

**Barnet's Local Plan**  
**Examination in Public**  
**Technical Note on Local Plan Viability Assessment**  
**April 2022**

**1. Introduction**

- 1.1 The Council has produced this Technical Note in order to further ensure that the cumulative burden of policy requirements does not undermine the deliverability of the Plan. The Note serves to justify the robustness of the assessment of the viability of the Local Plan's policy requirements. The Technical Note follows the Council's letter (dated 11<sup>th</sup> March 2022 ref: EXAM 1A) of response to the Inspector's Initial Questions on the Local Plan (ref: EXAM 1) and the Appendix covering Barnet's Local Plan Viability Assessment - Workshop Q and A Paper - 18<sup>th</sup> May 2021 (ref: EXAM 1C).

**2. Background**

- 2.1 The Local Plan Viability Assessment - Workshop Q and A Paper was produced to address the Inspector's concern with regard to site selection and assessment whilst the Council's letter addressed in more detail the approach of the Local Plan to 'other contributions'.
- 2.2 The Council's letter of March 11<sup>th</sup> highlighted that the Examiner's report on the Community Infrastructure Levy Charging (CIL) Schedule was received on 14<sup>th</sup> February 2022.
- 2.3 Barnet's new CIL Charging Schedule was adopted by the Council on 1<sup>st</sup> March 2022 and the revised CIL charging schedule was introduced on April 1<sup>st</sup> (earlier than the date of May 2022 referenced in the letter of March 11<sup>th</sup>). The Council also made infrastructure payments available and approved an Infrastructure Payments Policy from 1 April 2022. Therefore, developers now have the ability to make infrastructure payments in kind instead of paying CIL.
- 2.4 The Inspector's Initial Questions highlighted that there are potential inconsistencies insofar as some of those developer contributions listed in the Local Plan (para 12.6.4) have not been accounted for, as they are assumed to be funded by CIL or are deferred to scheme-specific viability at the time of application submission.
- 2.5 The Local Plan clarifies that these 'other requirements' will "vary depending on the development scheme and its location". Para 12.6.5 highlights that such contributions will be subject to negotiation. Given that the full extent of any requirements (other than affordable housing, which is assessed in the Viability Assessment separately from other obligations) is only settled at the application stage, the best the Council can do in a proportionate test of viability at the Local Plan examination stage is to include an allowance in our appraisals to reflect potential requirements. This approach is set out within the Viability Assessment at

para 4.31. This approach has been widely adopted in Local Plan Viability Assessments by other London councils and councils elsewhere.

2.6 The Council's response of March 11<sup>th</sup> also highlights that any S106 requirements as set out in Local Plan para 12.5.4 will be considered at planning application stage alongside affordable housing, the latter being applied flexibly having regards to site-specific viability. If a particular site has extensive planning obligations that exceed the allowances in our appraisals, and it is not possible to pass the cost of these obligations back to the landowner through a reduced land value (e.g. due to a high Existing Use Value), then the tenure mix and or overall quantum of affordable housing may need to be flexed to accommodate the total package.

2.7 The Council's response also refers to the complex development landscape of a Borough like Barnet (where there are multiple potential benchmark land values and development scenarios), it is not possible to set a fixed quota for affordable housing at the Local Plan stage. This is acknowledged through the approach adopted in the London Plan for an explicit 'viability tested' route for affordable housing. Inevitably, in some cases there will need to be a negotiation on the extent of planning obligations and how this may impact on affordable housing requirements. Further, the extent to which developers may be required to contribute towards the items listed in Local Plan para 12.6.4 depends on the availability of funds from other sources (e.g. from Transport for London for improvements to public transport). Funding available from other organisations is fluid and not possible to identify either collectively or for individual developments for the whole of the Local Plan period.

### 3. Community Infrastructure Levy

3.1 The CIL examination has concluded, and the new charging schedule has effect from 1<sup>st</sup> April 2022. As set out in the Examiner's report at paragraphs 11 and 16:

11 *The Council commissioned the London Borough of Barnet: Community Infrastructure Levy Viability Review (December 2019). As a result of the coronavirus pandemic the Council carried out a CIL Viability Review – Update (January 2021). These two documents taken together form the Council's CIL Viability Assessment (VA).*

16 *The draft Charging Schedule is supported by documentation demonstrating detailed evidence of community infrastructure needs and economic viability testing. On this basis, the evidence which has been used to inform the Charging Schedule is robust, proportionate, and appropriate.*

### 4. Local Plan Viability Assessment

4.1 Following the completion of their work on the CIL Viability Assessment the Council decided to re-commission BNP Paribas Real Estate ('BNPPRE') in order to produce the Viability Assessment for the Local Plan.

4.2 As set out at para 2.51 of the Local Plan Viability Assessment, the new CIL rates were incorporated into the appraisals. The Assessment reviews the strategic policies in the draft local plan and identifies those which are considered to have a

specific cost impact upon developments. Analysis of the costs of these are incorporated into the appraisals. Appendix 1 of the Assessment provides more detail on all policies and highlights those which have cost implications for testing purposes.

- 4.3 Inconsistencies picked up by the Inspector are likely to be related to those where BNPPRE have assumed that elements are likely to be funded by CIL, but some of those elements are also listed at 12.6.4.
- 4.4 These assumptions by BNPPRE are not necessarily reflective of the historic situation in Barnet, primarily in relation to education and public transport funding. However, this does not affect the conclusion of the Viability Assessment. This Technical Note provides further context for viability in Barnet.

## **5. Education Funding**

- 5.1 Over the last 10 years, in Barnet, new schools have been delivered through land being provided by developers under s106, together with funding from s106 that was generally secured prior to 2013 and external funding from Department for Education. The 2013 Regulation 123 list did not include education. Barnet's Planning Obligations SPD (ref: CS106\_01) requires strategic sites to assess their impact and provide contributions as necessary. Therefore, prior to the 2019 CIL regulation change, CIL could not be used to fund schools in Barnet to prevent 'double dipping'.
- 5.2 To date, only £1 million of the nearly £100million collected from CIL has been spent on a new school (a new pupil referral unit part funding in 20/21). It is currently assumed that CIL will not be a significant source of funding for new schools and s106 will continue to be used on strategic sites to secure land for a school if necessary. However, as the IDP sets out, demand for new schools going forward is likely to be lower than over the last decade as GLA projections are volatile or are met by planned provision in the education capital programme.

## **6. Transport Funding**

- 6.1 To date, Barnet has not passed any CIL funding to Transport for London ('TfL'). CIL has been used for road network improvements in the borough, but so far not for public transport improvements as it has not been necessary to do so.

## **7. Planned use of CIL**

- 7.1 The Infrastructure Funding Statement sets out the currently planned use of CIL (the regulation 121A Infrastructure List). <https://www.barnet.gov.uk/planning-and-building/planning/community-infrastructure-levy>

## **8. Potential Inconsistencies between CIL and S106**

- 8.1 In order to address the Inspector's concerns regarding potential inconsistencies, the Council have re-assessed the assumptions made by BNPPRE in the Local Plan Viability Assessment. This is set out in Table 1 below against policies requiring

funding for key infrastructure. It is the Council’s view that the situation in Barnet in relation to use of CIL and s106 is more nuanced than suggested by BNPPRE’s assumptions. However, this does not affect the methodology or impact on the conclusions of the Local Plan Viability Assessment, as it still accurately reflects the costs of the policies.

Table 1: The assumptions made by BNPPRE in the Local Plan Viability Assessment and Council’s response

<b>Policy</b>	<b>BNPPRE Assumption</b>	<b>Council Response</b>
<b>POLICY GSS02 Brent Cross Growth Area</b>		
Provide sufficient community infrastructure, including new and expanded schools and primary healthcare capacity	Education and other community facilities assumed to be provided through CIL	Schools and community facilities are already secured under s106 through the existing planning permission, the residential elements of which are being delivered.
A new rail station (Brent Cross West) on Thameslink line supported by a public transport interchange	Rail station assumed to be funded by Network Rail, potentially with some CIL contributions	Rail Station being funded as part of a £419 million government funding agreement which Barnet Council has secured through close collaboration with Central Government partners from the Ministry of Housing, Communities and Local Government, HM Treasury and the Greater London Authority.
Connections and/ or improvements to the strategic road network, that are supported by Transport for London in relation to the TLRN (TfL Road Network), and Highways England in relation to the M1 motorway, based on up to date mode share targets	Assumed to be funded by CIL and other public funding sources	Improvements secured under S106 through the existing planning permission. Arrangements for future funding if alternative planning permission implemented still to be determined (External funding from TfL/central government likely to be necessary). Infrastructure payments policy operational from 1 <sup>st</sup> April 2022 may allow for some infrastructure to be provided in kind, in lieu of CIL.
<b>POLICY GSS03 Brent Cross West Growth Area</b>	<b>BNPPRE assumption</b>	<b>Council response</b>

<p>The Council will support development proposals that facilitate access to and delivery of the West London Orbital. Development proposals will need to bring forward the following through detailed design, planning conditions and/ or contributions secured through Section 106 agreements: A comprehensive scheme for the improvement of the junction between the A5/Edgware Road and A406/North Circular supported by Transport for London in relation to the TLRN;</p> <ul style="list-style-type: none"> <li>• New and improved pedestrian and cycle routes to the new Brent Cross West Station including from the Edgware Road and along Geron Way;</li> <li>• Facilities for public transport interchange outside the new Brent Cross West Station on Geron Way with associated improvements to the local bus infrastructure</li> </ul>	<p>Assumed to be funded by CIL at this stage. Ability to make additional contributions when infrastructure is costed will depend on scheme-specific viability at the time applications are submitted</p>	<p>Infrastructure payments policy operational from 1<sup>st</sup> April 2022 may allow for infrastructure to be provided in kind in lieu of CIL. External funding from TfL/central government likely to be necessary</p>
<p><b>POLICY GSS06 Colindale Growth Area</b></p>		
<p>Improvements to key junctions and roads, including pedestrian and cycle linkages, together with an improved public realm, along Colindale Avenue to Edgware Road</p>	<p>Assumed to be captured through CIL</p>	<p>Some improvements already secured through s106 e.g. from Colindale Gardens. Will be required under s106 if meets regulation 122 tests. Contribution will depend on scheme viability at the time.</p>
<p><b>POLICY GSS09 Existing and Major New Transport Infrastructure</b></p>		
<p>West London Orbital (WLO) – capacity for 950</p>	<p>Contributions assumed to be secured through CIL</p>	<p>The Council is not planning to secure additional tariff</p>

<p>new homes. The Council will support development proposals that facilitate access to and delivery of the West London Orbital and contributions will be sought towards West London Orbital and public transport infrastructure.</p>		<p>style contributions towards West London Orbital under s106, but if specific sites need to facilitate access will be required under s106 if meets regulation 122 test (likely to relate to physical design of scheme rather than funding)</p>
<p><b>POLICY GSS13 Strategic Parks and Recreation</b></p>		
<p>The Council will seek to actively improve the quality, quantity and access to open spaces across Barnet through new and improved outdoor sports, leisure and recreational facilities. Such improvements will be delivered alongside nature conservation and biodiversity enhancements. The Council will promote the creation of a new Regional Park within designated Green Belt or Metropolitan Open Land in the Brent Valley and Barnet Plateau.</p>	<p>New facilities assumed to be funded by CIL or other Council budgets</p>	<p>Agreed, unless specific development site needs to provide new open space or as part of the development and to meet design or open space policy requirements.</p>
<p><b>POLICY CHW01 Community Infrastructure</b></p>		
<p>The Council will work with partners to ensure that community facilities including schools, libraries, medical and dental services, leisure centres and swimming pools, places of worship, arts and cultural facilities, community meeting places and facilities for younger and older people, are provided for Barnet's communities.</p>	<p>Largely a matter for the Council to address from its own resources</p>	<p>Agreed</p>