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Oxford City Council Community Infrastructure Draft Charging Schedule Consultation (November 2023) – Representations by Thomas White Oxford Ltd and Oxford North Ventures in relation to Northern Gateway / Oxford North

We write in connection with the Oxford City Council Community Infrastructure Levy Draft Charging Schedule consultation dated November 2023. We are instructed by Thomas White Oxford Ltd (TWO) and Oxford North Ventures (ONV), who are the owners and joint venture partnership (consisting of TWO, Stanhope and Ontario Teachers' Pension Plan) delivery partner respectively, for the Oxford North development.

Oxford North is part of the wider Northern Gateway allocation. This is one of the largest strategic allocations in the Development Plan and is one of the primary sites to deliver a large proportion of both housing and employment uses over the Local Plan period and beyond. We are instructed to respond as part of the consultation process focusing on the impact of the draft policies on scheme viability and deliverability in relation to Oxford North in particular.

This response is intended to assist Oxford City Council ('the Council') in the preparation of its updated Community Infrastructure Level Charging Schedule and we would welcome the opportunity to work with the Council and its advisors throughout the consultation process so that it may be appropriately developed.

The overarching concern is that the proposed employment uses still due to be delivered under the Hybrid consent on the Oxford North and wider Northern Gateway development areas contained within the subject site allocation would be materially affected by the proposed amendments to the CIL Charging Schedule – equivalent to a fivefold increase i.e. from £33.74 psm to £168.74 psm[1]. We have set out below our primary concerns surrounding the methodology and / or assumptions included within the updated Local Plan Viability Assessment supporting the proposed increase in levy.

It is disappointing that the Council and its appointed consultants have not made contact with TWO or ONV to discuss anticipated costs at Oxford North given the scale and importance of the project, and given its stage of development, whilst preparing its updated evidence base. We consider that this alone undermines the credibility of both the evidence base and due process.

Notwithstanding the above we have reviewed the key assumptions included by the Council's appointed viability consultants BNP Paribas Real Estate ('BNPP'), and provide comment herein where appropriate. It should be noted that any silence in respect of the Council's supporting viability study does not confirm our agreement to the same, and we reserve the right to make further representations at a later stage where appropriate to do so. Moreover, our professional view may differ from time-to-time in accordance with market movements and changes in professional and planning guidance and our position is therefore reserved.

It should be noted that there are areas at this stage where we have been unable to undertake a full review of the supporting evidence base due to the information made available at this stage.

The overriding response is that the Local Plan should not put in place policies that fetter development opportunities from being brought forward or that mean those tasked with major development investment

[1] *Assuming Jan 24' figures.*

decisions must operate at the margins of viability. Following recent experience, rapid economic changes such as the recent pandemic can have a significant and long-lasting market impact. It is important that the viability of the development plan is therefore resilient, and that the viability work supports this.

Our response is therefore foremost intended to assist the Council in its consideration of the robustness of the Oxford City Council: Local Plan Viability Assessment ('the Viability Assessment') undertaken by BNPP and subsequently, the Council's updated CIL Charging Schedule. We would welcome the opportunity to respond to any queries which may arise following review.

Site Context

The subject site is known as the 'Northern Gateway" area and includes the Oxford North planning permission. It is an allocated strategic employment led development site and is the subject of the Northern Gateway Area Action Plan which remains part of the Oxford Development Plan alongside the Oxford Local Plan 2036. The AAP makes provision for up to 90,000 sq m (968,760 sq ft) of employment use (targeted at the science, research and development fields) alongside 500 new homes, hotel, nursery, cafes, bars, three public parks and infrastructure.

The wider Northern Gateway site allocation measures approximately 44 hectares (109 acres) and includes the service area at the Pear Tree roundabout, the Peartree Park and Ride and land to the south, (including both sides of the A44 and A40), and the commercial properties at the Wolvercote roundabout.

This site will come forward in various phases during the Local Plan period and will have a significant impact on the supply of employment floorspace whilst delivering one of the largest housing sites in the city.

Hybrid planning permission was granted in March 2021 for the Oxford North component of the wider site allocation. This initial phase will deliver 4,498 sq m of co-working spaces, meeting and workspaces for science and innovation starts-ups and SMEs along with cafe-bar, retail units and community space, and Building 1 and 2 also contain lab buildings which will total 13,026 sq m. A market square and central landscape area will form the new district's community and cultural centre. Practical completion for the phase is anticipated during Q1 2025 with construction work well under way (including a first phase of residential development on the southern parcel for 317 dwellings).

Reserved matters consents for a second phase of buildings have been recently approved by the Council to include three laboratory and office buildings totalling 42,595 sq m and a 1,100 space multistorey car park.

A CGI showing the proposed Oxford North scheme alongside a site plan is shown below:

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Visualisation of the finished Oxford North scheme
(Source: Thomas White (Oxford) Ltd)

Northern Gateway Site Plan
(Source: AAP document)

The Council is currently in the process of updating its Local Plan for the period through to 2040 and TWO/ONV have submitted representations on the document. As part of this process the Council is undertaking a review of the existing CIL Charging Schedule. The consultation suggests that '*new viability evidence'* has been produced to support this review and in line with this evidence, partial amendments to the existing CIL Charging Schedule are proposed.

The CIL Consultation document sets out that "use classes E 'business', and B2/B8 industrial can demonstrate viability at higher rates of CIL and therefore recommends that rates can be increased for these uses to the higher CIL rate to match residential (C3) use i.e from the current £33.74 psm to £168.74 psm. The CIL consultation suggests that "*over time the capital values of business and industrial developments have significantly appreciated, and higher rates of CIL can now be accommodated".* The purpose of this consultation is to seek views on the proposed rates of CIL as set out in the Draft Charging Schedule.

In response to the above consultation we have set out our response below in the context of the subject site.

<u>Strategic sites viability appraisal</u>

The Viability Assessment appears only to test those typologies included within Table 4.1.1 which in effect comprise only small scale development opportunities across the authority. It is therefore our understanding that no larger scale strategic land sites have been tested for the purposes of the proposed CIL changes.

It would be beneficial if the Viability Assessment included site specific appraisals for the larger strategic sites in order that the full suite of assumptions could be more readily understood and interrogated. Without such level of detail it is difficult to properly engage with the consultation exercise. The PPG is clear in directing that strategic sites should be considered when establishing updated CIL levies, as follows:

> *"It is important to consider the specific circumstances of strategic sites. Plan makers can undertake site specific viability assessment for sites that are critical to delivering the strategic priorities of the plan. This could include, for example, large sites, sites that provide a significant proportion of planned supply, sites that enable or unlock other development sites or sites within priority regeneration areas. Information from other evidence informing the plan (such as Strategic Housing Land Availability Assessments) can help inform viability assessment for strategic sites." (Paragraph 005 Reference ID 10-005-2018-724)*

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Although it is expected that the Council has undertaken wider site-specific analysis to understand the viability of major strategic sites these have not been made publicly available for review.

Site Value Benchmark

Site Value Benchmark (SVB) – also known as 'Benchmark Land Value (BLV)', is key to assessing viability because ensuring an appropriate premium to a landowner is key to ensuring the delivery of the Local Plan. Should this be set at a level that is too low, land will not come forward and development will not take place.

The Viability Assessment considers four SVB scenarios reflecting greenfield / undeveloped land through to secondary commercial uses. A range in SVB of between £370,000 - £7,630,000 per hectare is included on this basis. A significant proportion of the site would appear to comprise what BNPP refer to as 'undeveloped' or 'greenfield' land with a value of £370,000 per hectare (£150,000 per acre) derived from an EUV of c.£25,000 per hectare (£10,000 per acre) and a landowner's premium of 15 times EUV.

We have had regard to the latest joint research undertaken by the RICS and Royal Agricultural Society dated August 2023. The average price for all the property reported to the survey was £14,021 per acre or £36,646 per hectare. This compares with £10,091 per acre (£24,935 per hectare) for the previous survey (H2 2022) and £15,888 per acre (£39,259 per hectare) for the first half of 2022. The most recent land values suggested are set out within the table below.

Date	2023 H1	2022 H2	2022 H1	2021 H2	2021 H1	2020 FY	2019 FY
£/acre	14,021	10,091	15,888	13,390	16,210	12,698	10,336
£/hectare	36,646	24,935	39,259	33,087	40,056	32,045	25,540

We would observe that on a more granular regional basis taking data from the South East region a figure equivalent to £46,760 per hectare (£18,924 per acre) is included within the same study for comparable sites described as medium sized i.e. 50 – 200 acres. Similarly, research from Savills' Rural Research team also supports the basis for average land values falling in excess of that being assumed by BNPP.

As a sense check to the above we have considered recent agricultural transactions of a comparable nature to the subject noting the respective earlier dates of sale for the evidence contained within BNPP's evidence by comparison. The evidence collated draws upon a range of sites with comparable geographical locations, use and size etc which transacted between March 2022 and September 2023. The evidence shows an average value of c.£14,000 per acre and indicates a failure by BNPP to adjust EUV in accordance with market movements.

In respect of landowner's premium, BNPP adopt a standard multiplier equivalent to 15 times existing use value in determining SVB for generic 'greenfield or underdeveloped land'. Given the subject site's prior allocation there is a wealth of independent viability studies and site specific assessments – including JLL's own FVA in respect of the subject hybrid application, which have been undertaken supporting a premium greatly in excess of this figure and we would consider the 15 times multiple would understate SVB when applied to the subject site allocation.

SVB is fundamentally a site-specific consideration and we are therefore unable to comment further in the absence of more clarity surrounding BNPP's approach to assessing SVB for larger strategic sites. We would however observe that BNPP's current approach would result in a SVB below that previously adopted by the

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Council's appointed independent advisor when assessing the Hybrid application which predicates upon a higher premium of 20 times EUV.

In summary, we consider BNPP's approach in determining EUV does not sufficiently reflect market evidence and current professional research surrounding agricultural land values within the locality. Moreover, the adopted landowner premium is also considered understated when considering the subject site allocation where we would highlight the approach in determining premium advocated by the Council's own advisor, JLL in respect of the most recent FVA covering the subject site.

Development Revenue

The adopted commercial revenue assumptions are included within the updated Local Plan Viability Assessment in Table 4.15.1. The relevant allowances are shown for offices within the table below:

Local Plan Viability – Office Revenue Assumptions

Use / Description	Location	Rent £psm (£ psf)	Yield	Incentive (RFP)
Offices / R&D	City Centre	£565 (£52.50)	5.75%	12m
	Rest of City	£340 (£31.60)	6%	

BNPP's evidence base is ostensibly contained under Appendix 3 which sets out a sample data set for office transactions across the authority area. In terms of size, the data suggests a range comprising between 122 sq ft to 25,274 sq ft NIA with a range in achieved rents of between £12.23 psf - £98.68 psf suggested.

From the information provided it is however unclear how the data has been analysed and translated into BNPP's adopted revenue allowance. We note the absence of investment sale data which is fundamental in supporting the adopted yield profile included within the Viability Assessment and would welcome clarity.

It is not clear from the updated assessment whether City Centre or Rest of City revenue allowances would be considered applicable to the subject site allocation. We would however anticipate an application of 'Rest of City' owing to the subject site's geographical location i.e. £31.60 psf given the subject location would not be deemed as 'city centre'

Although a range in potential rental values and investment yields is possible depending on factors such as size and configuration, location and specification etc, we have had regard to a range of comparable letting transactions during 2023 totaling over 22,000 sq with tenants drawn from a technological and life science background. This evidence suggests that an average headline rent of c.£27 psf has been achieved which would suggest BNPP's adopted office rent to be overstated.

Development Costs

The adopted commercial cost assumptions included within the updated Viability Assessment are set out in Table 4.17.1. The relevant allowances are shown below for both commercial and residential use:

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Local Plan Viability – Office Build Cost Assumptions

Use / Description	BCIS Description	Base Cost £psm (£psf)	Externals	Total
Offices	320. Generally – air conditioned (UQ)	£2,839 (£264)[2]	10%	£3,123 (£290)

As shown within the table above, BNPP include an additional 10% allowance for external works to include car parking and landscaping, the latter to support emerging Policy G2.

It is of concern that BCIS fundamentally fails to capture a sufficient level of construction data and that such data is not truly representative of projects such as Oxford North. For office costs, BNPP present data from the "Average Prices" section of the BCIS. Such data takes account of UK office construction cost information collected over several years. To make the data location and time relevant, the costs are rebased to Oxford, adjusted to November 2022. In response, we would make the following observations in respect of the limited information base:

I. The sample size for all offices is 65, for air-conditioned offices this falls to just 19 which we would consider to be exceptionally low;
II. The Upper Quartile costs of non-air-conditioned offices are higher than air-conditioned which is counter-intuitive and would appear to suggest inconsistent/limited data;
III. The figure included under the 'highest' data set £4,193 psm represents a sizeable uplift of c.48% to the upper quartile figure relied upon for testing purposes and demonstrates the level of fluctuation across the data; and
IV. The overall spread of costs (for all offices) ranges from £1,210 psm (£112 psf) to £5,907 psm (£548 psf) which would again appear to suggest inconsistent data.

Noting that the BNPP extract is dated November 2022, we have adjusted the criteria to present day for comparison and would make the following observations:

I. The sample size for all offices reduces to 49, for air-conditioned offices 18;
II. With the addition of BCIS inflation to rebase to Q4 2023, an adjusted base figure of £2,918 psm is derived. This figure is equivalent to a c.3% uplift in costs when compared to the evidence base. Illustratively, when applied to the subject allocation's c.90,000 sq m (968,760 sq ft) the base build cost is understated by some £6.8m before the application of externals, fees, extra policy costs and contingency etc; and
III. Again, non-air-conditioned offices are shown as more expensive.

The sample size shows a drop from 64 to 49 in just one year which is surprising. The extracts are based upon the BCIS "default period" for "maximum age of results". The inference is that the BCIS are using project data that is up to 15 years old. Whilst we acknowledge that the data is adjusted for inflation the concern with data over such a long period is that such construction costs do not necessarily take account of changing building practice, specifications driven by market expectations, building regulations etc.

[2] *Costs as at November 2022.*

We have further analysed BCIS Average Prices over a five year period selected in order to focus on just recent projects. The sample size returned just two projects i.e. BCIS has collated data for only two new build offices in the last 5 years. Moreover, wider analysis of sample projects suggests that just three of the 86 projects relate to offices measuring in excess of 10,000 sq m GIA with most measuring below 5,000 sq m GIA. This gives further concern surrounding the reliability of BCIS data particularly for schemes of a scale comparable to Oxford North.

The cost of external works for a building including hard and soft landscaping, lighting, incoming services etc is generally a function of the plot size compared to the building footprint. For an inner city scheme the difference between plot and building area is often very low as the developer seeks to maximise the building size within planning requirements, although the cost on a £psf basis of the external works can be high to reflect the necessary quality of expected finishes. Illustratively, where the plot and footprint were the same a five storey building could have the same external works costs as a 10 storey building, but clearly the cost of the external works expressed as a percentage would be dramatically different. Out of town, again the ratio of plot to building footprint similarly applies, typically plots are less dense and external works on a cost per sq m basis are typically higher. A 10% provision for external works is therefore not considered realistic for Oxford North whereby the surrounding infrastructure does not pre-exist and therefore the development requires the construction of new roads, utilities, car parks etc as well as high quality hard and soft landscaping.

At Oxford North the ratio of the cost of infrastructure and external works to new buildings is anticipated at around a minimum of an additional 25% (on shell & core costs) which is significantly above the 10% currently included by BNPP.

Local Plan Viability – Residential Build Cost Assumptions

Use / Description	BCIS Description	Base Cost £psm (£psf)	Externals	Total
Houses 'Outside of City'	810.1 Estate housing generally	£1,538 (£143)[3]	15%	£1,769 (£164)

As above, the data set included within the Viability Assessment is dated November 2022 and our above reservations concerning the use of BCIS remain. With BCIS' own indexation to the most recent data set on a like-for-like basis base costs would amount to £1,592 psm (£148 psf) equivalent to a c.4% uplift in costs for the residential element. Illustratively, using the Viability Assessment's average dwelling size of 89 sqm (958 sq ft) per unit, when applied to the subject allocation's 500 homes the base build cost is understated by c.£2.4m before the application of externals, fees and contingency etc.

BNPP state that the base costs allow an additional 15% for external works which is considered appropriate for items not considered strategic infrastructure requirements or utilities, for example pathways, lighting, fences drainage and driveways. On the understanding that only a generic assessment of smaller housing sites is tested within the updated viability assessment, the material impact of site wide infrastructure costs does not appear to have been tested.

BNPP include an allowance of 10% for professional fees and 5% for contingency which is considered a reasonable minimum allowance generally for viability assessment albeit we note professional fees will be in excess of 10% at Oxford North. We would query whether a higher contingency allowance should be applied

[3] *Costs as at November 2022.*

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during periods of high build cost inflation, uncertainty and given the absence of a detailed scheme design especially where such allowance is likely to be eroded by build cost inflation over a relatively short term as is shown within the BCIS indexed figures above.

A marketing cost allowance of 2.5% - suggested to include agent's fees, plus an additional 0.25% allowance for legal costs is included albeit it is unclear whether this has been applied to residential uses only. We would observe that such an approach would not be considered realistic for strategic commercial led development of a scale and nature akin to the subject allocation and would welcome clarity in respect of the specific commercial marketing assumptions included by BNPP.

Strategic Infrastructure & Section 106 Costs

The Viability Assessment appears to exclude the impact of costs associated with delivering strategic sites such as Oxford North including the significant level of S106 obligations (both financial and in kind).

Strategic sites have considerable costs associated with their delivery in terms of off-site highways, utility diversions and provision, roads, drainage and landscaping. These costs are more appropriately delivered via a bespoke S106 Agreement rather than generic CIL. For this reason many local planning authorities zero rate CIL for strategic sites and instead rely on S106 to deliver much needed infrastructure funding. This approach is more appropriate than utilising CIL Funding Agreements where the City agree to spend CIL money on a particular element of the strategic scheme.

In extreme cases S106 and CIL is claimed which will have a material impact on viability. As CIL is fixed the impact on deliverability of key elements of development schemes can be a concern and we would welcome clarity from BNPP in this matter.

Finance

Finance cost assumptions affecting commercial development have increased marginally from 6% within the 2018 Viability Assessment to 6.5% within the current Viability Assessment. Notably the adopted metrics effectively show a downward movement from the previous Local Plan viability assessment undertaken by Avison Young, dated September 2018 where an allowance of 7% (residential) and 6% (commercial) was included respectively.

We would draw attention to the respective dates of assessment above i.e. September 2018 vs. November 2023. During this period the economic landscape has changed significantly, and therefore a realistic adjustment to the finance assumptions applied within viability assessment is both necessary and appropriate with BNPP's adopted allowance of 6.5% considered unrepresentative of the current finance market.

The finance rate represents a total cost of capital in financing the scheme. The rate adopted represents the combined cost of both debt and equity financing. When broken down, the debt element of the cost of finance includes a margin and risk premium above a five-year swap rate. The equity element should in theory reflect an equity return which when combined with the debt element sums to the weighted average cost of capital.

In support of our view that development finance has become both more expensive and less readily available, we highlight the Bayes Business School (formerly 'Cass') Commercial Real Estate (CRE) Lending Report Year End 2022 which collates a comprehensive overview of development finance.

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Indicative of market conditions, Bayes reports that senior development finance even for pre-let commercial, considered the 'least risky' asset type, has average loan margins of 458bps which reflects an increase of 23.3% on 2021. Furthermore, Bayes is reporting that margins for residential developments and pre-let commercial development are at their 20 year period peak.

In terms of the residential development finance market, as at year end 2022 Bayes report average lending margins of 531bps, up 4.7% from year end 2021. The minimum lending margin observed for residential schemes was 275bps, however, considering the average margin it's likely that this lower margin represents a low-risk non-speculative scheme.

At present, the current five-year SONIA swap rate has recently stabilised around 400 bps. When considering the average lending margins being reported by Bayes this would translate to development debt finance costs of above 900bps / 9% which suggests that BNPP's allowance is significantly understated in the present market.

Further to the above we have had regard to guidance from Savills' Debt Advisory team. The 'all in rate' currently used to support market valuations includes the swap rate together with the margin, i.e. for a Regional office development the all in rate is the swap rate, plus an appropriate margin of say 400 bps. We would note that whilst Swap rates have recently stabilised, some commentators believe that they will continue to rise which would significantly impact on borrowing costs for schemes of a comparable scale to Oxford North.

In summary to the above, a finance rate of 6.5% is considered unreflective of the UK development market whereby development finance has become increasingly more difficult to obtain. We would maintain that an appropriate allowance now falls in excess of 8.5%. Strategic sites are especially sensitive to changes in finance assumptions and we would consider that finance costs are understated and should be revised upward.

Developer's Return (Profit)

A target return of 18% (market residential), 15% (commercial) and 6% (affordable residential) is included within the Viability Assessment. We also note the inclusion of a 12% allowance in respect of First Homes tenure.

The adopted metrics effectively show little or no movement from the previous viability assessment undertaken by Avison Young, dated September 2018, therefore inherently failing to address the significant changes which have taken place during the same period.

A profit margin should be reflective of the inherent risk in the construction and sales process taking account of macro and micro economic risk factors. The criteria to consider in arriving at an appropriate figure for developer's return (profit) include, amongst other things, location, property use type, the scale of development, the weighted cost of capital and the economic context. Developers, banks and other funding institutions maintain minimum expectations in terms of financial returns that are aligned with the risk profile. Simply, there must be a reasonable prospect that the return will be commensurate with the risks being undertaken.

The development market has become increasingly uncertain with an increasing level of risk faced by developers at the present time. At a macro level the conflict in Ukraine which commenced in February 2022 has had an acute impact on the global economy including a significant impact on rising oil and gas prices and the restriction of exported goods from Ukraine and Russia. This has added to the ongoing inflationary pressure already being experienced by developers and it still remains to be seen what impact inflation will have on the UK economy. As a result, borrowing costs have increased, surpassing prime real estate yields.

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Key economic indicators currently give rise to material uncertainty and risk across both the development sector and wider UK economy. As a result of continuing inflationary pressure, the Bank of England further raised interest rates during August 2023 to 5.25%, notwithstanding these interest rate hikes inflation remains well above target.

For commercial real estate, the market has felt the impact of the above whilst experiencing a correction in prices. Many sales have been withdrawn as vendors' price expectations were not met, while buyers have adopted an opportunistic pricing approach. Real estate lenders are exercising caution when it comes to financing new lending opportunities, except for the most exceptional assets and sponsors.

Consequently, transactional volumes and liquidity have significantly declined, leading to a relative scarcity of comparable evidence to inform the valuation process. Market sentiment has gained increased importance in making informed assessments, given the limited availability of data. Stakeholders in the market, including occupiers, investors, and lenders, are attaching heightened significance to environmental, social, and governance (ESG) considerations and the associated costs, in their decision making.

While there is still liquidity in the market, ongoing geopolitical uncertainties, economic challenges, and the cost and accessibility of debt finance are expected to further impact pricing. As a result, the potential for future value erosion cannot be discounted, particularly for properties outside prime markets where more significant declines can be anticipated as real estate markets and values continue to recalibrate to elevated levels in the cost of capital, subdued transaction volumes and a cautious lending environment.

Likewise, for residential development, the impact of the above is expected to continue to fuel the ‘cost of living crisis’ resulting from rising living costs likely to rise further in coming months with a continuing decline in real disposable income anticipated, exacerbated by the ongoing conflict in Ukraine with the resulting impact of a fall in consumer confidence. As a consequence of this, economic forecasts remain downbeat over the short term at least.

Developers have and will be hit further from both a revenue and cost perspective by the current climate of inflation and uncertainty. Coinciding with the end of Help to Buy, high interest rates and the increased cost of living will further reduce already stretched levels of affordability for purchasers. Whereas continued inflation in materials and labour will substantially increase build costs over the lifetime of a project such as Oxford North.

The RICS Guidance Note “Assessing Viability in Planning Under The National Planning Policy Framework 2019 for England” (2019) notes that an assumption of profit within the range of 15-20% of GDV is considered a suitable return to developers. We would stress that the market has become significantly more volatile since this Guidance Note was written, and therefore a figure at the highest end of this range is more appropriate.

In summary, given the severity of market risks at present we think that 20% on GDV (market residential) is considered a minimum appropriate margin with there being reasonable potential for this to increase further to appropriately compensate developers for the risks currently taken in the market.

Given the above, we have similar concerns for the 6% profit on GDV which BNPP have allocated for the Affordable Housing. Again, whilst this may have been an appropriate figure widely considered appropriate at the time of publication, current market conditions would reasonably suggest a higher margin would be more appropriate to reflect current development risk. We would also query whether an increase to the 15% allowance in respect of commercial elements should be revisited to take account of present day considerations.

<u>Viability Buffer</u>

It is unclear whether sufficient provision has been made for a viability ‘buffer’ when interpreting the viability evidence resulting in the proposed increase in CIL levy. Such buffers are recommended within the current CIL regulations which state the following:

> *“It would be appropriate to ensure that a ‘buffer’ or margin is included, so that the levy rate is able to support development when economic circumstances adjust. In all cases, the charging authority should be able to explain its approach clearly.” (Paragraph 020 Reference ID: 25-020-20190901)*

Site specific circumstances mean that the economics of development will vary over the course of development. This is inevitable given the varied nature of large scale mixed-use development and the associated costs associated with bringing forward strategic sites. It is therefore important to consider these factors when proposing a simplified ‘one size fits all’ rates across a significantly diverse location in terms of market and development characteristics.

The viability buffer is used to mitigate against fluctuations within the market to ensure that the rates are not set at the margins of viability. During periods of political and economic uncertainty, changing market assumptions it is fundamental that sufficient and often increased leverage is allowed for within the proposed rates.

The proposed revised CIL charge is five times greater than the adopted levy including the prevailing rate of indexation which represents a significant increase in potential cost for schemes coming forward. It is fundamentally unclear whether BNPP have sufficiently taken into consideration this additional burden on schemes when undertaking their viability modelling which would clearly have significant commercial implications.

It is essential than an appropriate viability buffer is incorporated within the Viability Assessment and we would request that the Council confirms that this approach has been undertaken in justifying the proposed CIL Charging Schedule.

<u>Summary</u>

The consultation concludes that schemes delivering Use Class E ‘business’ are able to demonstrate viability at higher rates of CIL and recommends that rates can be increased fivefold for such uses to the higher CIL rate suggested to match residential (C3) use.

It is considered that the above conclusion is without reasonable justification and evidence as required under Regulation 13 of the CIL Regulations 2010 (as amended) which stipulates that *“any differential rate should be justified by economic viability evidence”.* Our overarching concern is that the Council has at this stage not published a sufficient level of analysis to include strategic sites within the city, accordingly there is therefore an insufficient information base in which to effectively engage with the consultation process.

Notwithstanding the above, we have reviewed the recently prepared Viability Assessment and have identified a number of variances in key inputs that, in our opinion, do not support the basis for the proposed increase in CIL charges contained within the draft Charging Schedule. Specifically, in relation to the subject site allocation, we believe the following assumptions and/or methodology are not reflective of current market conditions and/or are not relevant site-specific considerations for larger strategic sites:

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- Site Value Benchmark;
- Development Revenue;
- Development Costs;
- Finance Costs; and
- Developer's Return.

We have material concern that the subject site allocation is able to viably support the delivery of the proposed increase in CIL levy taking account of the Council's relevant policies including affordable housing. The draft amendments are fundamentally detrimental to both scheme viability and the potential deliverability of the site. The consequence of adopting such policies unchanged, would most likely preclude the subject site from being brought forward for development during the Local Plan period fettering critical housing delivery, employment opportunities and the delivery of planning obligations within the borough.

We remain of the opinion that the Council is unable to reasonably demonstrate that the proposed increased CIL rates strike a suitable balance, or are supported by accurate viability evidence. It is therefore essential that additional testing is undertaken and that the CIL rates are reviewed. We would expect the draft policies to be amended to zero rated status in respect of the subject allocation through further consultation and welcome further engagement to assist the Council with any further technical work being undertaken through due process.

The importance of flexibility is reinforced when taking account of the many changes regularly taking place in the development industry, not only related to the recent global pandemic, but also in respect of the building regulatory system and substantial cost inflation and market uncertainty etc. For a plan that operates over several years and whose next review may not take place for some time, it is important to consider the likely impacts now to avoid unnecessary viability issues in future years through flexibility.

We trust that the information provided is useful and would welcome the opportunity for further engagement with the Council to ensure the appropriate evidence informs due process.

Should you have any queries in relation to the above please do not hesitate to contact us. We would be pleased to provide additional comment and support discussions with the Council and its appointed advisors in due course.