**London Borough of Camden CIL Review – Draft Charging Schedule**

**Question from Examiner**

EQ2

To Camden London Borough Council

1. I refer to the consultation response to the Draft Charging Schedule, from Gerald Eve regarding One Euston, dated 29 November 2019, and also that from DP9, dated 2 December 2019, on behalf of Folgate Estates and relating to the site referred to as Murphy’s Yard.
2. Beginning with the Gerald Eve document, it states that Lendlease, on behalf of the landowners, are proposing that the development at Euston be nil rated for CIL purposes, so that planning and infrastructure delivery be dealt with under section 106 of the Town and Country Planning Act. Their paragraphs 4 to 8 deal with this proposal in some detail. At their paragraph 9 there is reference to authorities who have designated (obvious typo referring to designed) areas as nil rated – creating a development area that effectively has its own differential rate. Their following paragraphs (10 to 15) set out the gist of their argument.
3. I will set out your reply to Gerald Eve, in full, since it is not lengthy:

*“Given the strategic significance of development at Euston, the Council consider that it would be more effectively dealt with through the Infrastructure Payments procedure under the CIL reg 73 (Payments in Kind). The Council has previously indicated that it will accept Infrastructure payments where it can facilitate the delivery of major strategic infrastructure projects. The most recent version of the CIL regs has introduced increased flexibility to this procedure. This will in effect allow a separate s106 negotiation to be undertaken for major strategic sites where the Council considers this to be appropriate. For the purposes of clarity the Council will amend and publish its policy on Infrastructure Payments in lieu of CIL to state that this will only be allowed where the site delivers major strategic infrastructure identified in a planning framework or other adopted Local Plan document.”*

1. I note that CIL regulation 73 was in the 2010 Regulations, and that the 2014 Amendment to those regulations included the addition of regulation 73A and 73B. Regulation 73B carries the requirement that, where a charging authority wishes to allow infrastructure payments in its area, it must issue a document, the details of which it sets out in 73B(1). You state that “*The Council has previously indicated that it will accept Infrastructure payments where it can facilitate the delivery of major strategic infrastructure projects”.* You also state *“For the purposes of clarity the Council will amend and publish its policy on Infrastructure Payments in lieu of CIL …”* I am unclear about whether these statements are meant to indicate that you have met the requirements of regulation 73B.
2. You also refer to the most recent version of the regulations that has introduced increased flexibility by the removal of regulation 123 and the pooling restriction. It is this increased flexibility, allowing more latitude for section 106 to cover infrastructure investment, that Gerald Eve appear to be emphasising.
3. Turning to the DP9 representation in relation to Murphy’s Yard, perhaps the majority of its content relates to the site’s position within Zone C and argues that, with the passage of time and the changes to plans for the area within which it is situated, the Council should consider an amendment to the zoning so that it would come within the adjacent Zone B. Leaving that for a moment, it is also clear that DP9 believes that Murphy’s Yard has now emerged as a large-scale strategic site, and it cites the emerging Kentish Town Planning Framework (KTPF) which covers both Regis Road and Murphy’s Yard. For the sake of openness, I make clear that I have viewed the KTPF on the Council’s website, although it is not a document formally submitted to me.
4. I link the matter of Murphy’s Yard with One Euston since, in the 8th paragraph of your response to DP9 in document CED 1.8, you refer to an earlier response to another representor (Gerald Eve), on sites with strategic significance, adding that the Council is open to infrastructure payments procedure under CIL reg 73. Therefore, the 2 representations raise the same issues in this respect.
5. DP9 make the point that a CIL charge becomes payable upon the commencement of a permitted development: that would necessarily limit the extent to which the flexibility now available for s106 obligations could be used.
6. My questions arising from the above are:
7. How do you respond to the reservation expressed in paragraph 8 above, and how would (or does) the infrastructure payments procedure under regulation 73 work?
8. When do you envisage that you will amend and publish your policy on Infrastructure Payments in lieu of CIL, referred to above?
9. How do you respond to the proposal by Lendlease that Euston One becomes a nil rated Zone?
10. If pursuing that idea, would you extend that to other strategic sites, and specifically to Murphy’s Yard?
11. Finally, you correctly state that your review of the adopted Charging Schedule is partial, and does not alter the rates for residential development, other than to bring them into line with the indexation added to the 2015 rates. You go on to quote from the report of the Examiner who dealt with the London Borough of Southwark’s Draft Revised Charging Schedule who stated that *“my examination is purely concerned with the substantive revision, and not with the changes to rates due to the inflation uprate as provided for in the Regulations”.* I am not aware of the exact representations or circumstances that the Examiner was responding to, but I would say that it may be possible to differentiate representations that may be made about changing the rates for charging zones, from those that refer to changes of circumstances affecting areas and where zone boundaries are drawn. I may return to the topic subsequently.
12. Please let me have your reply within 10 working days.

Terrence Kemmann-Lane

Examiner

15 April 2020