

Working with CIL and amending the London Plan

Drummond Robson reports the June Meeting of the Forum held at Westminster University

Early workings of CIL in Wandsworth and thoughts on how other boroughs are dealing with it.

This was introduced by Nick Cuff chairman of Wandsworth planning committee with response led by Jeremy Castle of Drivers Jonas Deloitte. The Wandsworth CIL who were introduced by the chairman.

Nick Cuff outlined the approach to CIL in Wandsworth, which differs from other emerging London models since it reflects a spatial approach to neighbourhoods suited to Wandsworth's infrastructure needs. The case for wishing to be a CIL frontrunner is that

- It would plug the infrastructure funding gap of £186 million.
- It is a more efficient means of capturing planning gain.
- CIL is transparent and offers certainty.

The cost of CIL will be factored into land buying. Viability testing indicates CIL will be currently 3-4% of development cost. It will reduce land values over the medium term through more informed acquisitions.

The funding will augment EC Section 2 contributions. A shortfall of £186 million has been identified. The scheme will involve area based charging. The proposed scheme was contrasted with what Nick Cuff described as the more political funding regime of the GLA and is in the context of a highly centralised government structure with 75% of local government budgets coming from Central Government and only 25% raised locally. He predicted that this balance would change over the next four years as local authorities had to become more self reliant and ways of working would of necessity have to change. National Non-Domestic (Business) Rate (NNBR) will be collected locally, there will be contributions from the New Homes Bonus. Demands will come from population



increase and change. NC thought that CIL was more transparent than s.106 contributions which were mistrusted by the public.

The advantage of CIL is that it assists efficient forward planning by the authority in its infrastructure projects which are estimated to be allocated as set out below.

Charging will be split by uses but limited to residential, shopping and business uses, while exempting all others. Roehampton too will be exempt from CIL in view of its relative poverty in the Borough.

The proposed Neighbourhoods are identified in the map on the next page.

Implementation

Liability notice is after consent. Instalment policy to take account of challenging economic conditions. Two five year tranches for infrastructure are identified.

The Charging schedule is still emerging and will be subject to further change. The CIL Schedule is being reported to Strategic Planning and Transportation OSC on the 25th June and Executive on the 2nd July. It will then go to full Council and be introduced on 1st November 2012.

Responding Jeremy Castle said that land values had increased by some 10% in the last year. His

support for the scheme was based on the need to meet the infrastructure funding gap, that it was a more efficient and more transparent levy, His practice is currently advising on a major scheme which will contribute £50m towards Wandsworth's infrastructure assuming it is approved on 18th June.

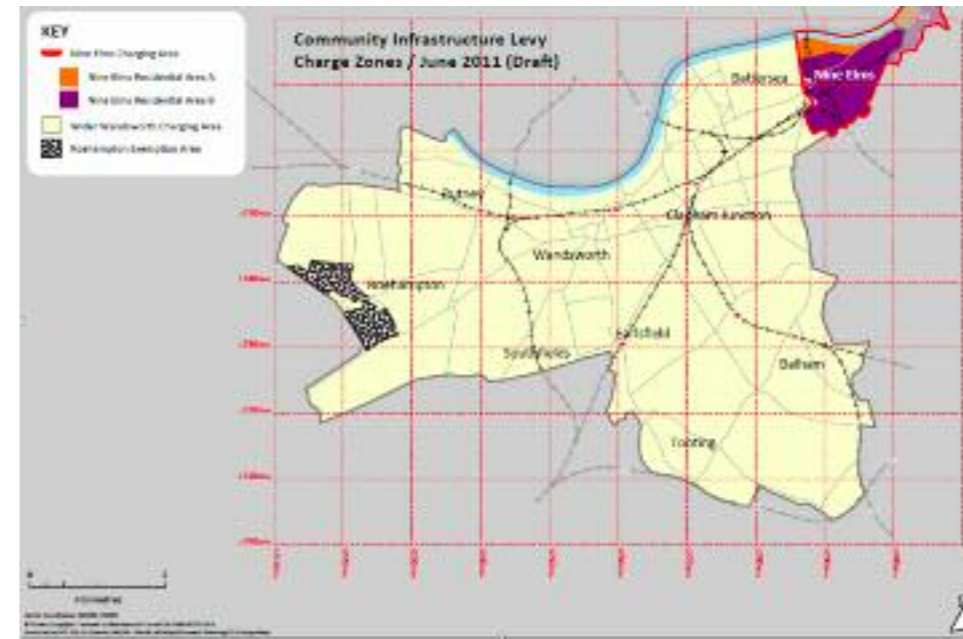
The alternative approach of tax increment funding was applied in the case of the Northern Line Extension. Infrastructure is needed as the schemes happen and receipts will be used to pay back funding. The scheme is more efficient insofar as smaller contributions may be captured for wider purposes. He accepted that there would be teething troubles – for example the question of s.73 applications remains unresolved. The timing of CIL payments will need to be more flexible. The contribution to local neighbourhoods from the scheme is currently set as 20% rather than the more suitable 5% with a cap. He thought that the process of negotiation would still continue leading to different solutions in different Boroughs.

For example in Redbridge, where land values were quite different from Wandsworth, a flat rate of £70/m2 across the whole borough has been adopted. The same rate applies to all types of development. It is calculated on the net increase in gross internal floor area after allowing a credit for any existing floor space which is to be demolished. The charge is updated annually for inflation.

Discussion

The Chairman opened the discussion by saying that the scheme in Redbridge was "not planning driven". The Council intends to review and revise the scheme in two years from adoption. The tax bites for the net added floorspace which was occupied within the permission. However the length of time to pay is debateable.

Ghislane Trehearne confirmed that this is an



acknowledged problem which is being considered in Whitehall.

Michael Edwards said that if this gives an incentive to building owners it will be beneficial for the building stock and solves the problem of collecting betterment and planning gain. However in Wandsworth he queried the potential for inequity since it is the poorer areas that need more infrastructure support.

He also was concerned that this was another attempt to capture gain at the start of the project, when funding is at its most uncertain and true values are not known with any certainty. He suggested that, especially in larger projects the value grows as the scheme matures. He advocated reopening the books once a scheme was established. (This may be countered by the argument that the developer who carries the burden of this risk should also reap the reward if it comes since he would also be expected to accept the loss).

Nick Cuff responded to the query asking how community uses can be measured by saying this

	Nine Elms Area A	Nine Elms Area B	Borough Wandsworth	Roehampton
Residential	£575	£265	£250	£0
Office or Retail	£100	£100	£100	£0
All Other	£0	£0	£0	£0

was why the shopping and indeed D1 uses were taken out since they offer direct community benefits. Drummond Robson was concerned that in spite of the way CIL has been presented it does not replace section 106 payments but is in addition to them, which raises severe questions of viability, particularly with non major schemes without the protection of institutional funding.

He also said that viability testing would become more important, especially for non major schemes where the combination of CIL from both GLA and Boroughs together with section 106 requirements would make more schemes unviable. This situation is further complicated at present when we have the Mayor's CIL but not many of the London Boroughs own CIL.

It was suggested that since there is no flexibility for a waiver with CIL there should at least be greater flexibility in rescheduling payments. Dahlia Lichfield said that Wandsworth's scheme was an improvement on areas putting forward a flat rate with some areas producing a lot of profit and some benefits for the local people whereas some areas might be put off by CIL. It also is a deterrent to new building where an existing building can be retained and restored. The new infrastructure provision will be of greatest benefit to those who are already in the area.

The proportion of CIL assigned to neighbourhoods is politically tricky since although government would favour a fixed proportion (say 10%)

this is counter to the intended freedom for localism. Brian Waters suggested some local capital redistribution could be beneficial. Duncan Bowie queried why some local authorities had been so slow in establishing their CIL regimes, since this is a lost opportunity.

Tim Wachter thought it anomalous that a small scheme should pay at the same rate as a larger one. He supported the return of business rate to the local area rather than being held centrally. It was thought that affordable housing schemes were likely to suffer since they normally carry heavy on-costs.

Tom Ball thought that disadvantaged large scale housing should be able to benefit. Nick Cuff pointed out that this was why Roehampton had been exempted from CIL. Mike Coupe thought that more could be done as part of pre application discussions which was the time to look at both CIL and section 106 implications.

NPPF implications for London

Jennifer Peters (GLA) explained the steps being undertaken by GLA to modify the London Plan. This was as a PowerPoint presentation which is partly reproduced below [see fuller minutes at planninginlondon.com and at www.london.gov.uk/publication/early-minor-alterations-london-plan/].

The NPPF was published 27th March 2012. The



Attendance at the University of Westminster on Wednesday 13th June 2012. Our host was Duncan Bowie.

- Brian Waters: Chairman, Andrew Rogers: Association of Consultant Architects, London Borough of Wandsworth, Pat Loxton: LI London, Ron Heath: RIBA, Owen Wainhouse: RIBA London; Tim Wachter: RICS
- Ghislane Trehearne: British Property Federation, Jennifer Peters: GLA, Jeremy Castle: Drivers Jonas Deloitte, Jo Wheelwright: Landscape Institute London, Tom Ball: London Forum, Drummond Robson: Honorary Secretary and Robson Planning.
- Judith Ryser: Isocarp/Cityscope Europe/UDG, Martin Simmons: for TCPA, Mike Coupe: London Society and Coupe Planning, Michael Edwards: UCL, Nick Cuff: Apologies: Alastair Gaskin, Brian Whiteley, Emma Fitzgibbon, Giles Dolphin, Michael Chang, Peter Eversden and Riette Oosterhuizen.

Mayor published revised early minor alterations to the London Plan in February 2012. These are aimed at ensuring that the London Plan is fully consistent with the Government's National Planning Policy Framework (NPPF, published March 2012). The revised early minor alterations document also incorporates the early minor alterations issued for consultation in February. It is anticipated that both sets of alterations will be considered together by an independent planning inspector at an examination in public (EiP) to be held in November/December 2012.

Jen Peters said that the general view of the NPPF in City Hall is that it changes government policies very little. REMA updates the EMA to reflect the final NPPF. London Plan can be viewed as the London expression of the NPPF. GLA carried out detailed assessment of London Plan policies against the NPPF which showed that; only one of the plans policies is inconsistent, namely the definition of affordable housing.

Thirty three are consistent but could do with being revised or updated to fully reflect the NPPF. Remaining 87 are fully consistent.

NPPF affordable housing definition.

Affordable housing: social rented, affordable rented and intermediate housing provided to eligible households whose needs are not met by the market. Eligibility is determined with regard to local incomes and local house prices. Affordable housing should include provisions to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

NPPF definition cont... Affordable rented housing is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable).

Affordable Rent

REMA reflects that AR is intended to meet the same needs as social rent. In principle up to 80% local market rent; London wide investment programme predicated on an average of 65% local market rate; Across London about 40% of rents will be around Target Rent i.e. de facto Social Rent; Housing Benefit will 'take the strain'/fill the gap between income and AR.

Maximisation of affordable housing delivery.

The aim of maximisation of affordable housing output increases prominence – extra references to maximisation in policy 3.11 and 3.12. Priority for delivering affordable family housing remains. Makes explicit in para 3.63 that boroughs should avoid imposing any requirements that might restrict the numbers of new affordable homes, this includes attempt to set affordable rent caps through planning policy.

On site affordable housing.

Gives policy status to providing affordable housing on-site; Only exceptional circumstances for off-site; Cash in lieu must have demonstrable benefits; Proceeds ring fenced and, if appropriate, pooled for additional housing; Either on identified sites or as part of an agreed programme; Cash to only be used to deliver additional affordable units

Other Housing amendments

Reasserts how London specific circumstances are reflected in our approach to identifying housing land capacity and setting housing targets. Makes reference to planning to meet the needs of service families in policy 3.8. Updated Gypsy and Traveller section to reflect the Planning for traveller sites guidance. Hazardous substances/installations: HSE traditional approach constraining London's development capacity; Unrealistic/'one size fits all'; More positive working relationship with HSE; Plan introduces hook for SPG to guide this.

Parking

Revised cycle parking standards to support wider policy to encourage structural modal shift; Flags residential car parking review in a Further Alteration; Take account of local car ownership/use, public transport accessibility, on/off street parking, land use efficiency, environmental impact, transport network efficiency

Interim guidance on use of existing policy in Housing SPG.

REMA timetable: Consultation deadline 31 July 2012; Pre enquiry meeting expected to be in September; Examination in Public expected to take place November/December.

Discussion

Duncan Bowie referred to PIL 80 which set out the housing changes to the London Plan and the definitional change to affordable housing and the extent to which the London Plan has to follow this. He drew the distinction between treating the matter as a form of social rent rather than a form of affordable housing.

There is no security of tenure with a social rent and it can be as much as three times the affordable rent. It is not a social rent in real terms. The alteration merges two targets so that more hous-

ing can be considered affordable. The effect is to remove real targets from the plan. As soon as this is accepted they will not be required by Boroughs.

This is a fundamental change to the target system which bears no relation to the evidence base in which 50-55 per cent of the total supply should be affordable, such that the target is removed. DB said that affordability does not matter but eligibility does. The change introduces all of the problems of the poverty trap and is fundamentally misguided. It is a consequence of government policy which is wrong. It has been challenged by TCPA and others. [see Duncan's article on page 26].

Jen Peters accepted that the changes follow government policy and that social renting applies only in exceptional cases. There is no grant available for genuine social housing. More reliance has to be placed on The New Homes Bonus and section 106 money.

DB came back to say that the plan is trying to stop London authorities that want social renting. In terms of monitoring some schemes will go through at 40-50 per cent but there is no individual monitoring possible since rent levels are not publicly available – a problem of transparency. The only statistics are region wide without disaggregation. The information could be made available but it is not.

Michael Edwards endorsed the views expressed by DB and encouraged the making of representations during the consultation period.

Dalia Lichfield invited the Forum to consider the wider context for this – namely the current high cost of housing due to land values and that the deeper problem is the scarcity of land in London. She asked whether London should take the initiative to break this land barrier. For example if there were a new town associated with HS2 or if urban extensions were developed more widely, using commuter routes or developing the garden city model (see TCPA etc.) She added that there is no point in having garden cities if the only people who can live there earn £1/2m/year. We have to look outside London for the answer to this.

Martin Simmons endorsed this view saying there was a need to look outside London within the next two years. He referred to the TCPA report of May 2012 entitled *Creating Garden Cities and Suburbs Today*. [see: tcpa.org.uk]. The NPPF imposed requirement putting a duty on councils to co-operate which has its counterpart in The GLA Act section 348:

It was agreed that the issue of new growth outside London should be discussed at the next Forum along with the Impact of the NPPF on Borough Plans.

This will take place **Monday 10th September at RIBA London, 77 Portland Place W1.**