed rates are not viable. The proposed rates would also therefore not meet the legal requirements, and, as such, the document could not be adopted. This risk was mitigated by preparing the document in conformity with the relevant legislation, and the relevant Regulations. A further mitigation measure used is that a discount was applied to the highest viable CIL rates in accordance with accepted best practice and methodology.

11.2 While there was a risk that the rates could be proven to be too high or indeed too low, several methods of mitigation were undertaken during the formulation of the Hackney CIL Charging Rates to ensure they are such that an appropriate balance has been achieved. This was accomplished by:

- Appointing a consultant with a proven methodology and accepted practice,
- Peer reviewing all stages of the development of the Hackney Economic Viability report with an officer group comprising of officers from across relevant disciplines; and
- Consulting with developers early on in regards to the methodology
- Meeting with people who made representations after each public consultation period to clarify their issues and modify the Charging Schedule and/or supporting documents if justified and;
- Commissioning additional evidence to strengthen the Council’s position where required.

11.3 An additional risk is that the process of adopting Hackney’s Charging Schedule is delayed. Such delays could have a detrimental impact on Hackney’s ability to implement the CIL Charging Schedule by April 2015.
This risk has been mitigated by ongoing consultation and engagement with Members and officers.

11.4 The risk associated with the adequate financial resourcing of the requirements of the CIL legislation is mitigated by the Council being able to recoup its costs of implementation through the administrative proportion that the Council is able to retain from the CIL receipts.

12. COMMENTS OF THE CORPORATE DIRECTOR OF FINANCE AND RESOURCES

12.1 This report requests Cabinet to approve the adoption of the Hackney CIL Charging Schedule along with the Regulation 123 List, Instalments Policy, Exceptions Policy and In-Kind Policy to take effect on 1 April 2015 and ensure compliance with relevant legislation and national guidance.

12.2 At present, s106 is generally agreed through negotiation on a development scheme by development scheme basis. These negotiations can be lengthy with outcomes which are difficult to predict. CIL income in the short term can be forecast with more certainty because rates are fixed. S106 contributions will be applicable to fewer projects and the Council may not seek a s106 contribution for an item which is on the Regulation 123 List.

12.3 The Mayor of London currently applies a ‘Mayoral CIL’ across London boroughs requiring new developments to contribute to the provision of Crossrail. The Council currently collects this on behalf of the Mayor of London and this will run parallel with the new LB Hackney CIL.

12.4 The Mayor of London has adopted an instalments policy which is currently applied by LB Hackney in the collection of the Mayoral CIL. The Council intends to adopt its own instalments policy and apply it to both the Hackney and Mayoral CIL. This will allow sums in excess of £2m to be paid in additional instalments (See Appendix 3). The Planning Service considers that offering more stages for the receipt of payments acknowledges the cash flow difficulties for larger developments and, believes that the risk of non payment can be managed and is more acceptable than the risk of deterring investment if large initial payments are required.

12.5 This report notes in paragraph 6.17 that from 2001-2010 the Council negotiated £31.5m from s106 contributions; and had the Council applied the proposed CIL rates it could have collected £4.5 to £5.5 million from CIL annually. However, future receipts will depend on the number and scale of developments within the Borough.

12.6 The report also notes that income in 2015/16 will be less than future years because CIL payments being due 60 days after the commencement of development and few developers start on site immediately upon gaining planning permission.
12.7 CIL receipts will contribute to the strategic infrastructure projects within the Council’s Capital Programme. The Council is entitled to retain up to 5% of the Hackney CIL receipts for administrative purposes. In the first three years this may also include the cost of specialised information systems that the Council will implement to manage the CIL.

12.8 Agreed PRS savings proposals for 2015/16 include £150,000 in respect of CIL administrative activities which are to be funded from retained CIL. In addition, the S106/CIL Board agreed that the CIL would fund other relevant posts across the Council. Based on the brought forward balance on the S106 management and monitoring account, where S106 administrative retention and CIL retention is held, and estimates of income going forward, this position would be sustainable up to and including 2016/17. This could change depending on actual income levels. To maintain and ensure transparency and consistency going forward, the Corporate Director of Finance and Resources will develop a protocol for the use of the CIL funds internally.

13. COMMENTS OF THE CORPORATE DIRECTOR OF LEGAL, HR AND REGULATORY SERVICES

13.1 The Planning Act 2008, Part II, provides for the imposition of the Community Infrastructure Levy (CIL) by the Council as a charging authority. The Act and associated Community Infrastructure Levy Regulations 2010 and amendment Regulations 2011, 2012, 2013 and 2014 detail the requirements on how liability to pay CIL is incurred; how CIL is charged and collected; the use of CIL to fund infrastructure; and enforcement arrangements. The recommendations detailed at paragraph 3 are in accordance with the Act and the Regulations.

13.2 The Council must use the receipts raised by CIL to fund infrastructure to support the development of its area. Infrastructure includes roads and other transport facilities, flood defences, schools and other educational facilities, medical facilities, sporting and recreational facilities and open spaces – section 216(2). Affordable housing is excluded but can continue to be secured under the s106 planning contribution process.

13.3 If CIL is to be levied, the Council must issue a Charging Schedule setting out the rates or other criteria by which the amount of CIL chargeable for development in its area is to be determined – s211 of the 2008 Act. The Examiner appointed to assess the Schedule concluded in his report that:

- Subject to one modification, the Charging Schedule (Appendix A of the Examiner’s Report) is set at a level that will not put the overall development of the area at risk;
- The Council discharged the required criteria relating to evidence and economic viability;
• The Charging Schedule complies with the 2008 Act and the Regulations; national policy/guidance; is consistent with the adopted Core Strategy and Infrastructure Delivery Plan; and is supported by an adequate financial appraisal.

13.4 To bring the Charging Schedule into force, the Council must comply with the requirements of Part 3 of the 2010 Regulations (as amended) and detail on the Charging Schedule:

• The date on which the Charging Schedule was approved;
• When it takes effect; and
• A statement that it has been issued, approved and published in accordance with the Regulations and the Planning Act 2008, Part II.

13.5 The Regulation 123 List (Appendix 2) sets out the Council’s relevant infrastructure projects or types of projects that the Council intends will, or may be, wholly or partly funded by CIL Regulation 123 (2). From April 2015, the infrastructure detailed on the List can no longer be secured generally by way of a s106 planning obligation. However, planning contributions will still be required to mitigate matters that are specific to the site (e.g. environmental improvement, traffic management and affordable housing) in accordance with the Revised Planning Contributions Supplementary Planning Document.

13.6 From April 2015, the CIL Regulations limit the number of planning obligations that can be combined for an infrastructure/project to five agreements completed on/after April 2010 thereby imposing a pooling restriction under regulation 123(3). Affordable housing and the Crossrail project are exempt.

13.7 The policies relating to payment by instalments, CIL Exceptions and payment in kind are in accordance with the Act and the Regulations.

APPENDICES

Appendix 1: Hackney CIL Examiner’s Report
Appendix 2: Hackney Draft Regulation 123 List
Appendix 3: Instalment Policy
Appendix 4: Exceptions Policy
Appendix 5: In-Kind Payment Policy
Appendix 6: EqIA

BACKGROUND PAPERS

In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 publication of Background Papers used in the preparation of reports is required

None
| **Report Author** | Ngaire Thomson  
| | 020 8356 6842  
| | Ngaire.thomson@hackney.gov.uk |
| **Comments of the Corporate Director of Finance and Resources** | Philip Walcott  
| | Group Accountant  
| | 020 8356 2396  
| | Philip.walcott@hackney.gov.uk |
| **Comments of the Corporate Director of Legal, HR and Regulatory Services** | Patricia Narebor  
| | Head of Commercial Law  
| | 020 8356 2029  
| | Patricia.narebor@hackney.gov.uk |
Report to Hackney London Borough Council

by Terrence Kemmann-Lane JP DipTP FRTP FRTPI MCMI

an Examiner appointed by the Council

Date: 24 December 2014

PLANNING ACT 2008 (AS AMENDED)
SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT HACKNEY LONDON BOROUGH COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 17 July 2014

Examination hearing held on 29 October 2014

File Ref: PINS/U5360/429/11
**Non Technical Summary**

This report concludes that the Hackney London Borough Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the borough. The Council has sufficient evidence to support the schedule and can show that the levy is set at a level that will not put the overall development of the area at risk.

One modification is needed to meet the statutory requirements. This can be summarised as follows:

- The Draft Charging Schedule should be replaced with a modified Schedule, with extraneous matters removed and a simplified Table of Rates

The specified modification recommended in this report is based on matters discussed during the public hearing sessions and does not alter the basis of the Council’s overall approach or the appropriate balance achieved.

**Introduction**

1. This report contains my assessment of the Hackney London Borough Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008. It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance (Community Infrastructure Levy Guidance – June 2014).

2. To comply with the relevant legislation the local charging authority has to submit what it considers to be a charging schedule that sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the Borough. The basis for the examination on which hearing sessions were held on 29 October 2014 is the submitted schedule of 17 July 2014. This is a version with a number of minor modifications, which have been publicised, and which is effectively the same as the document published for public consultation in January 2014.

3. The Council proposes a matrix approach. Residential development has different charge levels across four zones, the proposed charges being (all per square metre): Zone A £190, Zone B £25, Zone C £55, and Zone D (Woodberry Down Regeneration Area) £0. Commercial development (offices, retail and hotels) has proposed charges differentiated by being located within the City Fringe or within the Rest of the Borough. Office rates are £50 within the City Fringe and £0 elsewhere; retail (except 'Large Format’) £65 in the City Fringe and £0 elsewhere; Hotels £80 in the
City Fringe and £55 elsewhere. Large Format Retail and Student Housing each have a single rate throughout the Borough: £150 for Large Format retail and £373 for Student Housing. All other uses have a nil rate proposed.

4. The rates, including those differentiated by Zone, are based on viability alone. The four Residential Zones and City Fringe Zone are defined on a map – Appendix 1 CIL Charging Zones Map in the submitted Draft Charging Schedule. This map is based on an OS base as required by the CIL Regulations.

5. There is an area of Hackney identified on the Appendix 1 CIL Charging Zones Map as ‘MDC AREA’. This stands for Mayoral Development Corporation and is part of a wider area that was previously known as the Olympic Delivery Authority, and is now referred to as the London Legacy Development Corporation. From 1 October 2012 the London Legacy Development Corporation is the CIL charging and collecting authority in its own right: the Hackney CIL rates do not apply to this area which will be subject to the London Legacy Development Corporation CIL rates when adopted.

Is the charging schedule supported by background documents containing appropriate available evidence?

Infrastructure planning evidence

6. The Hackney Core Strategy (CS) was adopted in November 2010. This sets out the main elements of growth that will need to be supported by further infrastructure in the Borough between 2010 and 2025. The CS has as Appendix 6 the Infrastructure Delivery Plan (IDP) that was developed to support the CS. It is a ‘living’ document and is updated as necessary. The latest version prepared to support the development of the charging schedule is entitled ‘Hackney Infrastructure Assessment Update 2013 – 2017’, dated June 2014. It details the known infrastructure needs of Hackney in order to meet the growth set out in the CS.

7. This Infrastructure Assessment Update provides indicative capital costs of provision of infrastructure across a number of ‘Themes’ (physical, social and green infrastructure). Table 1.1 in this document sets out the estimated costs for the infrastructure themes that are detailed in the report. This shows, based on present available information, a total cost of £314.36 million and an estimate of available funding of £49.28 million. A funding gap of circa £265 million is thereby identified.

8. The Council has provided information on the monetary contributions secured through S106 in Hackney towards the provision of infrastructure in recent years. This excludes the contributions received in-kind, for example, the provision of affordable housing, and local employment and apprenticeships schemes. In the period 2009/10-2012/13 S106
contributions received were: 2009/10 £2.03 million; 2010/11 £3.66 million; 2011/12 £3.80 million; and 2012/13 £3.74 million. The average across these years amounts to £3.3m. However, Hackney’s historic S106 receipts are likely to be lower than predicted income derived from CIL, and based on an analysis of likely CIL receipts, if the Hackney proposed CIL Charging Schedule had been in place between 2001-2010, it is estimated that Hackney would have received CIL income of up to £4.5 million annually.

9. It can be seen therefore that an annual CIL income of £4.5m for the years projected at current values to 2025/26, assuming CIL income from year 2015/16, would amount to some £49.5 million. This would leave £215.5 to be found from as yet unidentified funding sources. In the light of the information provided, the proposed charge would therefore make only a modest contribution towards filling the likely funding gap. The figures demonstrate the need to levy CIL.

Economic viability evidence

10. The Council commissioned a CIL Viability Study (VS), dated December 2013. The VS uses a residual valuation approach: using reasonable standard assumptions to ascertain a ‘residual’ value from gross development value of a scheme after all other costs are taken into account. The costs for producing a scheme include building costs, fees, finance, profit levels, etc, and such matters as affordable housing, planning obligations, and other plan policy costs. Having allowed for all these costs, the resulting figure indicates the sum potentially available for the site purchase – the “residual land value” (RLV). The study methodology compares the RLVs of a range of generic developments to a range of benchmark land values as an indication of existing or alternative land use values relevant to site use and locality. In relation to locality the VS identifies areas or zones where differential rates need to be applied in respect of both residential development and commercial development. Thus for residential development four zones have been adopted, whilst for offices and retail (except large format retail) two zones are identified. Other development forms have rates that apply across the Borough. Where appropriate the VS has taken account of the need for the payment of Mayoral CIL/Crossrail section 106 top-up.

11. The Council commissioned an Addendum Viability Assessment (AVA) that was to consider and take account of the representations received during the consultation on the Draft Charging Schedule, and to take account of the changing market conditions on the viability of developments across the Borough. The consultants produced this in July 2014. In particular this addendum report considered the appropriate inputs to the hotel appraisals; the possible need for differential rates for student housing; the particular zone/rate for Haggerston and issues raised by the promoter of the redevelopment of Bishopsgate Goods Yard.
12. I consider that the scope of the VS and AVA is appropriate to the level of detail required to establish suitable and robust evidence. It provides high level assurance that the CIL rates proposed are not likely to upset the economic viability of development needed to deliver the plan for the Borough. I am satisfied that the VS provides the viability evidence against which to judge the rate of charges proposed by the Council.

Conclusion

13. The draft Charging Schedule is supported by detailed evidence of community infrastructure needs and a funding gap is evident. Accepted valuation methodology has been used, informed by reasonable assumptions about development costs, and local sale prices, rents and yields, etc. On this basis, the evidence that has been used to inform the Charging Schedule is robust, proportionate and appropriate.

Are the charging rates informed by and consistent with the evidence?

CIL rates for residential development

Residential rates generally

14. Representations voice general concerns about the viability of residential development, particularly in those areas of the Borough where estate regeneration is to occur. Of course, Woodberry Down is dealt with specifically (see paragraph 27 below), but it is suggested that similar factors will exist in the regenerative redevelopment of, for instance, Colville, Kings Crescent and Nightingale. There is also concern that the viability of larger developments in parts of Zone A, such as Haggerston, will be at risk because of the rates set.

15. However, no evidence has been put forward, either in respect of estate regeneration, or residential development generally which persuades me that with the rates proposed, based on the VS evidence, such development will not remain viable. Haggerston has been freshly considered in the AVA which shows that sales values have now increased to the same levels as originally used for Dalston and Shoreditch (in which values have also increased), and that these increases in values have significantly exceeded cost growth.

16. As for estate regeneration, as I made clear to the Council in respect of Woodberry Down, low or nil rates can only be justified where there is evidence to support those rates on viability grounds. For the regeneration areas other than Woodberry Down there is no detailed viability evidence to underpin further differential rates. Taking residential rates generally, the VS has ignored the offset for existing floorspace when setting the maximum viable CIL charge, and then a discount (or ‘buffer’) of 25% has
been applied (as well as a £35 allowance for Mayoral CIL) in reaching the Hackney CIL rates.

17. Furthermore, the Council has made clear that if, in spite of the evidence of the VS, detailed viability evidence becomes available in individual estate renewal projects that demonstrate that the scheme is not viable with CIL, discretionary relief can be sought under Regulation 55 in accordance with the Council’s discretionary relief policy (which is to be drafted). In the absence of sufficient detailed viability evidence there is nothing to gainsay the evidence of the VS, so that the expectation at present is that estate regeneration schemes will be viable with the proposed CIL rates in place. The exceptional relief policy can only be viewed as a ‘long stop’ provision. I am persuaded that the residential rates generally have been set at the appropriate balance between helping to fund necessary new infrastructure and maintaining development viability across the Borough.

Bishopsgate Goods Yard

18. The promoters of the redevelopment of Bishopsgate Good Yard (BGY) wish to see this site recognised as a strategic site having regard to its extent – which includes a substantial part within the London Borough of Tower Hamlets, its importance as a mixed use development bringing new jobs and social infrastructure, and its relationship with the wider City Fringe Opportunity Area. It is important to the implementation of the Local Plan and the London Plan. For these reasons it is argued that the whole of BGY, spanning the parts in both Boroughs, should be considered comprehensively and holistically.

19. The CIL regulations refer to ‘strategic sites’, but the term is not specifically defined. The Council has adopted 5% of its planned housing supply as an indicative threshold for defining a strategic site, and I have seen this percentage used as the threshold elsewhere in London. Until recently, BGY was on the cusp of providing 5% of Hackney’s housing supply, but the higher housing target for the Borough set in the Further Alterations to the London Plan have reduced the percentage of this site’s contribution. I am informed that the recent planning application submitted to the Council in October 2014 has some 620 homes in the Borough which amounts to about 2.5% of Hackney’s total housing supply.

20. Therefore, taken simply on the 5% ‘rule of thumb’, BGY does not amount to a strategic site. However, given that it is clearly a large site of importance, I consider that Hackney Council is correct to look at the nature of the development expected in that part of the site which comes within its jurisdiction, and carry out an assessment of the viability of the elements of that development. Within the Hackney CS BGY is seen first and foremost as a designated employment site, where the dominant use is expected to be primarily B class uses. I am told that the mix of uses within the Borough of Tower Hamlets is significantly different and that the expected s106 obligations will be considerably more wide reaching.
21. The Representor places considerable importance on the whole BGY site being considered comprehensively by the two Boroughs and in the viability assessments. I understand that there has been much joint working between the two Boroughs, with the same viability consultants working for each Borough, so that there is a clear understanding of the totality of the site and the policy implications on both sides of the borough boundary. Indeed, at my examination hearing I was given a number of documents which had been prepared for the Tower Hamlets CIL examination relating to BGY (and Wood Wharf and Westferry Printworks within that Borough) which deal, among other things, with the impact of CIL on the provision of affordable housing, current use values, hotel yields and further hotel appraisals, the differentiation between types of retail, and student housing (all within Tower Hamlets Borough of course).

22. In my opinion the matter comes down to this: it is Hackney Borough that is the Charging Authority for its area and it is correct that it should set its own levels of CIL, including for its part of development sites which straddle the Borough boundary, in the light of the conditions, policies and viability evidence in its area. In this connection, and in response to the representations, the Council has undertaken a specific assessment covering the Hackney part of the site. This was sent to the Representors in late July 2014 and, despite two invitations from me to comment, I received no response prior to the hearing.

23. The summarised appraisals (Appendix 1) in the July 2014 viability assessment of the BGY site deals with an Interim Planning Guidance (IPG) Compliant scheme and an emerging scheme with remodelling to achieve a policy compliant development mix (the recently submitted BGY planning application is not policy compliant on the Hackney part of the site). Each scheme is assessed on the basis of current day costs and prices and a growth scenario (assumed grown values and costs). The ‘headline’ results (part 2 of the assessment) are given in terms of the internal rate of return. With the policy requirement of 50% affordable housing, the IPG compliant scheme achieves a current 18.25% IRR, whilst the IRR with ‘growth’ is 24.47%. The emerging scheme has a current IRR of 12.90% and 19.09% grown. Looking at the effect that CIL has on the scheme, the assessment shows a ‘with CIL’ and a ‘No CIL’ outcome, both at current values. An IPG compliant scheme with CIL has an IRR of 18.25%, whilst the emerging scheme achieves 12.90%. The two schemes with no CIL achieve 19.65% and 14.25% respectively. This latter combination suggests that CIL at the proposed levels has a marginal effect.

24. Whilst at the present time it is possible to be optimistic about growth in the immediate future, I do not regard the assumption of growth as a satisfactory means of bolstering the viability outcomes of a viability assessment: such assessments should be on the basis of present day or immediate past values. I therefore take the current value figures in the July 2014 Assessment as the basis on which to draw conclusions.
25. It appears to be common ground that a present day IRR of 14% would be acceptable. As reported above, at current values the IPG compliant scheme is assessed as having an IRR of 18.25% with the proposed CIL charges and a policy compliant 50% affordable housing element. The ‘emerging scheme, on the same basis, would achieve 12.90%. Apart from the fact that I consider it appropriate to base the consideration of CIL charges on schemes which meet policy requirement, I also note two important points made on behalf of the Council in the assessment: within the Council’s policies there is scope for affordable housing content to change in terms of both tenure mix and overall percentage. The difference between private sales and the value of affordable housing means that only a modest reduction in affordable housing generates a significant increase in scheme value. Thus, to generate an IRR that is broadly similar to the 19.65% IRR generated by the IPG compliant scheme (ie the ‘No CIL’ IRR), a reduction in affordable housing from 50% to 41.4% would be required, assuming a fully compliant 60% rented and 40% intermediate tenure mix.

26. As I have noted elsewhere (see paragraph 16 above) the Hackney CIL rates are based on rather conservative assumptions. I am therefore satisfied that the proposed Hackney CIL rates, based on current values, should not change a scheme, acceptable in planning policy terms on the Hackney part of the BGY site, from being viable to being unviable. In the assessment on which this conclusion is based, the Council clearly have the ability to modify requirements for s106 obligations to respond to a viability issue, whilst still remaining within the terms of the policy. I have no convincing evidence to persuade me that BGY should be treated any differently from other development schemes within the Hackney Zone A/City Fringe.

Woodberry Down Regeneration Area

27. As has been identified in paragraph 3 above, Zone D is the Woodberry Down Regeneration Area, and it has a nil rate proposed (the Mayoral CIL of £35 per sqm being payable). In common with all other proposed rate levels, this rate must be informed by, and justified by, robust viability evidence. In the absence of such a justification, the question of whether the proposal is state aid compliant arises.

28. For residential rates, the VS assessed eight areas of the Borough. One of these areas was Finsbury Park/Woodberry N4. This area became Zone C (excluding Woodberry Down Regeneration Area) with a maximum viable charge of £120 per sqm. Within the VS there is no separate assessment of the Woodberry Down Regeneration Area. As a result I requested the Council to supply a viability justification for the Zone D rate.

29. The Council’s response can be found in the document EX2A, the gist of which follows. Woodberry Down Regeneration Area is of unique scale and character, the delivery of which is critical to the scale of housing identified in the development plan. It will provide 5,561 units (gross), equating to...
30.4% of the housing units identified in the draft Site Allocations Local Plan. The Area has unique complexities relating to the decanting and re-housing of existing tenants, and its viability is extremely challenging. It is only achievable by working with a private sector partner. The Council as landowner is not receiving any land payments: all the value of the private housing is being used to cover the costs of decanting and compensating tenants and leaseholders. The Council is well informed about the costs and values of the Scheme by a requirement under the Development Agreement to share financial information, which demonstrates the basis for a nil rate. However the Council is not permitted to place this information in the public domain.

30. Nevertheless there is clear evidence that can demonstrate the lack of commercial viability of the regeneration Scheme. The viability of the Woodberry Down Regeneration Area has been assessed by the Homes and Communities Agency with the result that the scheme was considered as an appropriate recipient of ‘Kick Start’ funding. Since that point, the financial situation has worsened with scaling back of the Kick Start funding and the Council having faced significant budget reductions.

31. The viability of the Scheme has also been tested through the commission of an independent consultant to prepare a report – ‘The Frost Report’ (attached as Appendix 1 to document EX2A) – which was provided as a proof of evidence in the Compulsory Purchase Order Inquiry for phase 2 of the Scheme. This attests to the fact that it is not viable. A summary of the Scheme’s current viability position relating to the recently approved 2013 planning permission is provided in Table 1.14.1 of document EX2A. The headline figures are that the total scheme income is shown to be £1,100 million, whilst the total scheme costs are £1,136 million.

32. I am satisfied from this information that the non-viability of Woodberry Down Regeneration Area demonstrably justifies a nil CIL Rate, notwithstanding that the detailed commercially sensitive figures cannot be made public. I note that the Courts have upheld the fact that confidential information can be taken into account when it is only officers who have seen the figures and not the council committee taking the final decision – see R (Perry) v London Borough of Hackney [2014] EWHC 3499 (Admin). I consider that I am in an analogous position in reaching the conclusion that there is viability evidence which supports the nil rate in Zone D.

Student Housing

33. A Representation suggests that the assumptions in the VS in respect of build costs and rental profiles are not set at the correct levels for student housing: the build costs are too low and there has been a marked reduction in rent levels recently. However, there is little in the way of evidence to substantiate these representations. On behalf of the Representor it is said that it has not been possible to obtain build cost data which can be released into the public domain, and therefore the
lowest build cost used in the VS is accepted and used in submitted appraisals.

34. With regard to the Borough wide rental profile it is said that the Council has used schemes at Aldgate, Mile End (both within Tower Hamlets Borough) and within the City Fringe to establish rental levels, but these cannot reflect Borough wide rents. In addition, the following factors impinge on the situation:

- The purpose built student accommodation market is evolving, such as the possible change in semester length, but this is not reflected in the VS;
- The foreign student market, which has produced higher rental levels, has altered;
- The principal demand is now from the increasingly price-sensitive UK student market;
- These factors with a number of on-going changes, including increasing university fees, results in students seeking more affordable accommodation.

35. As a consequence it is claimed that the market response is a reduction in rental levels, with lending/finance responding to increased risks, which in turn brings a potential significant impact upon scheme viability.

36. However, I do not regard the actual evidence of rent levels provided in the representations as persuasive. Details of some 22 student housing schemes have been provided, showing rents of between £159 and £329. Six of the schemes show that the rent is not available, while 13, with a rent shown, are at levels at or above the £180 used in the Council’s AVA. In addition, the two examples of rents at £159 and £160 are in Tottenham Hale which is not a location that is really representative of a rent level for this Borough.

37. The Council rebuts these contentions by pointing out that the additional evidence in its AVA supports its case, and that the proposed rates are consistent with those set by other boroughs. Since there is an absence of convincing evidence to the contrary, I am satisfied that the Council’s viability assessments are to be preferred and support the proposed CIL charge for Student housing. The lowest rent level assessed in the AVA is £180, and the table shows a profit on cost of 25%, whilst the maximum Borough CIL is shown as £778 psm. Thus the charge of £373 psm proposed is reasonably conservative and is certainly not set at the margins of viability.

38. One further issue needs to be addressed: my attention has been drawn to the Draft Further Alterations to the London Plan and the proposed additional policy text for affordable Student Housing. Whilst I am told that the detail of the implementation remains unknown, this, together with the
possible introduction of shorter semesters (again an intangible matter at present), suggests that there may be changes in the student housing market over the next two years or so. It seems to me that they call for a watch on how matters unfold, with a possible need for an early revision of the rate, rather than that the rate should now be reduced to allow for future uncertainties.

39. My conclusion is that the independently produced VA for the Council strikes the appropriate balance for setting the CIL rate, and that it uses information of development costs and rental values in Hackney to arrive at its findings. Furthermore the proposed rate has an allowance of 54% built in to provide a ‘cushion’ as an additional safeguard. With the caveat that the factors affecting the viability of student housing schemes should be monitored over the next two years or so, and changes proposed if proved necessary, I find the proposed rate for student housing to be set at a level which will allow most schemes in the Borough to remain viable.

Commercial rates

Retail

40. In representations it is suggested that the VA does not provide market evidence to support assertions that there has been an uplift in retail rents in the City Fringe area or for the level of retail rents generally, or that there has been a reduction in yields from 6.5% to 5%. Also the assumptions about the level of rents for existing floorspace and refurbishment costs are challenged. In addition it is said that, in the sensitivity analysis, consideration has not been given to changes in both rents and yields or the addition of increased build costs. Professional fees, demolition and interest costs should be increased, as should be the allowance for external works and contingencies. In particular it is suggested that:

- Developer’s profit should be 25% on cost (VA adopted 20% on cost);
- Rent of £24 per sq ft is too high for a large supermarket (for which some evidence is provided indicating rents of between £19.83 and £24.95 per sq ft);
- Professional fees of 12% should be used in place of the 10% adopted in VA;
- Demolition costs of £10 psf should be used in place of the £5 psf adopted in VA;
- Development period should be increased from 18 months (to an unspecified period);
- External works should be increased from 10% to 12%;
- Contingency should be increased from 5% to 10%.

41. Whilst these representations do not themselves include any evidence that demonstrates that the inputs to the studies are incorrect, I asked the
42. For the Council the response was that none of the suggested changes are supported by evidence, and that indeed, in the Representor’s own consultant’s CIL Viability Study undertaken on behalf of Sandwell MBC (SMBC) in March 2014 (the same time as the representation to Hackney (LBH) was drafted), the authors adopted the following appraisal inputs:

<table>
<thead>
<tr>
<th>Appraisal input</th>
<th>Representor’s suggested rate for LBH</th>
<th>Representor’s adopted rate in SMBC</th>
<th>Assumption adopted in LBH VA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developer’s profit</td>
<td>25%</td>
<td>20%</td>
<td>20%</td>
</tr>
<tr>
<td>Rent</td>
<td>Not specified</td>
<td>£20</td>
<td>£24</td>
</tr>
<tr>
<td>Professional fees</td>
<td>12%</td>
<td>10%</td>
<td>10%</td>
</tr>
<tr>
<td>External works</td>
<td>12%</td>
<td>10%</td>
<td>10%</td>
</tr>
<tr>
<td>Contingency</td>
<td>10%</td>
<td>5%</td>
<td>5%</td>
</tr>
<tr>
<td>Yield</td>
<td>n/a – but alleged to be too high</td>
<td>5.25%</td>
<td>5.00%</td>
</tr>
<tr>
<td>Rent free period</td>
<td>No comment</td>
<td>12 months</td>
<td>24 months</td>
</tr>
</tbody>
</table>

43. As can be noted above, the LBH assumptions on profit, professional fees, external works and contingency are consistent with those adopted in the SMBC Viability Study, and no rationale is provided for the difference in the appraisal inputs suggested for LBH and those they adopted in the advice to SMBC. In addition, a 24 month rent free period was allowed in LBH VA, which is double that allowed for in the SMBC study.

44. Of course it needs to be borne in mind that inputs which may be appropriate for Sandwell are not necessarily appropriate for Hackney. However, my conclusions in respect of this representation are that nothing has been raised which suggests to me that the proposed rates for retail development are not based on reasonable assumptions and that they are unlikely to have a significant impact on development viability. No change is justified.

Hotels

45. A representation suggests that the VA and other supporting evidence are not founded on sound data since only two hotel related appraisals are considered. Both are standalone schemes comprising 100 bedroom units. A hotel of such a scale is not considered to be representative of all
development schemes that would be proposed within the Borough. Furthermore, the study has appraised only hypothetical schemes coming forward across the borough. The commercial assumptions are based on an intensification of the existing use on the site (see paragraph 4.37 within the VA) that does not reflect the characteristics of local market conditions or variations in land values across the Borough. The capital value assumptions, with construction costs at £135 psf, yields of 6% and a 6 month rent free period are not considered to be realistic. The 6% yield assumed for both hotel schemes appraised is said to be aggressive particularly given that one of the developments is not located within the City Fringe.

46. The differential rates are also challenged since they can only be charged where there is a different intended use of development by geographic area, development category or size. The question is asked: what is the real difference in ‘intended use’ between hotel schemes operating either side of the City Fringe? Furthermore, areas which are at increasing distance from this zone boundary will experience differential and reducing values. Variations in values will also occur at a more localised level, due to public transport links for example. In any event, since the Draft Charging Schedule does not distinguish between luxury and budget hotels, a rate should be set which can more suitably accommodate both. There is also concern that there is no site specific information, or any attempt to work out an average figure for s106 financial contributions. This would be a useful important indicator of the reasonableness of the CIL rates.

47. I conclude that these concerns are not convincing arguments against the approval of the proposed CIL rates for Hotels. In particular, no evidence is provided which would justify different assumptions in the VA, and I am satisfied that the Council’s justification for the rates is based on the best available evidence. The hotel appraisals have been based on conservative assumptions by using generally lower value budget hotels, and the CIL rates are only likely to represent between 1.13% of scheme value in the City Fringe and 0.80% elsewhere. The VA appraised actual schemes that have come forward in London recently and are likely to be appropriate in Hackney.

48. Differentiation by use and geographic zones, based upon viability of the use, is permitted by CIL Regulation 13(a). The differentiation of the hotel rate by geographic area also reflects the added requirements placed on development in the City Fringe by the London Plan Supplementary Planning Guidance on ‘Use of planning obligations in the funding of Crossrail’. Development plan policies look to focus new hotel development in the growth areas with high Public Transport Accessibility Levels (PTALs), so that proximity to public transport links is unlikely to be a differentiator in most hotel development locations.

49. In respect of s106 contributions, historic figures are not necessarily a guide to the situation under a CIL regime. For instance in recent years
s106 negotiations will have taken place in a changing financial climate. Additionally s106 is concerned with mitigating the adverse effects of development, whereas CIL is calculated on additional floorspace at rates set on economic viability grounds.

50. I am satisfied that there has been no convincing basis put before me to recommend a modification to the proposed CIL rates for hotel development.

Other Matters

Stamford Hill

51. There is a matter relating to Stamford Hill on which it is appropriate to make a recommendation. The Council is not proposing to amend any of the boundaries relating to the residential charging zones shown in Appendix 1: Charging Zones Map, which are based on viability in accordance with regulations and the CIL guidance. This matter relates to Table 3 of the Draft Charging Schedule and is proposed merely in recognition that Stamford Hill (the suburb) is covered by both charging zones B and C. Given that Hackney’s suburbs and the charging zones cover different areas, the Council wishes to remove from Table 3 the indicative list of suburbs included under each charging zone so as not to give rise to any confusion. This has been achieved in the modified version of the Charging Schedule as described in the following paragraphs 52 and 53.

Content and setting out of the Draft Charging Schedule

52. I suggested to the Council that there appears to be scope for reducing the content and making some changes to the layout of the Draft Charging Schedule, which would make the document more user-friendly. For example there is much text which would have been very useful at the stage of inviting representations, but which might now be omitted. Also, the levy schedules themselves, Tables 3 and 4, contain what seems to me to be unnecessary explanatory information and could be combined into a single simplified table.

53. The Council agreed with my suggestion to look again at the content and setting out of the Schedule, and have provided the modified version which is set out in Appendix A to this report. I consider that it provides for a document that is easier to understand and I am pleased to make the recommendation. This modification also deals with the matter mentioned in paragraph 51 above.

**Does the evidence demonstrate that the proposed charge rate would not put the overall development of the area at serious risk?**

54. The Council’s decision to use a part matrix approach to its CIL charges is
based on reasonable assumptions about development values and likely costs. The evidence suggests that residential and commercial development will remain viable across most of the area if the charge is applied. No evidence has been put forward which convincingly suggests that the proposed rates would put development in the Borough at risk.

**Conclusion**

55. In setting the CIL charging rate the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Hackney Borough. The Council has sought to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a majority of development remains viable across its area.

**LEGAL REQUIREMENTS**

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>2008 Planning Act and 2010 Regulations (as amended)</td>
<td>The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Core Strategy and Infrastructure Delivery Plan and is supported by an adequate financial appraisal.</td>
</tr>
</tbody>
</table>

56. In the light of the above, and having regard to all other matters raised in writing and at the hearing sessions, I conclude that, subject to the modification set out in Appendix A, the Hackney London Borough Community Infrastructure Levy Charging Schedule satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that the Charging Schedule be approved. I also recommend that the factors affecting the viability of student housing schemes should be monitored over the next two years or so, and changes proposed if proved necessary.

**Terrence Kemmann-Lane**

Examiner

This report is accompanied by Appendix A Modification that the examiner specifies so that the Charging Schedule may be approved.
Appendix A

Modification that the examiner specifies so that the Charging Schedule may be approved.

Replace the existing Draft Charging Schedule with the modified Charging Schedule set out below:

[Title page]
London Borough of Hackney
Community Infrastructure Levy
Charging Schedule
XXXXXXXXX 2015
Hackney Community Infrastructure Levy Charging Schedule

The Charging Authority: This is the Community Infrastructure Levy (CIL) Charging Schedule for the London Borough of Hackney. The London Borough of Hackney is a CIL Charging Authority according to Part 11 of the Planning Act 2008 (as amended).

Date of Approval: This Charging Schedule was approved on XXXXX 2015.
Date of Effect: This Charging Schedule will take effect on XXXXX 2015.

This Charging Schedule has been issued, approved and published in accordance with the Community Infrastructure Levy Regulations 2010 (as amended) and Part 11 of the Planning Act 2008 (as amended).

Schedule of Rates: The rate (per square metre of Gross Internal Area) the London Borough of Hackney is to charge CIL in respect of development across the borough is as follows:

<table>
<thead>
<tr>
<th>Type of Development and Zone</th>
<th>Hackney CIL (£ per sqm)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential – Zone A</td>
<td>£190</td>
</tr>
<tr>
<td>Residential – Zone B</td>
<td>£25</td>
</tr>
<tr>
<td>Residential – Zone C</td>
<td>£55</td>
</tr>
<tr>
<td>Residential – Zone D</td>
<td>£0</td>
</tr>
<tr>
<td>Offices – City Fringe</td>
<td>£50</td>
</tr>
<tr>
<td>Offices – Rest of Borough</td>
<td>£0</td>
</tr>
<tr>
<td>Large Format Retail(^1) – whole Borough</td>
<td>£150</td>
</tr>
<tr>
<td>Other Retail – City Fringe</td>
<td>£65</td>
</tr>
<tr>
<td>Other Retail – Rest of Borough</td>
<td>£0</td>
</tr>
<tr>
<td>Hotel – City Fringe</td>
<td>£80</td>
</tr>
<tr>
<td>Hotel – Rest of Borough</td>
<td>£55</td>
</tr>
<tr>
<td>Student Housing – whole Borough</td>
<td>£373</td>
</tr>
<tr>
<td>All Other Uses, including development of operational buildings by the emergency services</td>
<td>£0</td>
</tr>
</tbody>
</table>

\(^1\): Convenience based supermarkets and superstores and retail warehousing. Superstores/supermarkets and shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit. Retail warehouses are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering for mainly
car-borne customers.

A map showing the above-mentioned zones is attached as Appendix 1.

The area of Hackney identified on the map as MDC (Mayoral Development Corporation) is part of a wider area that was previously known as the Olympic Delivery Authority (ODA) and is now referred to as the London Legacy Development Corporation (LLDC). The LLDC as of the 1st of October 2012 is a CIL collecting and charging authority in its own right, and adopted a Charging Schedule on XXXX which contains the proposed rates pertaining to that area

The Hackney CIL rates do not apply to the LLDC area.

**CIL Chargeable Development**

A chargeable development is one for which planning permission is granted and which is liable to pay CIL in accordance with the Community Infrastructure Levy Regulations 2010 (as amended) (hereafter, the CIL Regulations).

2 The LLDC CIL Charging Schedule can be viewed at http://www.londonlegacy.co.uk/planning-policy-and-decisions/community-infrastructure-levy/

The CIL Regulations specify that CIL will be charged on net additional floorspace of all new development, other than those exempt under Part 2 and Part 6 of the CIL Regulations, which can be summarised as follows:

- Development of less than 100 square metres (see Regulation 42 of the CIL Regulations) – unless this is a whole dwelling, in which case the levy is payable;
- Houses, flats, residential annexes and residential extensions which are built by ‘self builders’ (see Regulations 42A, 42B, 54A and 54B of the CIL Regulations);
- Social housing that meets the relief criteria set out in Regulation 49 or 49A of the CIL Regulations;
- Charitable development that meets the relief criteria set out in Regulations 43 to 48 of the CIL Regulations;
- Buildings into which people do not normally go (see Regulation 6(2) of the CIL Regulations);
- Buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery (see Regulation 6(2) of the CIL Regulations);
- A building for which planning permission was granted for a limited period (see Regulation 40 of the CIL Regulations);
- Structures which are not buildings, such as pylons and wind turbines;
- Specified types of development which the charging authority has determined should be subject to a ‘zero’ rate and specified as such in the relevant charging schedule;
- Vacant buildings brought back into the same use, in certain circumstances (see Regulation 40 of the CIL Regulations);
- Where the levy liability is calculated to be less than £50, the chargeable
amount is deemed to be zero so no levy is due;
- Mezzanine floors of less than 200 square metres, inserted into an existing building, are not liable for the levy unless they form part of a wider planning permission that seeks to provide other works as well.

This information is accurate at the date of publication on the xxxxxx 2015.

For up to date guidance on the Community Infrastructure Levy, refer to: http://planningguidance.planningportal.gov.uk/blog/guidance/communityinfrastructure-levy/

Calculating CIL

CIL will be calculated as set out in Part 5 of the CIL Regulations.

This means that CIL will be charged on the total net additional floorspace created (measured as Gross Internal Area) subject to the relevant exemptions outlined above.

The rate shown shall be updated annually for inflation in accordance with the Building Cost Information Service (BCIS) of the Royal Institution of Chartered Surveyors’ All In Tender Price Index.

Relief from Payment of CIL

The following types of development will usually be exempt from CIL and can apply for relief from the payment of the London Borough of Hackney CIL.

- Development to be let as social housing, in accordance with the specific provisions of Regulation 49 of the CIL Regulations;
- Development by registered charities where the development will be used wholly, or mainly, for charitable purposes (Regulation 43 of the CIL Regulations).

Under sections 55 to 58 of the CIL Regulations, the Council has the option to provide discretionary relief in ‘exceptional circumstances’. It is the Council’s intention to allow discretionary relief, where appropriate. For further information please refer to the Council’s website at www.hackney.gov.uk/hcil.

For further information on other forms of relief from CIL, please see Community Infrastructure Levy Guidance June 2014 on the Planning Portal website at http://planningguidance.planningportal.gov.uk/blog/guidance/communityinfrastructure-levy/relief/.

Payment by Instalments

In accordance with Regulation 69B of the CIL Regulations, London Borough of
Hackney will allow the payment of CIL by instalments.

For further information on Hackney’s Instalments Policy please refer to the Council’s website at www.hackney.gov.uk/hcil.

**Monitoring CIL and the Regulation 123 List**

Hackney’s CIL Charging Schedule will be reviewed periodically to take into account changing viability evidence.

Hackney has developed a “Regulation 123 List” which sets out how CIL receipts will be applied to infrastructure needed to support the growth set out in Hackney’s Local Plan. Hackney’s “Regulation 123 List” is available on the Council’s website at www.hackney.gov.uk/hcil. This document will also be reviewed periodically to reflect the borough’s infrastructure priorities.

The funds accrued through Hackney’s CIL will be applied to items on Hackney’s Regulation 123 List”, and the CIL expenditure will be published annually in accordance with the CIL Regulations.

Further information about the Community Infrastructure Levy is available on the Council’s website at www.hackney.gov.uk/hcil.
Appendix 1: Charging Zone Map
Appendix 2

Hackney’s Draft Regulation 123 List

- Provision, improvement, replacement, operation or maintenance of new and existing infrastructure for education.

- Provision, improvement, replacement, operation or maintenance of new and existing transport infrastructure, including:
  - Support to TfL investment relating to Stoke Newington Gyratory
  - South Hackney one-way system
  - Cycle hire scheme extension to areas outside designated town centres
  - A10 junction/corridor improvements excluding those secured through s106 or s278
  - Regents Canal Parallel route
  - Cycling improvements excluding those secured through s106 or s278
  - Pedestrian and public realm improvements excluding those secured through s106 or s278
  - Road asset management improvement to repair footways and resurface carriageways excluding those secured through s106 or s278
  - Ultra Low Emission Zone.

- Provision, improvement, replacement, operation or maintenance of new and existing open space, including:
  - Abney Park Cemetery
  - Daubeney Green
  - London Fields
  - Mabley Green
  - Millfields Play area and landscaping
  - Springfield Park.

- Provision, improvement, replacement, operation or maintenance of new and existing health and social care facilities
- Provision, improvement, replacement, operation or maintenance of new and existing community halls
- Provision, improvement, replacement, operation or maintenance of new and existing cultural facilities
- Provision, improvement, replacement, operation or maintenance of new and existing libraries (e.g. Stoke Newington Library)
- Provision, improvement, replacement, operation or maintenance of new and existing youth facilities
- Provision, improvement, replacement, operation or maintenance of new and existing leisure and sports facilities
- Provision, improvement, replacement, operation or maintenance of new and existing infrastructure to support sustainable energy, waste and water, and ICT infrastructure (e.g. district heating systems)
- Provision, improvement, replacement, operation or maintenance of new and existing flood alleviation and mitigation
- Provision, improvement, replacement, operation or maintenance of new and existing infrastructure to support street markets
- Provision, improvement, replacement, operation or maintenance of new and existing emergency services
- Provision, improvement, replacement, operation or maintenance of new and existing infrastructure to support rivers and canals, excluding works to the towpaths &/or their access required to make development adjacent to river and canals acceptable.

Unless the need for specific infrastructure contributions arises directly from:

a) fewer than five developments, where section 106 planning obligations arrangements may continue to apply if the infrastructure is required to make the development acceptable in planning terms; or

b) a need for highways alterations, reinstatement or other works necessary to make a development acceptable in planning terms, where s278 Highways Agreements will continue to apply.
Appendix 3

Payment by Instalments

The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) allow collecting authorities to introduce an instalment policy for paying CIL to spread the payments of larger CIL liabilities across a longer timeframe than the standard 60 day payment window set out in the Regulations.

The Mayor of London has adopted an instalments policy which is currently applied to the collection of Mayoral CIL. This is as follows:

<table>
<thead>
<tr>
<th>Amount of CIL Liability</th>
<th>Payment periods and amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>For developments where the CIL payable is £50 - £500,000</td>
<td>The whole amount shall be paid not more than 60 days after commencement of the development.</td>
</tr>
<tr>
<td>For developments where the CIL payable is £500,000+, developers will have the option to make two instalment payments</td>
<td>The greater of £500,000 or half the value of the total payable amount 60 days after commencement and; the remainder 240 days after commencement.</td>
</tr>
</tbody>
</table>

However under the CIL Regulations, where a borough has introduced its own instalment policy; this will apply to the collection of both the Borough and the Mayoral CIL. The London Borough of Hackney intends to adopt its own instalments policy relating to both its own CIL collection and to replace the Mayor’s policy when collecting CIL on behalf of the Mayor. The Council’s policy allow sums in excess of £2m to be paid in additional instalments. It is considered that offering more stages for the receipt of payments acknowledges the cash flow difficulties for larger developments.

The Council’s proposed instalment policy is as follows:

<table>
<thead>
<tr>
<th>Proposed - Hackney Instalments Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount of Total CIL Liability</td>
</tr>
<tr>
<td>Amounts equal to or more than £50 but less than £500,000</td>
</tr>
<tr>
<td>Amounts equal to or more than £500,000 but less than £2,000,000</td>
</tr>
<tr>
<td>Amounts equal to or more than £2,000,000 but under £8,000,000</td>
</tr>
<tr>
<td>Amounts equal to or more than £8,000,000</td>
</tr>
<tr>
<td>£8,000,000</td>
</tr>
<tr>
<td>------------</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>

This policy will be effective from the day the London Borough of Hackney CIL Charging Schedule comes into effect on XXX XXX 2015.
Appendix 4

Community Infrastructure Levy (CIL) Exceptions Policy

It is the intention of Hackney Council to offer developers the ability to apply for relief under Regulation 55 of the CIL Regulations 2010 (as amended) (the Regulations).

This policy will be effective from the day the London Borough of Hackney CIL Charging Schedule comes into effect on XXX XXX 2015.

This relief will only apply to the Hackney Borough CIL. It will not apply to the Mayoral CIL as the Mayor does not offer Exceptional Relief. Mayoral CIL will be collected in accordance with the Hackney Borough Instalments Policy. Hackney Council will therefore not refer any claim for relief to the Mayor of London as would be required under Regulation 55(4) of the Regulations.

The granting of relief from CIL is at the Council’s discretion and will only be agreed after rigorous analysis of the viability information for the development which must be submitted in full.

The viability report must be analysed by a suitably qualified independent expert at the applicant’s expense.
Appendix 5

London Borough of Hackney Payment In Kind Land and Infrastructure Payment Policy

The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) (the Regulations), allow the Council to accept full or part payment of a CIL liability by way of a physical provision of land and / or infrastructure to the Council.

In accordance with Regulations 73, 73A, 73B and 74, the Council as the charging authority for the area will allow the payment of CIL by such physical provision.

Any agreement signed between the Council and a developer in regards to the in kind provisions of the Regulations is not to form part of an agreement signed under s106 of the Town and Country Planning Act 1990.

This policy will be effective from the day the London Borough of Hackney CIL Charging Schedule comes into effect on XXX XXX 2015.

Conditions for In Kind Payments

The infrastructure or land to be provided must be related to the provision of those projects listed in the Council's Regulation 123 list.

The infrastructure or land offered may not be necessary to make the proposed development acceptable in planning terms.

Any agreement relating to such an in kind payment must be made before the chargeable development commences.

Land or infrastructure must be valued by a suitably qualified independent valuer who, in the case of land, will ascertain its ‘open market value’, and in the case of infrastructure the cost (including related design cost) to the provider. This will determine how much liability the ‘in-kind’ payment will off-set.

Hackney will require the valuation costs to be demonstrated at the applicant’s expense.

The Council is not obliged to accept any offer of payment in kind by land or infrastructure.

If agreed, payments in kind must be provided to the same timescales as cash payments, or otherwise on an agreed basis, subject to the provisions in the regulations and any other State Aid considerations.

Payments in kind may only be made with the agreement of the liable party, the London Borough of Hackney, and any other relevant authority that will need to assume a responsibility for the land or infrastructure.

The London Borough of Hackney and any other authorities effected should agree the infrastructure projects or types which will form part of an authority's infrastructure payment policy and the terms of any relevant infrastructure payment agreement entered into.
Please refer to Regulations 73, 73A, 73B, and 74 of the Regulations for the full details relating to payments in kind.
The Equality Impact Assessment Form is a public document which the Council uses to demonstrate that it has complied with Equalities Duty when making and implementing decisions which affect the way the Council works.

The form collates and summarises information which has been used to inform the planning and decision making process.

All the information needed in this form should have already been considered and should be included in the documentation supporting the decision or initiative, e.g. the delegate powers report, saving template, business case etc.

Equality Impact Assessments are public documents: remember to use at least 12 point Arial font and plain English.

The form must be reviewed and agreed by the relevant Assistant Director, who is responsible for ensuring it is made publicly available and is in line with guidance. Guidance on completing this form is available on the intranet.  
http://staffroom.hackney.gov.uk/equalities-based-planning-and-decision-making

Title and purpose of this Equality Impact Assessment:

| Equalities Impact Assessment of Hackney’s Community Infrastructure Levy (CIL) Charging Schedule |

Purpose of this Equality Impact Assessment:

| The purpose of this Equality Impact Assessment is to assess the impact of Hackney’s CIL Draft Charging Schedule on the nine protected characteristics identified in the Public Sector Equality Duty. The Equality Duty requires public bodies to consider equalities and good community relations at every stage of the decision making process in order that the Council’s policies and practices eliminate unlawful discrimination; advance equality of opportunity; and, foster good relations. |

Officer Responsible: (to be completed by the report author)

| Name: Jane Havemann Ngaire Thomson | Ext: 7807 Ext: 7826 |
| Directorate: Legal, HR and Regulatory Services | Department/Division: |

Assistant Director: John Allen Date:  

Comment :

PLEASE ANSWER THE FOLLOWING QUESTIONS:

1. Please summarise the service, function, policy, initiative or saving. Describe the key objectives and outcomes you expect. Make sure you highlight any proposed changes.

The Community Infrastructure Levy (CIL) was introduced under the Planning Act 2008.
Community Infrastructure Levy (CIL) is a new planning charge that came into force on 6 April 2010. The levy permits local authorities in England and Wales to raise contributions from developers to help pay for infrastructure that is needed as a result of development.

Local authorities who wish to charge the levy must produce a charging schedule setting out CIL rates for their area, which are to be expressed as pounds (£) per square metre (m²).

CIL will be payable on most new buildings that are intended for people to normally use. It will be levied on all new dwellings created and/or the net additional floorspace created by any given development scheme, where the increase is greater than 100m². Any new building that replaces existing floorspace on the same site will be exempt from CIL, even if the new floorspace is intended for a different use than the old (for example, apartments replacing an office block).

CIL will not be charged on affordable housing or on buildings owned by charities and used for charitable purposes.

By April 2015, CIL will replace Section 106 agreements as the principal means by which developer contributions are collected towards providing the necessary infrastructure to support new development. The Council will still use Section 106 to mitigate the site specific impacts of development and for provision of affordable housing. However, local authorities will only be able pool up to five s106 contributions signed since April 2010 which precludes the Council using s106 to fund strategic infrastructure elements, such as education.

Instead, the Legislation and accompanying Regulations allow Local Authorities in England and Wales to collect and pool CIL contributions from developers to help pay for infrastructure that is necessary to support new development, such as; transport, community and leisure facilities, schools, and public open spaces.

Therefore, the Council proposes to implement CIL for the following reasons:

- CIL will help to fund the infrastructure needed to deliver growth set out in the Council’s Core Strategy;
- CIL will be applicable to more developments than Section 106 covers, better reflecting the impacts that all development has on infrastructure, services and amenities;
- CIL is a fixed charge and making developer contributions more transparent, and providing greater certainty to developers over what levels of contributions will be required, therefore ensuring it will be less time consuming than entering into negotiations around s106 contributions;
- A proportion of all CIL receipts will be passed back to the communities in which development has taken place.

Hackney’s CIL Charging Schedule must be accompanied by robust and credible evidence regarding the borough’s infrastructure needs, and evidence that the proposed charges are economically viable. As such, two key pieces of work have been undertaken:

- Hackney’s Infrastructure Delivery Plan (IDP) has been updated - this document details infrastructure needed to support the growth identified in Hackney’s Core Strategy, costs of infrastructure and the funding gap; and,
- An economic viability assessment has been carried out to determine the economically viable charging rates in Hackney. BNP Paribas were commissioned to undertake this work on behalf of the London Borough of Hackney. A viability
study underpinned the Preliminary Draft Charging Schedule which went out for consultation in May/June 2013, and, as a result of responses received during that round of consultation as well as changes to Statutory Guidance and CIL Regulations, the viability study was revised by BNP Paribas. The revised viability study supported the rates presented in the Draft Charging Schedule (DCS) which went out for consultation in January/February 2014. Following this consultations an addendum viability report was produced to provide further clarification on the viability and to address responses to the consultation.

To provide an open and transparent spend process for CIL receipts, a list of the infrastructure types or items which the Council intends to fund in whole or in part with CIL funds has been prepared. This list is referred to as a Regulation 123 List. The Regulation 123 List has been developed using the Sustainable Community Strategy, the Core Strategy, and the Infrastructure Delivery Plan, and was consulted on publicly as part of the consultation on the Draft Charging Schedule in January / February 2014.

2. Who are the main people that will be affected? Consider staff, residents, and other external stakeholders.

There are two main aspects to the implementation of Hackney’s CIL charging schedule that may have an impact on equalities, as follows:

a) The CIL charging rates which apply to development

External stakeholders, particularly developers, are the main people who will be affected by the change to CIL. The CIL regulations were revised in 2014 to exclude homeowners who wish to extend their homes from paying CIL even if it is by more than 100 square metres of Gross Internal Area.

The community impacts of the implementation of the CIL Charging are minimal in terms of the cost to the community as the developers bear the entire cost of the CIL charge. The community will benefit from the spend of CIL on infrastructure requirements linked to new development.

CIL will not affect the Council’s policy to require affordable housing delivery as this will continue to be delivered through s106 agreements. Therefore the introduction of CIL will not affect any resident’s entitlement to affordable housing, including residents with any of the nine protected equalities characteristics.

Hackney staff will also be affected as the CIL charge will represent a new element of processing planning applications, and management of CIL funds will occur in a similar way to the way in which flexible s106 funds are managed.

b) Delivery of infrastructure funded (in whole or in part) by CIL

The money generated through CIL for the purpose of funding infrastructure (in whole or in part) needed as a result of new development and growth, can be spent on a wide range of infrastructure that may improve access to, for example: education and training; community and recreational facilities; and, open space. According to the Office of
National Statistics and following the 2011 census, Hackney is a very densely populated borough with 129 people per hectare making it the third mostly densely populated in London: the need for access to community infrastructure, for example, quality open space and community facilities, may therefore be greater in Hackney than in other boroughs. Improved provision of such infrastructure resulting from the spend of CIL will have a positive impact on a number of different groups in the borough. Therefore, the main people who will be affected by the delivery of infrastructure funded in whole or in part by CIL will be residents, as well as those people working and doing business in Hackney.

The central Government is attempting to incentivise communities to accept or encourage development in their areas by requiring a proportion of funds raised through CIL be used to fund local infrastructure in the neighbourhoods in which new development takes place. CIL Regulations are worded to achieve this aim. This means that where a neighbourhood has a Neighbourhood Plan in place they will receive 25% of CIL receipts accrued in that neighbourhood. If no Neighbourhood Plan is in place, the neighbourhood will receive 15% of CIL receipts in that area.

CIL Regulations and Guidance also require a charging authority’s charging schedule to be based on the economic viability of development in a locality. This means that areas with higher land values (such as Dalston) have a higher level of CIL than areas with lower land values, such as Hackney Wick.

These two regulatory requirements can create inequalities for the delivery of local CIL funded infrastructure through the ‘neighbourhood proportion’. For example, as the community proportion that neighbourhoods will have to spend on local infrastructure is based on both CIL rates and the quantum of chargeable development, areas such as Dalston will receive significantly more of the neighbourhood funding than other neighbourhoods where the level of development is low, or where the CIL rate is low.

The Council is aware of the inherent disparities of CIL receipts over different geographic areas in the borough, and will continue to utilise other funding sources to provide infrastructure and support for all areas of the borough. Strategic infrastructure (infrastructure that will benefit the entire borough) will however be able to be delivered wherever required, and made available to everyone.

### 3. What research or consultation(s) have been carried out? Please provide more details, together with a summary of what you learned.

The development of Hackney’s CIL Charging Schedule has been undertaken with active consultation of both internal and external stakeholders.

Internally, there has been ongoing consultation with officers from around the Council on the development of the CIL Charging Schedule. Officers from Legal Services, Housing, Property Services, Planning, and Finance have all provided input.

There has also been an officer working group that meets monthly to look at the development of the CIL Charging Schedule, including infrastructure requirements and costs. This working group is chaired by the Assistant Director for Planning and Regulatory Services.

The CIL/Section 106 Corporate Board, chaired by the Corporate Director of Finance and Resources also meets quarterly and oversees the development of CIL. This group was been involved with identifying infrastructure requirements, costs and the funding gap.
Discussions have also been ongoing with the Lead Member for Regeneration and the Mayor.

Externally, in March 2012, a consultation with developers took place (led by BNP Paribas who were commissioned to undertake Hackney’s Economic Viability Assessment to determine viable levels of CIL). Developers who attended the consultation meeting provided the following key information:

- How viability changed across residential areas in Hackney;
- That Shoreditch was the main area with commercial viability; elsewhere there was much lower demand for retail and commercial;
- There exists a need to balance affordable housing requirements with the CIL charge;
- Developers prefer there not to be too many different CIL charging areas and there is a danger that too complicated a charging schedule could mean commercial uses in some areas not coming forward;
- Developers prefer certainty from the outset.

During the consultation period for the Preliminary Draft Charging Schedule, the following methods were used to encourage representations and information sharing:

- Two advertisements were placed in Hackney today;
- Information was available on Hackney’s webpage;
- Council offices and libraries had copies of documents for consultation;
- Officers attended the Developer User Forum, coordinated by Hackney’s planning department;
- All consultees on the LDF database were sent a letter or email;
- An open day with relevant material on display and staff available to respond to queries was held in order to allow members of the public and other stakeholders to seek information or clarification.

All representations (comments) received during consultation on the Preliminary Draft Charging Schedule, and the Council’s response to these, have been available on the Council’s website since consultation on the Draft Charging Schedule began in January 2014.

During the consultation period for the Draft Charging Schedule, the following methods were used to encourage representations and information sharing:

- Two advertisements were placed in Hackney today;
- Information was available on Hackney’s webpage;
- Council offices and libraries had copies of documents for consultation;
- Officers attended the Developer User Forum, coordinated by Hackney’s planning department;
- All consultees on the LDF database were sent a letter or email;
- An open day with relevant material on display and staff available to respond to queries was held in order to allow members of the public and other stakeholders to seek information or clarification.

In addition, a consultation plan was produced for the Draft Charging Schedule which provided details of a programme of consultation methods that were used to engage internal and external groups on Hackney’s Draft CIL Charging Schedule. The consultation methods detailed are consistent with Hackney’s Statement of Community Involvement (SCI) and legislation.
All representations (comments) received during consultation on the Draft Charging Schedule, and the Council’s response to these, were made available on the Council’s website when the Draft Charging Schedule was submitted for Examination in July 2014.

When the Draft Charging Schedule was submitted to the Planning Inspectorate for Examination.

- two advertisements were placed in Hackney Today;
- information was available on Hackney’s website;
- Council offices and libraries had copies of documents submitted; and
- Statutory consultees and respondents to the DCS consultation were sent a letter or email.

Following the submission of the Draft Charging Schedule for Examination the Programme Officer undertook correspondence with the Examiner and the Respondents to the DCS Consultation.

Following the confirmation of the Examination date,

- notices were placed in Hackney Today and Hackney Gazette Hackney Libraries and Council Offices
- information was made available on the Hackney website
- Respondents to the DCS consultation were sent an email from the Programme Officer.

Following the release of the finalised Examiner’s report:

- Respondents to the DCS consultation were sent an email with the report attached.
- The report was made available on the Hackney website; and at Hackney Libraries and Council Offices.

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4. Equality Impacts

This section requires you to set out the positive and negative impacts that this decision or initiative will have on equalities.

Detailed information on how to consider the impacts on equalities is included in ‘Guidance on equalities based planning and decision making’ which can be downloaded from the intranet [here](#).

4 (a) What positive impact could there be overall, on different equality groups, and on cohesion and good relations?

The Government’s Equality Duty identifies nine protected characteristics. The CIL Charging Schedule and subsequent spend of CIL will have the following impacts on these groups:

**Race** – Hackney is one of the most ethnically diverse boroughs in London with well-established Orthodox Jewish, Caribbean, Vietnamese and Turkish communities alongside newer African and Chinese communities. According to the 2011 Census, around 45% of the population come from Black and Minority Ethnic groups with the largest group (approximately 23% being African or Caribbean or Other Black). The Orthodox Jewish community represent an estimated 7.4% of the population according to the Mayhew study, and are located primarily in the north of the borough, in the wards of Brownswood, New River and Springfield. Hackney also has a sizable Turkish and Kurdish community, which makes up 6% of the population according to Hackney Household Survey (2004).
Hackney’s Housing Needs Assessment (2009) showed that Black and Turkish or Kurdish groups tended to be more likely to live in social rented property. The sample of Charedi Jewish households was not sufficient to show levels of housing need or overcrowding; however it was noted that they showed characteristics (low income, high proportion claiming Local Housing Allowance) that might suggest high levels of need. Although some ethnic groups are more likely to be housed in socially rented housing the CIL rate should not impact adversely on any particular ethnic group or the ability of the Council to provide affordable housing, as the CIL rates have taken into account Hackney’s policy of provision of 50% affordable housing in major developments.

Once implemented, the funding generated by CIL from new developments can be spent on a wide range of local infrastructure. As a result, provision of health, open space, education facilities such as school and training centres, and other community facilities may benefit all residents and people working or doing business in Hackney. Equalities needs are assessed by relevant service areas who deliver infrastructure in their baseline work, therefore it is anticipated that provision of community infrastructure will take into account effects of race in Hackney.

**Disability** – The long-standing estimate of the prevalence of learning disability in Hackney (3,943 adults) has been complemented by an estimate of moderate or severe learning disability of 842 adults. This is much closer to, though still higher than, the GP-recorded prevalence and local authority client base (The City and Hackney Health and Wellbeing Profile 2011/12). In Hackney, there are no differences in prevalence of learning disability between ethnic groups. Prevalence of learning disability is high in all care groups (those with mental illness; those who are deaf or blind) though absolute numbers are small (The City and Hackney Health and Wellbeing Profile 2011/12).

In Hackney, an estimated 9,700 adults of working age are living with a moderate physical disability and an estimated 2,500 people have a serious physical disability. However the majority of adults living with physical disability are in the older age group. In 2010/11, Hackney Council provided social care services to 3,535 clients with physical disabilities, of whom three quarters (2,600, 74%) were aged 65 or over; 935 were of working age. This includes people who are frail or who have a hearing or visual impairment. Among the physically disabled clients receiving care packages from Hackney Council, there is a high rate of Black Caribbean clients and a low rate of Asian clients (The City and Hackney Health and Wellbeing Profile 2011/12).

CIL will not have any direct equality impacts on people on the basis of disability. Once implemented, the funding generated by CIL from new developments can be spent on a wide range of local infrastructure. As a result, provision of health, open space, and education and other community facilities may benefit all residents and people working or doing business in Hackney.

Equalities needs are assessed by relevant service areas who deliver infrastructure in their baseline work, therefore it is anticipated that provision of community infrastructure will take into account disability in service provision in Hackney.

**Gender** – Hackney’s population is made up of slightly more females than males, with females making up 51% and 49% male according to ONS and Mayhew Associates.

CIL will not have any direct equality impacts on groups based on gender. Once implemented, the funding generated by CIL from new developments can be spent on a wide range of local infrastructure. As a result, provision of health, open space, education
facilities such as school and training centres, and other community facilities may benefit all residents and people working or doing business in Hackney.

**Gender reassignment** – The borough does not have information on this group specifically; however, people in this group are taken into consideration as part of the borough’s overall population profile.

CIL will not have any direct equality impacts on this group. Once implemented, the funding generated by CIL from new developments can be spent on a wide range of local infrastructure. As a result, provision of health, open space, education facilities such as school and training centres, and other community facilities may benefit all residents and people working or doing business in Hackney. Equalities needs are also assessed by relevant service areas in their baseline work prior to delivering infrastructure.

**Sexual orientation** – The 2010/11 GP patient survey indicates that, in Hackney, there are comparatively high numbers of people who identify as gay or lesbian (4%) or bisexual (1%). These figures may under-represent the size of this population, given the problems involved in disclosure of sexuality.

People in this group are taken into consideration as part of the borough’s overall population profile. CIL will not have any direct equality impacts on this group. Once implemented, the funding generated by CIL from new developments can be spent on a wide range of local infrastructure. As a result, provision of health, open space, education facilities such as school and training centres, and other community facilities may benefit all residents and people working or doing business in Hackney. Equalities needs are also assessed by relevant service areas in their baseline work prior to delivering infrastructure.

**Age** – Hackney is a young borough with 26.4% of the population under 20. This makes Hackney the youngest borough in London after Newham. About 8% of the population is 65 years or older (The City and Hackney Health and Wellbeing Assessment).

Birth rates have stabilised in Hackney and it is unlikely that there will be a higher than normal increase in births in Hackney. However, it is worth noting that there continues to be a sharp rate of increase in the north of the Borough (particularly around Stamford Hill) predominantly as a result of the Charedi (Orthodox Jewish) community, meaning that services for children are in high demand in that area.

CIL will not have any direct equality impacts in relation to age. Once implemented, the funding generated by CIL from new developments can be spent on a wide range of local infrastructure. As a result, provision of health, open space, education facilities such as school and training centres, and other community facilities may benefit residents/ people working or doing business of all ages in Hackney. Equalities needs, including issues arising from age, are also assessed by relevant service areas in their baseline work prior to delivering infrastructure.

**Marriage and civil partnerships** – CIL will not have any direct equality impacts on people based on whether they are within this group or not. Once implemented, the funding generated by CIL from new developments can be spent on a wide range of local infrastructure. As a result, provision of health, open space, education facilities such as schools and training centres, and other community facilities may benefit all residents and people working or doing business in Hackney. Equalities needs are also assessed by relevant service areas in their baseline work prior to delivering infrastructure.
**Pregnancy and maternity** – Hackney has a comparatively high birth rate compared to both the London and England rate. According to ONS data, in 2008 there were 77.5 live births per 1000 population. This is significantly higher than the London average of 69.4, or the England average of 63.6.

According to GLA intelligence, in 2010, 51 per cent of all women who gave birth in Hackney and the City were from outside the UK. 33 per cent of the mothers were born in Africa, 20 per cent in other EU countries, 19 per cent in Asia or the Middle East and 16 per cent from the rest of the world.

CIL will not have any direct equality impacts on pregnancy and maternity. Once implemented, the funding generated by CIL from new developments can be spent on a wide range of local infrastructure. As a result, provision of health, open space, education facilities such as schools and training centres, and other community facilities may benefit all residents and people working or doing business in Hackney. Equalities needs are also assessed by relevant service areas in their baseline work prior to delivering infrastructure.

**Religion or belief** – According to the 2011 Census, slightly more than 62% of Hackney’s population have a religious belief. This is lower than the London wide figure of 70.7% and the England figure of 68.1%. A higher proportion also state that they do not belong to any religion indicating a more secular society in this borough than is the regional and national norm. It is important to note that the question on religious beliefs in the Census was optional, 9.6% of returned forms from Hackney chose not to state an answer. Research indicates that this low level was due to many Charedi/Orthodox Jewish people declining to respond. Therefore, the actual size of the Jewish community is estimated to be larger than that calculated by the Census, likely well over 7% of the population. Just over a third (38.6%) of Hackney’s residents identify their religion as being Christian, a lower level than that found in London and England. The borough does, however, have comparatively larger Muslim, Jewish and Buddhist populations.

CIL will not have a direct impact on any groups based on their faith. Places of worship, as ‘community uses’ will be charged a zero rate of CIL therefore CIL is not considered to be a financial barrier to developing places of worship.

Hackney’s large Orthodox Jewish community is largely self-sufficient in its provision of educational facilities and the Orthodox Jewish community generally send their children to denominational schools. There are two maintained voluntary aided schools currently in the borough - Lubavitch House School - Junior Boys’ and Yesodey Hatorah Senior Girls School.

Under the CIL Regulations, allocation of CIL to infrastructure providers external to the Council is allowed, therefore it is anticipated that the Council would continue to work with the Orthodox Jewish community to assist in provision of social infrastructure for this group. The introduction of the CIL Charging Schedule should therefore have a neutral effect on this group.

Equalities needs are assessed by relevant service areas who deliver infrastructure in their baseline work, therefore it is anticipated that provision of community infrastructure will take into account effects on religion or belief in Hackney.

**Cohesion and Good Relations** - A ‘meaningful proportion’ of between 15-25% of CIL receipts accrued in an area will be passed back to the neighbourhood in which the development took place. As discussed above, communities with a neighbourhood plan in place will receive 25% of CIL receipts from their area; neighbourhoods without a...
The meaningful proportion, or neighbourhood element, should have a positive effect on cohesion and good relations, in terms of the existing population feeling that they have gained something positive from new development. Any local planning forum that develops a Neighbourhood Plan will have to demonstrate it is meeting the Council’s equalities objectives and therefore not advantaging or disadvantaging any particular group.

4 (b) What negative impact could there be overall, on different equality groups, and on cohesion and good relations?

Where you identify potential negative impacts, you must explain how these are justified and/or what actions will be taken to eliminate or mitigate them. These actions should be included in the action plan.

There could be some perceived inequality in relation to the community element of CIL as more of the community element of CIL will be accrued in areas where there is a greater quantum of development and/or where the CIL charge is higher. As the charging schedule is based on economic viability, this issue is not something the Council can rectify through the Hackney CIL (i.e. through either the charging schedule or Reg 123 List).

Equally, as the majority of CIL receipts (i.e. all but the 15-25% ‘neighbourhood proportion’) can be pooled and spent anywhere in the borough on any infrastructure required to support new growth, this could lead to discontent within certain neighbourhoods in which large scale developments take place if they do not feel that they have benefited proportionally. The Council will need to allocate CIL funds carefully taking into consideration the burden new development can have on existing communities both during the construction phase, and in an ongoing sense once development finishes.

However, in terms of how the majority of CIL is used to fund infrastructure required to support growth, residents will not be disadvantaged as a result of location or race / faith, as decisions around what to spend CIL on will be based on agreed corporate priorities, and service areas will be undertaking their own EqIAs in relation to provision of infrastructure.

It is worth noting that the Orthodox Jewish community tends to have relatively larger families and have certain religious requirements that mean larger space requirements which may fall liable for CIL charge. It is not expected that this would have any significant impact as CIL is liable on new developments of 100 square metres gross internal area, or more. Changes made to the CIL regulations at the beginning of 2014 now excludes straightforward extensions of a house from CIL liability. The Council also has well established working relationship with this community and the potential impact of CIL on this community would be the subject of on-going monitoring. CIL legislation provides grounds for the Council to provide discretionary relief from CIL charges under exceptional circumstances, should this be necessary.
5. Equality and Cohesion Action Planning

Please list specific actions which set out how you will address equality and cohesion issues identified by this assessment. For example,

- Steps/ actions you will take to enhance positive impacts identified in section 4 (a)
- Steps/ actions you will take to mitigate again the negative impacts identified in section 4 (b)
- Steps/ actions you will take to improve information and evidence about a specific client group, e.g. at a service level and/or at a Council level by informing the policy team (equality.diversity@hackney.gov.uk)

All actions should have been identified already and should be included in any action plan connected to the supporting documentation, such as the delegate powers report, saving template or business case. You need to identify how they will be monitored. The Assistant Director is responsible for their implementation.

<table>
<thead>
<tr>
<th>No</th>
<th>Objective</th>
<th>Actions</th>
<th>Outcomes highlighting how these will be monitored</th>
<th>Timescales / Milestones</th>
<th>Lead Officer</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>To ensure that CIL funds are allocated to community infrastructure that has a positive impact on communities and those who are in one or more of the protected characteristics groups.</td>
<td>CIL spend will be allocated based on agreed corporate priorities and will address the aims as set out in the borough’s sustainable communities strategy and Core Strategy.</td>
<td>CIL spend will be reported annually through the Annual Monitoring Report; the s106/CIL Board made up of Senior Officers from Planning, Finance, Legal and Chief Executive’s Directorate will oversee and monitor spend.</td>
<td>CIL will be implemented by April 2015, then monitoring will be ongoing</td>
<td>Director of Finances and Resources (as chair of s106/CIL Board)</td>
</tr>
<tr>
<td>2</td>
<td>To ensure social cohesion and good relations following the funding infrastructure through CIL.</td>
<td>CIL spend will be allocated based on agreed corporate priorities and will address the aims as set out in the borough’s sustainable communities strategy and Core Strategy so it won’t lead to disproportionate benefit for any one area/group over others. Any local planning forum will have to demonstrate it was meeting the Council’s equalities objectives and therefore not advantaging or disadvantaging any particular group.</td>
<td>CIL spend will be reported annually through the Annual Monitoring Report; the s106/CIL Board made up of Senior Officers from Planning, Finance, Legal and Chief Executive’s Directorate will oversee and monitor spend</td>
<td>2015 onwards.</td>
<td>Director of Finances and Resources (as chair of s106/CIL Board)</td>
</tr>
<tr>
<td></td>
<td>To ensure that CIL charges do not significantly impact negatively on the Charedi Orthodox Jewish community when they are the developers.</td>
<td>Undertake on-going monitoring of planning applications from this community, and provide opportunities for discussion at existing Council/Charedi Community fora.</td>
<td>Any potential disproportionately negative impact of CIL on the community reduced/eliminated. Regular reports to the s106/CIL Corporate Board on progress.</td>
<td>Annually, post April 2015.</td>
<td>Director of Finances and Resources (as chair of s106/CIL Board)</td>
</tr>
</tbody>
</table>

Remember

- Assistant Directors are responsible for ensuring agreed Equality Impact Assessments are published and for ensuring the actions are implemented.
- Equality Impact Assessments are public documents: remember to use at least 12 point Arial font and plain English.
- Make sure that no individuals (staff or residents) can be identified from the data used.