MHCLG Consultation on 'Supporting Housebuilding in London' – December 2025

Richmond Council Response

Question 1: What is your name?

Daniel Goodman obo Richmond Council

Question 2: What is your email address?

LocalPlan@richmond.gov.uk

Question 3: Are you replying as an individual or submitting a response on behalf of an organisation?

Organisation – London Borough of Richmond upon Thames

Part One: CIL Relief

General Comments:

The Council recognises that housebuilding in London is experiencing a period of challenge, characterised by build cost inflation, difficulties in the sale of market housing, high interest rates and delays with the Building Safety Regulator.

The Council itself is playing its part in delivering growth, in a sustainable way, focussed on the types of growth that our local communities need. Richmond, as a Borough, is relatively constrained, with over two-thirds of our land area covered by national and international environmental designations. Nevertheless, through our recently adopted Richmond Local Plan (2025), the Council is committed to delivering significant levels of growth, alongside vital community infrastructure.

The Council has also prepared a Housing Delivery Test Action Plan which includes detailed analysis of the root causes of current housing delivery challenges and identifies a range of positive actions the Council is taking to increase housing delivery. This includes securing Registered Provider status to enable the Council to directly deliver more affordable housing, exploring opportunities to increase Housing Capital Funding to incentivise housing delivery (having already committed £12.4m over the next five years) and working with partners across the development industry to understand both site-specific and more general challenges affecting delivery and working to address these challenges from an early stage.

In this context, the Council wishes to express its strong opposition to the proposals for time-limited CIL relief which it considers are not sufficiently targeted, justified or effective as measures to address the root causes of housebuilding challenges, yet risk

undermining the ability for the Council and its partners to deliver sustainable development and vital community infrastructure in line with its recently adopted Local Plan and wider strategies. The proposals, if brought forward without significant revision, risks undermining and sidelining a range of strategies, projects and actions being delivered by the Council and its partners which are seeking to deliver good, sustainable growth.

The Council has a number of specific concerns with the proposals that it summarises below and which are elaborated on in the detailed questions that follow.

Limited impact of Borough-level CIL on viability: The Council is concerned that the justification set out in the consultation document risks over-emphasising the typical impact of Borough-level CIL on development viability and does not adequately identify how CIL relief will address the fundamental challenges facing housebuilders in London. The Council's Local Plan Viability Assessment (2023) identifies that Borough-level CIL has only a marginal impact on viability (with 100% relief on both Mayoral and Borough having a 5-10% impact on affordable housing on marginal schemes) when compared to the wider costs and values associated with development. Providing 50% relief from Borough-level CIL will therefore only marginally improve development viability at a scale that the Council considers will likely be immaterial in influencing a developer's overall decision on whether to proceed with developing a site if that site is genuinely stalled. Yet there is reasonable prospect that CIL relief will be claimed by developments which could have been delivered without it, with the relief simply augmenting their profit.

Limited impact of Borough-level CIL on root causes of slow build out rates: Likewise, the Council recognises that housebuilding is not an industry which follows the typical rules of supply and demand. There is a wealth of research, including the Letwin Review, which shows that housebuilders manage their output according to the market absorption rate to ensure house prices never deflate. A modest reduction in development costs is only likely to increase build out if market absorption also improves, yet there is little indication that the housebuilding industry would pass on a reduction in costs to prospective buyers. All other things being equal, the Council is concerned that a marginal reduction in development costs is unlikely to address the root causes of slow build out rates if those homes remain unaffordable or otherwise unattractive to those who are expected to purchase them, or if wider cost pressures continue or increase. Similarly, the Council has concerns that the proposals would undo significant progress in recent years, in ensuring the need to deliver significant public benefit is reflected in the price paid for land, by re-inflating land values. This could have unintended consequences for councils' long-term ability to maximise affordable housing and community benefit from developments beyond the notional expiry of any CIL relief.

Importance of Borough CIL to local infrastructure delivery: Whilst only having a marginal impact on development viability, Borough-level CIL plays a vital role in delivering funding for critical local infrastructure projects and is set at a rate which has been evidenced as necessary to address the impacts and needs of expected development. It follows that large-scale development continuing to come forward whilst making a markedly reduced contribution to CIL receipts will act to undermine the Council's ability to deliver the infrastructure needed to support local growth and create a greater risk of unsustainable development. London Councils have estimated the anticipated reduction in Borough CIL to be in the region of £45m to £100m per annum across London.

Undermining local infrastructure delivery is likely to have negative consequences for many in our communities, and particularly those with protected characteristics. Development without infrastructure will undermine community trust in the planning process, erode support for local development and worsen community cohesion.

Relationship with Mayoral CIL: The Council also notes that it is proposed that Mayoral CIL will not be subject to relief and that the consultation document seeks to characterise Mayoral CIL as having a fundamentally different purpose to Borough-level CIL in terms of its role in financing large projects and being ringfenced or otherwise committed in advance. The Council would suggest this characterisation is not entirely reasonable. The Council also uses anticipated CIL receipts as the basis for long-term infrastructure planning and has committed, through its Capital Programme, to utilise anticipated CIL receipts to fund vital infrastructure investment. The Council considers that the justification used to exempt Mayoral CIL from relief should be applied fairly to Borough-level CIL.

Impacts upon future housing delivery: The Council is also concerned about the long-term practical implications that a reduction in CIL-funded infrastructure delivery would have on worsening local infrastructure deficits. The Council notes and supports the Government's ambition to significantly increase housebuilding in London where sustainable to do so. However, it is possible that future housing delivery may be compromised if the existence of infrastructure deficits mean it is not possible or viable to make developments acceptable in planning terms, or may mean that local authorities are instead forced to rely further on negotiating bespoke planning obligations through Section 106 agreements to mitigate site-specific impacts which will re-insert a degree of delay and bureaucracy into the process, undermining one of the key advantages of CIL in alleviating much of the need for site-specific infrastructure negotiations. A reduction in CIL-funded infrastructure is also likely to understandably erode community trust in the planning system, particularly where infrastructure already identified has to be delayed or cancelled entirely. Erosion of community trust in the

planning system makes maintaining positive decisions about future growth all the harder, particularly where measures such as those proposed breed uncertainty.

Lack of targeting to stalled sites and impacts on land values: While the Council has a number of concerns around the measures as proposed, were any time-limited mechanism for CIL relief to be introduced, the Council would suggest it should be designed to apply only to developments that meet an appropriate and objective definition of "stalled". Were developments that are yet to come forward to benefit from the measures, there is a significant risk that this generates an inflationary impact on land values which may create long-term viability challenges that persist beyond the notional expiry of any CIL relief. As set out in responses to detailed questions, the entanglement of eligibility between the proposed measures and the GLA's proposed 20% affordable housing route also risks introducing incentives to reduce affordable housing contributions from more viable sites. The Council's view is that restricting CIL relief to genuinely stalled sites with existing permissions, informed by a robust viability process, would at least better target the measures to developments that can evidence being impacted by the challenges currently affecting housebuilding in London, limit any inflationary impact on land values and limit incentives which act to undermine affordable housing delivery.

Lack of provision for compensation: Given the significantly negative impact that CIL relief would have on much-needed infrastructure funding, the Council considers it important that opportunities for compensating this loss of funding from other sources is explored. This would provide balance to the stated objectives of offering CIL relief whilst avoiding or mitigating some of the negative consequences of reduced infrastructure funding summarised above. The Council notes that London Councils have identified a range of potential mechanisms for raising local infrastructure finance, including Tax Increment Financing (TIF), retention of local Stamp Duty, access to state-backed risk capital and tourist levy receipts. The Council notes there is also clear precedent for local authority compensation through Section 31 grants in relation to reliefs granted under the Business Rates regime which serves a similar logic.

In relation to administration itself, the Council is concerned that the £25,000 claim fee may be inadequate in cases which are complex, or which require third-party verification, e.g. viability consultations. As set out in London Councils' response, the overall package of reforms, if successful, is likely to generate a surge in viability reviews, S106 variations, and complex CIL assessments. London Councils have estimated £37.4m in unfunded cost pressures. Administration of CIL relief would present an additional demand on resource on top of routine CIL administration tasks which would still need to be undertaken, with only up to 5% of a significantly reduced borough CIL amount available.

Lack of assessment of alternatives: Whilst the Council does not support the proposed measures as currently designed, it would suggest that where some form of relief is taken forward, there are a number of potential alternatives to the measures proposed which would provide better proportionality or mitigation to the potential loss of funding. In evaluating alternative options, the Council would encourage the Government to consider the potential complexity of the proposals put forward and the need for simplicity in practice, in order for any time limited measures to be successful. Many of these alternatives have been outlined in detail by London Councils and range of other Boroughs and organisations across London. Each is addressed in detail under relevant questions, and would each require further assessment, but could include:

i. **Relief on CIL indexation** – this would temporarily pause indexation of CIL payments to mitigate against inflation. This would provide greater certainty to developers and allow them to more accurately plan cashflow, whilst limiting the loss of much needed infrastructure funding.
ii. **Greater flexibility over phasing and deferral of CIL payments** – this would allow for a greater proportion of CIL payments to be made in the later stages of a development, alleviating early cashflow pressures, whilst avoiding the loss of much needed infrastructure funding.
iii. **Relief based on percentage of development costs** – this would mean that developments where CIL has a more significant impact on viability are able to access relief, whilst developments where CIL has a limited or negligible impact on viability are not able to access unjustified relief.
iv. **Means-tested relief at the minimum level needed for viability** – this would mean that developments which would benefit from CIL relief do not automatically receive 50% relief where a smaller amount of relief would be sufficient.
v. **Cap on overall CIL relief** – this would allow Boroughs to decline claims for CIL relief where they would have a particularly significant impact on forecast CIL receipts and/or where approving CIL relief would undermine the ability to deliver specific, critical infrastructure projects.

Question 4: Do you agree that the relief should not apply to development on "excluded land" as defined? Please explain your answer.

Whilst the Council opposes the availability of relief for any site without strong justification, it supports the principle of not offering relief to developments on "excluded land". This is because this land (including Green Belt, Metropolitan Open Land, and recreational land) generally has a much lower existing use value and lower development costs, particularly where there is less need for remediation. As a result, developments

on excluded land are typically already far more viable than developments on brownfield land.

Excluded land is generally scarce and can provide multi-functional public benefits, including supporting biodiversity, climate change mitigation and recreation. Any release of excluded land for development in exceptional circumstances must, at the very least, mitigate the loss of these benefits by maximising the creation of new community benefits. Allowing developments on excluded land to access CIL relief would fail to support the maximisation of community benefits from the release of these sites and would likely inadvertently promote development on them further as the availability of CIL relief, combined with a lower existing use value and lower development costs, would make these sites far more lucrative for developers to bring forward. This would conflict with national, regional and local policies which each seek to promote a brownfield first approach to development.

In addition, for the same reasons above, relief should not be available for sites which include any portion of "excluded land" within a wider site area.

Question 5: The Government welcomes views on approaches restricting relief to certain land uses – including the merits of whether the policy should apply based on established use classes, or something more bespoke.

Notwithstanding the wider concerns expressed in the Council's comments, relief, if introduced, should be restricted to certain land uses and would suggest this should apply based on established use classes for simplicity. Where any use of the C3 use class is envisaged, consideration should be given to whether only C3(a) single household uses should be eligible to avoid inadvertently offering relief to other types of dwelling within the C3 use class, including small HMOs for example.

Whilst currently relatively uncommon in the Borough, the Council supports the proposal to exclude all other forms of accommodation from relief, including purpose-built student accommodation and co-living. As identified in the consultation document, these non-self-contained forms of accommodation appear to have become disproportionately viable relative to conventional housing, and there is an increasing risk across parts of London, that the relative viability of student and co-living accommodation developments imbalance land supply away from conventional housing. Given that London Plan policy does not require these forms of accommodation to deliver conventional affordable housing on-site, a future oversupply of these forms of accommodation risks further undermining efforts to meet the severe and urgent need for affordable housing in London.

Question 6: The Government welcomes views on the application and level of the proposed borough-level CIL liability threshold, including whether this would have significant negative implications for SME builders.

If these proposals were taken forward, the Council considers it vital that a minimum threshold applies. Subject to the wider preferences indicated below, the Council considers that any liability-based threshold should be set as high as possible to limit impacts upon infrastructure funding. The Council considers that setting a low threshold would create a disproportionate administrative burden.

As an alternative to a liability-based threshold, the proposed relief could be made fairer if implemented on the basis of a percentage of overall build costs or gross development value, therefore only supporting developments where CIL can be shown to be a considerable or disproportionate element of the overall development cost. This could be on the basis of total CIL being more than 5% of Gross Development Value although further analysis of the impacts of relief at this threshold would be required prior to implementation. Further consideration could also be given to applying the relief only for developments above a unit-based threshold, such as 500 dwellings, where there would be considerable public benefits attached to the delivery of that many dwellings.

However, as set out in the Council's wider comments, there is a further range of seemingly untested alternatives that should be considered prior to a percentage-based relief, and other avenues should be considered in the first instance such as the aforementioned relief on indexation, or deferral of payments to improve cashflow.

Noting that affordable housing is generally already subject to CIL relief, the way in which any threshold would apply may introduce perverse incentives for developers with permissions which secure more than 20% affordable housing provision to lower their affordable housing contribution. In so doing, this would increase the amount of Borough CIL they would pay without relief which may allow them to artificially reach the defined threshold and make themselves eligible for the CIL relief to the detriment of affordable housing provision. Whilst the Council recognises that some mitigation to the above would be offered by the proposition that only developments which demonstrate they require the CIL relief for viability purposes would be eligible, the process proposed does not include assessment of whether an existing or theoretical consent with a higher percentage of affordable housing would be deliverable as an alternative, noting the potential incentives created by the threshold described above. As set out in its responses to later questions, the Council also has a number of general concerns about the rigorousness of this viability process.

Question 7: The Government welcomes views on the threshold applying to a development as a whole, and whether this presents any challenges for phased developments where each phase is a separate chargeable development for CIL purposes. If so, should a lower threshold apply for each phase of a phased development?

The Council notes that many developments with a Borough CIL liability exceeding £500,000 will be phased, for both planning and CIL reasons, to help with managing cashflow. The Council notes that larger phased schemes often receive consent through hybrid planning applications, which include part-full and part-outline planning permissions, where the final CIL charge cannot be calculated accurately at the point of that initial consent. There is therefore significant risk of subjective interpretation in the application of any thresholds, especially if the threshold is applied as a hard cutoff, i.e. less than £500,000 = no relief applied, and over £500,000 = 50% CIL relief.

Where a liability-based threshold is applied, it would be preferable to apply a higher threshold which would apply to all phases of a development, therefore only impacting schemes delivering a larger number of homes. Applying thresholds to each phase would result in a potentially disproportionate administrative burden and could cause delays if there is a disagreement between the Council and an applicant as to whether their scheme meets the proposed threshold or where an interpretation taken at an early stage based on incomplete information proves to be incorrect at a later stage.

If the development is treated as a whole, there is considerable risk that for large phased developments where CIL has already been paid, subsequent calculation of relief may necessitate reimbursement of CIL that has already been spent on or allocated to be spent on local infrastructure projects. Alternatively, later phases may be reduced to zero CIL taking into account CIL already paid which was deemed viable when that phase commenced. Any Regulations brought forward must ensure that this scenario cannot arise as this could equate to several millions of pounds for large schemes.

Question 8: The Government welcomes views on the proposal to require a minimum level of affordable housing as set out in this sub-section.

The Council is responding separately to the GLA's consultation on the time-limited planning route raising a number of significant concerns over the justification for, and effectiveness of, that route as a means to increase housebuilding in London.

In summary, the Council's response raises particular concerns over the lack of objective evidence that has been prepared which considers the need for, and impacts of, the new planning route in terms of affordable housing delivery. The Council also has concerns over the lack of appropriate targeting which means that the route includes no provisions for viability testing, meaning that developments that can clearly afford to deliver a level of affordable housing exceeding 20% will have an incentive to simply cap their affordable housing contribution at 20% knowing that local authorities cannot insist on a higher contribution. As a result, the Council is concerned that the new planning route will serve to undermine attempts to maximise affordable housing delivery in the Borough and simply exacerbate the current housing crisis in London. A copy of the

Council's response to the GLA's consultation has been provided alongside this response.

Notwithstanding the Council's overall concerns, the Council recognises that there may be a limited number of sites across London where existing permissions secure a level of affordable housing below 20% where the availability of some CIL relief in return for increasing affordable housing delivery on-site may be considered a positive or neutral outcome. However, in a majority of cases, the Council considers the gains on these sites to be highly unlikely to outweigh the losses on the many other sites which could have delivered more than 20% affordable housing.

If the proposal was to be introduced, mandating a minimum amount of affordable housing is clearly preferable to there being no minimum (i.e. CIL relief being available for developments delivering no affordable housing). However, the Council is concerned that the minimum of 20% as proposed, for the reasons summarised above and set out in the Council's detailed response to the GLA's consultation, is significantly below the level of affordable housing that can actually be afforded by a significant number of developments and will create perverse incentives for more viable developments to trade viable affordable housing for additional profit. The Council is also concerned that, like the proposals for CIL relief, the new affordable housing route does not adequately address the root causes of stalling housing delivery across London.

The Council is particularly concerned that, for developments which could viably provide affordable housing in excess of 20%, the intertwined nature of eligibility for the new planning route and CIL relief could create perverse incentives to not maximise affordable housing delivery (and, in some cases, to actively abandon extant permissions) in favour of reducing or capping affordable housing at 20% and claiming 50% CIL relief. Whilst the Council recognises that it is proposed that CIL relief would only be available for developments that need relief to make their development viable, it has outlined its concerns over the lack of rigour in these tests in its responses to later questions in the consultation. Overall, the Council's view is that the measures as proposed are inadequately targeted to restrict the incentives offered by CIL relief to genuinely 'stalled' sites or sites which would otherwise have clearly come forward for less than 20% affordable housing or not at all.

Please also see the Council's responses to Questions 15 and 16 which address some of these matters in more detail.

Question 9: Overall, are you supportive of the qualifying criteria outlined? Please set out your views.

The Council has a number of concerns about the qualifying criteria which it has set out in its response to the preceding questions.

In addition, the Council would welcome an additional criteria which means that any site that has secured a planning permission on the basis of a viability assessment in a reasonable preceding period, for example 24 months, would be automatically ineligible for the CIL relief without the provision of a new full viability assessment, particularly where this planning permission was granted shortly before these regulations come into effect. In these cases, there is clear evidence indicating that the development has a deliverable planning permission and they should therefore not be automatically afforded opportunities to make their permission even more deliverable by trading public benefit for private benefits.

As set out above, the Council is supportive of the proposal that certain developments, including co-living and student housing, which are known to be more viable than other forms of housing, would not be eligible for relief. However, the Council recommends that sites which have 25% or more of co-living or student housing floorspace should not be eligible for the CIL relief and the new planning route, as opposed to the 50% currently proposed.

Question 10: The Government welcomes views and evidence on whether a timelimited borough-level CIL relief in London will have the desired effect of improving viability to support housebuilding in London? As part of this, the Government would welcome case studies on the impact that borough-level CIL has on development in London.

The Council has a number of concerns over the justification and effectiveness of the proposed CIL relief. Please refer to the general comments made at the start of our response for a summary list of these concerns.

In summary, the Council's view is that the impact of CIL on wider development costs is very low in the majority of cases. Within the Council's Whole Plan Viability Assessment, it identifies that Borough-level CIL has only a marginal impact on viability.

To put this into context, the cost of CIL is usually only around 3-4% of total development costs, although this can be slightly higher for smaller developments where there is no existing relief for existing floorspace. In comparison, the contingency percentage generally applied to new-build costs is normally 5% (7.5% on more complex conversions of listed buildings etc). Marketing costs of the open market units are usually in the region of 1.5-2% of total build costs. As such, this shows that compared to wider development costs, the relative viability impact of Borough CIL in general terms is very small. Consequently 50% CIL relief is unlikely to be an effective measure at materially improving the deliverability of genuinely stalled sites.

Likewise, the Council recognises that housebuilding is not an industry which follows the typical rules of supply and demand. There is a wealth of research, including the Letwin Review, which shows that housebuilders manage their output according to the market

absorption rate to ensure house prices never deflate. A modest reduction in development costs is only likely to increase build out if market absorption also improves, yet there is little indication that the housebuilding industry would pass on a reduction in costs to prospective buyers. All other things being equal, the Council is concerned that a marginal reduction in development costs is unlikely to improve build out rates if those homes remain unaffordable or otherwise unattractive to those who are expected to purchase them.

The Council also notes that a key benefit of CIL is its certainty and the ability it therefore gives developers to forecast CIL as a cost and factor it into the price paid for land. The Council is concerned that there is no analysis within the consultation document which considers how the widespread availability of CIL relief might influence land values. The Council would be concerned that the availability of CIL relief might increase land values and create long-term viability pressures beyond the notional expiry of the relief.

Whilst, for the reasons set out above, CIL does not necessarily impact viability as a significant cost, the Council recognises it can impact a developer's cashflow as CIL is generally payable upon commencement and then in line with any instalments policy. Whilst further analysis of the impacts of alternative measures is required, the Council strongly recommends that the Government considers alternative measures which better address how CIL actually impacts on developers. This could include greater flexibility over the phasing or deferment of CIL payments. This would still carry significant benefits for developers whilst not undermining local authorities' ability to properly plan for and deliver the infrastructure necessary to make development sustainable.

Alternatively, as set out elsewhere in the Council's response, other alternatives could include relief from CIL indexation which would offer some mitigation to the uncertainty developers face on costs in periods of high interest rates and/or inflation, or relief as a percentage of overall build costs or gross development value, which would better target developments where CIL forms a higher proportion of the overall development cost. Please review the Council's full responses for more information.

Question 11: Are there any specific criteria that you think could be clarified or adjusted? If so, please give your reasons why

Please see the Council's responses to the preceding questions which includes a number of suggestions relating to individual criteria.

The Council would recommend a cap is applied to any CIL relief which establishes a maximum level of CIL relief that can be sought regardless of the final level of affordable housing that is agreed. This would ensure that Councils have, at the very least, a best- and worst-case scenario of lost CIL receipts, and funding could still be considered in the longer term without considerable uncertainty.

Question 12: Are there any additional eligibility criteria you think should be considered for the CIL relief beyond those proposed? Are there any other observations or comments you wish to make?

For the reasons set out across the Council's response, the Council considers that developments that have received planning permission at a policy compliant level, or which have undergone detailed viability testing as part of a planning application, shortly before the introduction of the time-limited measures should not be eligible for relief as there is reasonable evidence to suggest these developments are viable at the consented level of affordable housing and CIL. This could be based on a time-period such as 24 months. To allow recently consented developments to be eligible for CIL relief would introduce unacceptable incentives which undermine the stated objective of supporting stalled sites. Where such developments cannot implement their recent permissions, they would still have the ability to re-submit an application, providing detailed viability evidence, but crucially any policy flexibility would only be justified where there is clear viability evidence.

Under the proposals as presented, it is possible to envisage developers with schemes which have a planning permission incorporating 35% affordable housing which have not commenced simply applying for 80% CIL relief and expecting it to be granted with little scrutiny.

The Council would also strongly recommend that eligibility is contingent on meeting a Borough's adopted tenure split. In Richmond, it is vital that social rented housing is maximised to respond to high and urgent levels of need. A 70:30 tenure split of rented affordable housing to intermediate housing has only recently been found sound and adopted in Richmond, as a result of rigorous viability testing across multiple site typologies. It is not reasonable to allow developments to come forward at a 60:40 tenure split across London, irrespective of local need or adopted local policy.

Question 13: The Government welcomes views on the proposed steps before applying for relief as set out in this sub-section. This includes views on how the grant funding mechanism may interact with the proposed CIL relief, and any circumstances where following the order/choreography set out would be difficult.

The Council agrees that a Section 106 agreement must be in place before any application for CIL relief is made. Whilst the Council supports the effective use of grant to increase affordable housing levels, the integration of grant in the proposed measures could add an additional layer of complexity to the process, especially if, as part of any review mechanisms, the level of affordable housing is later amended which could then impact the development's CIL liability and/or eligibility for existing forms of relief.

Additionally, in relation to the final level of grant provided towards affordable housing, the GLA usually undertake an assessment of value for money separately, and this

assessment is often not shared with the Council. This can raise legitimate questions in relation to whether the level of on-site affordable housing has been maximised which is often a concern for local communities. With the intertwined nature of eligibility for the GLA's proposed planning route and CIL relief, and the proposed expansion of the Mayor's call-in powers, this will become an even more significant concern for Boroughs and their residents. The Council would support this process being made more transparent and inclusive of the Council itself, to allow the Council and local residents to understand whether the level of on-site affordable housing secured amounts to the best use of grant, and whether the development has appropriately optimised the most in-demand tenure, which for Richmond is social rented housing. This commitment would strongly align with the sentiments of the Planning Practice Guidance which is very clear regarding the need for transparency in relation to adjustments to policy on the basis of viability.

Question 14: The Government welcomes views on the proposed application fee, the level of fee that is proposed and whether this would create any difficulties.

The Council supports the principle of an application fee to avoid frivolous applications for relief being made.

However, in some circumstances, a flat claim fee of £25,000 may not be sufficient to cover the Council's full costs, especially with highly complex schemes. In some cases, there may be a need for a professional viability expert or Quantity Surveyors to assess the claims or costs. Generally, as part of the planning process, the Council requires applicants to pay directly for the full costs of any third-party viability reviews in addition to any applicable planning application fee, and a similar approach may be appropriate in this case, especially where significant mediation or further information is required.

The Council also feels that the application fee should be based on cost-recovery and ringfenced for CIL administration, which could include officer time to evaluate the claim, engaging consultants and back-office tasks, the issuing of any statutory notices or correspondence relating to the claim. A one-off fee is appropriate to resource the additional tasks created by the administration of the relief claims, however, a development that has the relief granted will still require the same level of administration compared to now but will have a reduced amount of CIL administration fee available. The Council would therefore suggest that any CIL relief must be deducted after the CIL administration fee has been claimed, to ensure that routine CIL administration tasks can continue to be adequately resourced.

It should be noted that if the proposed application fee mirrors admin fee regulations, then it may be lost due to the inability to carry forward money if the claim is received in one financial year, but the work is carried out in a subsequent year.

Question 15: The Government welcomes views and evidence on whether 50 per cent relief for qualifying schemes delivering 20 per cent affordable housing is appropriate, or whether an alternative approach should be considered.

Question 16: The Government welcomes views on whether this approach strikes an appropriate balance and provides a clear incentive for additional affordable housing to come forward.

The Council consider that the proposal for 50% relief, in addition to 20% affordable housing (of which the developer only needs to fund 10% of the affordable housing), fails to address the challenges which are being faced by the development industry. The biggest challenge developers are experiencing are low sales rates and lack of demand for new build market properties, including related issues such as buyers concern about the long-term affordability of service charges on especially flatted development. The focus should therefore be on improving demand, such as by ensuring there is effective regulation to ensure buyers feel protected from sudden significant increases in service charges outside of their control.

Affordable housing requirements in Local Plans, both in terms of overall levels and the tenure mix, have to be justified through evidence and local context. As required by the NPPF and PPG, affordable housing requirements must be shown to be aspirational but deliverable through rigorous testing including the Whole Plan Viability Assessment, the evaluation of previous levels of affordable housing delivery and the assessment of housing needs. The Council is deeply concerned that the proposal for CIL relief seeks to displace sound, evidence-based and up to date Local Plan policies without sufficient evidence of its own.

The Council has made detailed representations on the GLA's consultation on the new planning route, which it notes is significantly intertwined with the proposed CIL relief. The Council is deeply concerned that the new planning route also seeks to effectively override sound Local Plan policies by introducing an approach that lacks specific evidence to justify lower affordable housing requirements in different local contexts. This includes the contributions of, and time taken by residents to respond to the Local Plan consultations, the input from Councillors to balance the needs and requirements of their constituents, the engagement with developers to make the policies deliverable and the Examination in Public hearings.

Land across London is finite and once developed it is removed from future supply. Although there are viability challenges in the current market, once a site is developed with low levels of affordable housing, there will be no opportunities to deliver more affordable housing on that site, yet the need for affordable housing across London is likely to continue to increase significantly. It is a well-known fact that London Boroughs

are spending significant sums on temporary accommodation which present an enormous opportunity cost when considering how those sums could otherwise be spent. A London Assembly report[1] estimated that the lack of sufficient affordable housing delivery across London resulted in London Boroughs spending £90 million per month on Temporary Accommodation in 2022/23. The report recognised that long-term investment in new and existing social rented homes is the only way to bring down the numbers in temporary accommodation and address housing inequalities in London. The proposed new planning route will undermine efforts to deliver more social rented housing across London. This may lead to Councils in London having to increase their reliance on temporary accommodation, which is not only expensive but also constrains the livelihoods of families relative to permanent accommodation.

The Council is particularly concerned that the proposal does not address the root causes of the challenges in housing delivery in London. These are the lower demand for open market housing due to the difficulties of households securing mortgages at current prices and the lack of international investment which previously resulted in large number of dwellings being bought off plan by overseas investors, giving developers an important early injection of funds and supporting their cashflow. There have also been considerable delays with the Building Safety Regulator, meaning large numbers of sites with permissions are unable to implement permissions due to delays. Even with the reduced affordable housing requirements, these key issues will continue to impact housebuilding in London. If anything, the Council is concerned that a higher share of private dwellings will create even higher levels of risk in the open market which might disincline developers from building out permissions further.

As the measures proposed do not address the root causes of the challenges experienced by the housebuilding sector, they are likely to be of limited value to developments which are genuinely unviable in the current market. On the other hand, they are likely to be attractive to developers of sites that are viable, including those with recent permissions at policy compliant levels of affordable housing or levels of affordable housing above 20% that have agreed through the Viability Tested Route. The Council is concerned that the measures as proposed do not incentivise developers to exceed 20% and actively incentivise some developers to lower affordable housing contributions to 20%.

As set out across the Council's responses, greater affordable housing delivery is vital to improving build out. It provides developers with a vital cash injection early into the development. The current proposal will increase the amount of market housing delivered on sites and increase risk on developments. This was a cogent issue discussed as part of the recent Stag Brewery Public Inquiry in Richmond. In effect, the higher level of risk associated with a higher proportion of market homes on site fed into

[1] London's Temporary Accommodation Emergency - Housing Committee (2024)

a justification for higher profit levels. This then adds to the overall development costs and worsens viability. Rather than perpetuating this cyclical impact, the Government should be focussing on what can be done to bring forward the significant number of unimplemented permissions across London including Richmond without sacrificing affordable housing without a clear justification. This should include greater certainty and faster decision-making regarding grant. The Council is aware of some schemes which have been waiting for 3-4months and still do not have a firm confirmation of whether they will be able to receive grant, which is far too long. The greatest risk to developers is uncertainty and progressing with a scheme which requires grant to be delivered, whilst waiting months for any communication on this, creates more uncertainty, in addition to delays from the Building Safety Regulator. The Council is also aware of serious concerns of how the Building Safety Regulator is implemented across London in relation to completions, as for example, schemes which are over the height restrictions cannot be occupied in their entirety, meaning a building could sit vacant for months before being signed off, which result in additional risks and additional cost to the developer which are ultimately then used to argue down public benefit.

The proposed new planning route also assumes a level of homogeneity in London's development market which is not supported by the available evidence, including the Council's recent Whole Plan Viability Assessment (WPVA) which demonstrates that a large number of sites in Richmond could viably provide an affordable housing contribution above 20%. The Council considers it probable that those seeking to use the new route will include developments that have only recently received permission where clear evidence, in the form of an extant permission or site-specific viability assessment, that the development can afford a contribution exceeding 20%. In such cases, the time-limited planning route would appear to encourage developers to trade viable affordable housing contributions above 20% for abnormal levels of profit. As a whole, the proposal is considered to run contrary to the socioeconomic imperative to meet London's high levels of affordable housing need and the prevailing evidence (including from Lichfields) that increasing levels of affordable housing delivery, not reducing it, is an effective way to help improve build out rates.

The Council is particularly concerned that, for sites which could viably provide affordable housing in excess of 20%, the intertwined nature of eligibility for the new planning route and CIL relief could create perverse incentives to not maximise affordable housing delivery (and, in some cases, to actively abandon extant permissions) in favour of reducing or capping affordable housing at 20% and claiming CIL relief. Whilst the Council recognises that it is proposed that CIL relief would only be available for developments that need relief to make their development viable, it outlines its concerns over the lack of rigour in these tests in its responses to other questions in the consultation. Overall, the Council's view is that the measures as proposed are

inadequately targeted to restrict the incentives offered by CIL relief to 'stalled' sites or sites which would otherwise have come forward for less than 20% affordable housing.

The Council is also concerned that the London Plan thresholds for affordable housing have taken time to be factored into land values and any new, lower threshold risks re-inflate land values to the point they were at prior to 2017 when the 35% threshold was first introduced. It should be noted that large master-planned and phased developments are many years in the making, with some large scale planning applications sometimes taking more than 5 years to go through the planning process due to the sheer size and complexity of the planning process, as well as often numerous re-submissions from applicants, and any land purchase or option agreement will have happened long before this process. The proposed time limited route is unlikely to address the underlying challenges facing housing delivery in London in the short-term, however, it could have repercussions for years to come with inflated land values that will make any re-implementation of a higher threshold even more challenging.

There are also practical challenges associated with developments looking to come forward under the new planning route and claim CIL relief, as expanded upon in later questions. In particular, under the new planning route, local authorities are not able to request viability evidence to means-test whether a reduced affordable housing contribution is justified on viability grounds, yet developers will need to supply viability evidence as part of the process for claiming CIL relief in order to demonstrate that the CIL relief is justified on viability grounds. If one of the arguments for not requiring viability evidence as part of the new planning route is to reduce bureaucracy and incentivise uptake of the route, requiring that evidence for the CIL relief (although clearly justified) would mean that bureaucracy remains in any event. The rationale for requiring that viability evidence, i.e. to ensure that CIL relief is reserved to those developers which actually require it to deliver their scheme, clearly also applies to ensuring the new planning route is not open to abuse. It is also not clear how authorities are expected to react where the viability evidence submitted as part of any claim for CIL relief suggests that the development could have contributed a higher amount of affordable housing or where the reduced affordable housing contribution has simply led to inflated land values.

It is also recognised that the consultation document proposes to make CIL relief only available to developments which secure at least 20 per cent affordable housing by habitable room. The Council notes that some Section 106 agreements secure the requirement by number of units. This could make practical implementation more challenging and should be clarified.

Question 17: The Government welcomes views on the optimal levels of relief to ensure development can proceed, while maximising CIL receipts and affordable housing delivery.

As set out in the Council's early responses, the Council notes that CIL often represents between 3-4% of total development costs which is far less than general contingency costs applied to development costs. The overall cost of CIL represents a very small percentage of overall development costs. The Council would therefore recommend assessment of potential alternative measures, such as more flexible arrangements for the phasing or deferral of CIL payments to the later stages of a development. This will improve cash flow considerably whilst not undermining local authorities' ability to properly plan for and deliver necessary infrastructure.

For the reasons set out across the Council's responses, the Council's view is that amendments to affordable housing thresholds should not be carried out as part of updates to London Plan guidance without the provision of robust and objective evidence. The only way to fully optimise the delivery of affordable housing and CIL and ensure any flexibilities provided are justified is to fully viability test sites. This ensures that affordable housing has been genuinely maximised and allows authorities to accurately model out the impacts of different forms of CIL relief (such as CIL being paid at a later stage) and the relative impact this would have on delivery. This would not be an unreasonable process, especially as this measure is proposed to be time limited and would ensure that developers are being transparent with what can genuinely be delivered on sites. Overall, the Council does not support a lowered threshold, however, if CIL relief was to be introduced, developments should be required to first follow the Viability Tested Route (VTR) to ensure relief is optimised.

The Council would also recommend that consideration be given, outside of the new planning route, to making the level of affordable housing where grant can be considered more flexible to incentivise delivery. This should be focussed on stalled sites. Within existing London Plan policy, grant is only considered if a site is delivering a minimum 35% affordable housing from the developer. However, there are many sites where a lower level of affordable housing is shown to be the maximum achievable through developer-funding alone, yet the layout and design of the site would lend itself to additional affordable housing being delivered through grant. A good example of this is the Stag Brewery site in Richmond, where the site has been rigorously viability tested, with the maximum level of affordable housing that can be delivered as 7.5% by habitable room. However, there is an interested Registered Provider involved in the site, and the design of the site means there are a number of smaller blocks of homes which could be flipped to more affordable housing. This is especially important where the Stag Brewery is providing a substantial proportion of the Council's 10 year housing land supply, with limited other opportunities for larger developments in the borough. Maximising affordable housing on this site, regardless of the level that can be delivered by the developer alone, would be far more beneficial for Richmond than a blanket lowering of the affordable housing threshold across London. As an alternative to what is being proposed, it may therefore be beneficial to reconsider the threshold of affordable

housing that must be provided on-site for grant to be applied for. This would enable sites which could have delivered more affordable housing the opportunity to do so and avoid sites which are unable to provide any more affordable housing losing out on grant opportunities due to being below the grant threshold. This could also help provide sites where viability has been fully tested and verified to maximise affordable housing delivery through grant.

Question 18: The Government welcomes views as to whether boroughs should have any discretion in relation to the relief and if so in what circumstances, and how this may work such that robust incentives for additional affordable housing remain.

As set out across the Council's response, the Council is concerned that the CIL relief measures as proposed could significantly impact the funding available for delivering local infrastructure projects.

In its responses to other questions, the Council has identified a number of alternatives to a percentage-based relief, which subject to proper assessment, would appear to better target the measures and better mitigate any impact on local infrastructure funding. This includes time-limited relief from CIL indexation, greater flexibility over the deferral or phasing of CIL payments, and relief based on a percentage of development costs.

Should a percentage-based CIL relief be taken forward, consideration should be given to the ability for local authorities to reject or limit CIL relief on a site-by-site basis where the CIL relief would significantly impact on their total projected level of CIL receipts (for example over the next 5 years) or where it exceeds a specified percentage of expected CIL receipts, and where allowing relief can be shown to have a significant detrimental impact on essential community infrastructure planning or the feasibility of specific projects identified, for example in the Infrastructure Delivery Plan. This would be most relevant to authorities who collect lower levels of CIL annually, as Richmond does, so are heavily reliant on CIL receipts from a smaller number of sites.

There could also be a cap on the total value of CIL relief, as there is with affordable housing provision in review mechanisms. This would allow authorities to at least identify a best- and worst-case scenario in relation to lost CIL receipts.

Guidance is also needed to address the scenario where developers with extant permissions can re-submit their scheme with the intention of reducing their on-site affordable housing provision despite recent evidence, in the form of extant permission or a recent site-specific viability assessments, showing that a higher level of affordable housing is viable. As set out elsewhere, the Council considers that developments with recent permissions should be ineligible for the proposed new planning route and that

any reduction in affordable housing delivery (and consequential CIL relief claims) should require detailed viability testing to avoid gameability.

Question 19: The Government welcomes views on the appropriate and proportionate level of information that a developer must provide for a scheme in order to be able to qualify for the relief, ensuring that only those schemes which genuinely need the relief are able to benefit from it but avoiding the level of viability testing that would be required under the GLA's Viability Tested Route.

Given the clear importance of ensuring that CIL relief is not available for developments which are failing to maximise public benefits, and the significant concerns the Council has raised about the perverse incentives that the proposed measures may generate to not maximise affordable housing, the Council considers it vital that eligibility for any CIL relief is subject to a robust and transparent viability testing process. The Council considers that any CIL relief should therefore require the provision of a full open-book viability assessment subject to the same degree of scrutiny as the Viability Tested Route.

The provision of detailed viability information is already a requirement from the GLA to justify value for money as part of grant funding, especially on more complex schemes. A light touch assessment would not be appropriate in this scenario as the Council should be required to ensure any assumptions applied are realistic and that the conclusions are therefore valid.

The Council is concerned that the light touch viability process proposed relies excessively on trust. The measures proposed actively seek to limit local authorities' ability to dispute the assumptions or conclusions of the viability information provided and set no specific requirements for developers to justify the provenance of their assumptions. The proposal refers to unnamed guidance and standards which would appear to invite developers to justify their assumptions to an unhelpful degree of flexibility. It would be preferable for the Government to specifically name the guidance or standards the viability assumptions need to meet.

The Council also notes that it is likely that, with some developments, local authorities may have considerable grounds on which to dispute the accuracy of the information supplied either through its Whole Plan Viability Assessment, or even recent site-specific viability assessments on the very same site. There is insufficient detail within the proposal to set out how authorities are expected to respond in this scenario, and there is an implication that authorities should always grant relief provided that the prescribed information is provided and the statutory declaration made. With this implication in place, the Council is concerned that developers will have an incentive to supply the minimum level of information possible and seek to avoid including any information which would allow for proper scrutiny.

The Council notes that the mitigation proposed as part of the process is that developers will need to make a statutory declaration declaring the information they provide to be true. However, there is no explicit requirement for this declaration to be made by a named individual or indeed an individual who is qualified to make such a declaration. Any requirement for a statutory declaration should be clear that the declaration needs to be made both by a named director of the developer and a named qualified person who has independently reviewed the validity of the information and has an appropriate industry accreditation (for example, a chartered surveyor).

Question 20: The Government welcomes views on whether existing enforcement mechanisms for (i) statutory declarations (see section 5 of the Perjury Act 1911), and (ii) prosecution under the CIL Regs (see Regulation 110 of the CIL Regs) for supplying false or misleading information that is required to be provided under those Regulations, are sufficient to deter gaming of the system, or whether other deterrents should be made available? If you think these are not sufficient, please set out your reasons and views on what kinds of other deterrents may be needed, noting the Government's aims of creating a streamlined and certain process.

The Council would be concerned that existing enforcement mechanisms may be inadequate or be so onerous such as to make them unappealing even where otherwise justified.

A key issue is that every development is different, and viability is essentially a subjective professional field which can be interpreted differently depending on the inputs into the process. This degree of subjectivity makes it more challenging to enforce. It would be possible, for example, for a developer to seek to justify a series of assumptions which each sit at an extreme end of an accepted range, which, when combined, present a more conservative viability picture that is favourable to them but which, because each assumption falls just about within the accepted industry ranges, are not individually disputable. In practice, the developer would know that these assumptions will not all be as conservative in the real-world and that therefore an additional return is likely to be achievable relative to the viability picture provided to the Council.

This is not the same as the application of CIL charges, for example, which are mandatory and based on a simple charging schedule, which makes it easier to enforce. Viability is constantly changing, with even six-month old assessments sometimes being considered as out of date. The inclusion of grant on schemes is often an effective way to set out clear milestones and these milestones would be enforceable to ensure requirements were met, such as a certain number of homes being commenced. There is certainly merit in the requirement that information must be genuine and realistic. At present viability requirements are only linked to the validation checklist, which limits how much local authorities can enforce on the basis of information that they might desire but which they cannot insist on being provided. The inclusion of stricter

requirements in relation to the information that must be supplied would go some way to speeding up the viability process and ensuring that information provided was accurate enough to allow the Council to consider the information appropriately, ensuring any relief provided is the least possible to allow the site to come forwards.

Prosecution under the CIL Regulations (Regulation 110) would be inherently difficult, particularly in the context of subjectivity and the significant legal costs for local authorities of pursuing this route of enforcement. Reliance on statutory declarations would therefore introduce an unacceptable level of risk for local authorities.

Question 21: The Government is interested in obtaining views on the suitability of the proposed process for securing the relief. The process is intended to provide consistent, timely and proportionate decision-making, whilst ensuring that 19 applications for relief are robust and honest. We welcome feedback on whether these steps are practical and effective in supporting the intended outcome.

The Council is concerned that the proposed process for securing relief is aimed at helping to both: (a) unlock schemes with existing permission which have subsequently stalled (and therefore not commenced); and (b) incentivise new schemes to come forward which may not have done so, absent any relief, however there is no effective mechanism to limit the eligibility of developments which could have come forward without the relief, including at a higher level of affordable housing, beyond a light touch viability process which the Council has raised a number of concerns about.

The Council notes there is no clear definition of what a “stalled” site is, nor any clear differentiation between sites that are genuinely stalled for viability reasons and sites which were deliberately stalled to await this package of measures and any advantages these measures could bring. A clear and objective test of whether a site is stalled is required to ensure these can be separated from other sites which could come forward without the measures but who nevertheless wish to benefit from the measures in order to reduce their planning obligation requirements.

The best way to enable local authorities to make robust and informed decisions is on the basis of good quality and clear information which is provided in a timely manner. As set out in its response to previous questions, the Council considers that any CIL relief should be provided on the basis of a full, clear and justified viability assessment which local authorities are able to appropriately scrutinise, rather than a light-touch process relying on trust. In addition, local authorities would be better placed to make informed decisions where provided with information on the root causes of any diminished viability position and, where relevant, the root causes of any worsening in viability position since planning permission was granted. Some phased developments may not be considered as “stalled”, but could still be eligible for relief on later phases - those phases may also not be residential, therefore a clear definition would be needed.

It should be made clear that non-material amendments and Section 73 applications should not be eligible for relief as this will create a disproportionate administrative burden and mean that the application of relief where CIL has already been paid could result in money being paid back to a developer, which could, in extreme circumstances, send a Council into arrears.

Clarity is also needed on the definition of 'commencement' in this context. For example, whether it means commencement in the form of the Section 56(4) of the Town and Country Planning Act 2010 as a material operation on the land. The Council notes that there may be issues with determining when commencement occurs for sites which commence close to the expiration deadlines. Consideration therefore needs to be given to whether local planning authorities need to receive evidence to support claims of commencement. Likewise, consideration needs to be given to whether commencement needs to have been lawful as the CIL regulations do not currently require this. These points need urgent further clarification in any updated regulations.

Question 22: Are you supportive of the overall approach proposed to securing relief?

The Council has a number of practical concerns about the overall approach proposing to securing relief. If any process for claiming CIL relief is taken forward, the Council feels strongly that this should be contingent on the provision of detailed viability evidence which is available for the Council to scrutinise and which justifies relief at the minimum possible level in relation to both affordable housing and CIL. Whilst the Council opposes the principle of CIL relief other than in exceptional circumstances, the Council considers that the requirement for detailed viability evidence would at least go some way to reducing gameability within the system, and mitigating some of the likely harms of the measures in relation to reduced affordable housing delivery and diminished infrastructure funding.

It may also be that local authorities are forced to delay spending on community infrastructure in case applicants seek future changes which generate a claim for relief. This could mean necessary apprehension in spending any CIL received until the Council is fully confident that this CIL will not need to be refunded. This will create a complex administration process for the Council which will make forecasting and spending on infrastructure far more complex, especially when forecasting likely CIL receipts from larger sites.

Question 23: Do you foresee any challenges with particular aspects of the approach proposed to securing relief? If so, how might these be overcome?

The Council is concerned about its ability to ensure relief is justified whilst ensuring it represents the minimum level of relief needed to allow a site to be delivered, especially given the proposed light touch approach to viability. As set out in its responses to Question 19, the Council considers it vital that this is a robust process to avoid unjustified and unnecessary reductions in affordable housing delivery and CIL receipts, where these reductions have no material bearing on whether the development comes forward but are rather converted into abnormal profit. The Council's view is that any relief should be fully justified and that all opportunities for grant should be fully considered before any relief is provided.

Question 24: The Government welcomes views on appropriate clawback provisions to ensure schemes which benefit from the relief contribute to urgent housing need. 21 This will include clawback of relief if an incorrect/false statement is made about the viability evidence which is submitted to justify the need for relief from CIL.

The Council welcomes, in principle, the concept of clawback provisions. However, it is a concern that this could place additional administrative burdens on local authorities to administer repayment of outstanding CIL through a clawback mechanism, as well as wider enforcement officers.

The Council considers it may be preferable to only allow the assessment of relief to take place once the planning application is at an advanced stage with the amount of relief considered as part of a detailed viability assessment which also includes identifying affordable housing and any grant opportunities. Once this process has been carried out, the Council's view is there should not be any further opportunities to claim relief except through a further detailed review mechanism which would be set out in the legal agreement. This would avoid the need for continuous re-evaluation of CIL relief claims because of, for example, variations which seek to amend affordable housing levels. If an applicant is using the 20% Viability Tested Route, as referred to above, they would need to agree to an early, mid and late review mechanism and only at those points should any further relief be considered. This would allow for proper and holistic consideration of the wider impacts of any CIL relief on cash flow, interest paid over the course of the development and levels of affordable housing.

There is currently a lack of clarity in the proposals over the length of clawback period – whether this would be 7 years as per current CIL Regulation provisions or whether a longer timeframe is warranted to reflect affordable housing secured in perpetuity.

Question 25: Are you supportive of the overall approach proposed to administering the relief?

As mentioned above, the proposed approach will be an additional and new process for local authorities which are already under pressure to meet a range of demands and subject to national skills shortages. Widespread claims for relief are likely to cause

delays through a significant increase in workloads to administer the relief process to essentially agree a reduced income. All applications for relief should therefore be accompanied by their own fee to avoid multiple applications being made with the Council unable to charge any more than the flat rate fee. As set out above, the £25,000 fee proposed could in some cases be inadequate where a complex claim for relief requires third-party validation.

Administration of CIL relief would present an additional demand on resource on top of routine CIL administration tasks which would still need to be undertaken. Under the proposals as drafted, up to 5% admin fee permitted by the Regulations would be reduced to 5% post CIL relief. It is essential that up to 5% of borough CIL pre-relief is retained for core administrative functions to ensure capacity to deal with business as usual.

Question 26: Do you foresee any challenges with particular aspects of the approach proposed to administering the relief? If so, how might these be overcome?

The Council has a number of practical concerns over the proposed approach that would benefit from additional clarity.

For example, it is not clear what response the Council is expected to take if the information provided as part of any relief claim is inadequate. To make the process effective, a clear list of what information is required needs to be provided, alongside a clear indication of the circumstances in which a council can refuse an application for relief on the basis of information being of a low quality, poor clarity, unevidenced or submitted by a consultant who is not accredited or professionally qualified. Where a council refuses a claim on the basis of inadequate information, the claim fee should be retained.

Clarity is also required as to whether a rejected claim is a definitive outcome or, for example, whether a developer could appeal or re-apply with different information. Any regulations also need to set out clearly what the process is if a relief claim is turned down by the Council. It is also not clear if there is a right of appeal or if this would need to be challenged through judicial review. Any escalation of this process needs to be fully considered.

If re-application is permitted, it is not clear whether this would generate a new claim fee. As mentioned above, it could be appropriate to only carry out any assessment of relief when a review mechanism is triggered.

Question 27: Do you foresee any challenges with the proposed implementation process?

The Council considers that whilst the proposed measures will be time-limited, they will nevertheless be subject to differing interpretations and a degree of learning. It is not clear who is expected to carry the burden on educating claimants on the process required or mediating disagreements. Notwithstanding the proposed claim fee, there is a likelihood that the relief will generate a significant additional demand which will redirect Council resource away from business-as-usual tasks and which may affect performance in these areas.

It should also be made clearer whether the intention under the monitoring process outlined at Paragraph 5.2 is for the Government to challenge decisions made by local authorities or what recourse is being considered if they determine that local authorities are not dealing with processes uniformly.

Question 28: The Government welcomes any views on other ways that developers could be supported through the CIL system to bring forward developments.

As mentioned throughout the Council's response, the Council recommends considering other routes prior to percentage-based CIL relief to ensure that any relief is better targeted, more proportionate and avoids negative impacts on the ability to fund and deliver much-needed infrastructure. These other routes could include:

i. **Relief on CIL indexation** – this would temporarily pause indexation of CIL payments to mitigate against inflation. This would provide greater certainty to developers and allow them to more accurately plan cashflow, whilst limiting the loss of much needed infrastructure funding.
ii. **Greater flexibility over phasing and deferral of CIL payments** – this would allow for a greater proportion of CIL payments to be made in the later stages of a development, alleviating early cashflow pressures, whilst avoiding the loss of much needed infrastructure funding.
iii. **Relief based on percentage of development costs** – this would mean that developments where CIL has a more significant impact on viability are able to access relief, whilst developments where CIL has a limited or negligible impact on viability are not able to access unjustified relief.
iv. **Means-tested relief at the minimum level needed for viability** – this would mean that developments which would benefit from CIL relief do not automatically receive 50% relief where a smaller amount of relief would be sufficient.
v. **Cap on overall CIL relief** – this would allow Boroughs to decline claims for CIL relief where they would have a particularly significant impact on forecast CIL receipts and/or where approving CIL relief would undermine the ability to deliver specific, critical infrastructure projects.

However, it is important that these alternatives, plus considering the role of grant, are properly modelled out for every specific scheme to ensure local authorities have confidence that benefits are strictly necessary, justified and proportionate to the case.

A more effective targeted approach altogether could yield potentially significant results across London if available grant was utilised to optimise sites such as the Stag Brewery as detailed in Q17, to bring delivery forward at speed, with a higher level of affordable housing and community benefits in tact.

Part Two: Mayor Call-In Criteria

Question 29: Do you agree with the new PSI category of 50 homes or more? Please state why.

In principle, the Council would support targeted measures to help unlock greater housing delivery across London with a particular emphasis on increasing and accelerating the delivery of affordable housing. The rationale for the proposal to introduce a new PSI category of 50 homes or more is understood to be that further intervention powers for the Mayor are necessary to help meet London's housing needs.

The Council's view is that decisions on planning applications should be made as locally as possible, based on genuine community input and the effective operation of the democratic process. Individual Boroughs will have prepared Local Plans informed by community needs which should form the primary basis for decision-making. For these reasons, the Council does not support the principle of introducing a new PSI category with such a low threshold, given it risks greater centralisation of decision-making, displacement of community-driven Local Plans and the undermining of local decision-making. Most developments of this size cannot reasonably be considered strategic.

The Council would be concerned that the ability for the Mayor to call-in applications of a non-strategic nature may also reduce the willingness of applicants of sites of that size to take genuine account of community needs, to comply with the requirements of Local Plans which go beyond the London Plan or to otherwise enter into reasonable negotiations with the Council to improve the quality of their scheme if they consider it unlikely that the Mayor will insist on these expectations being met to the same degree or may prioritise different factors to what would be prioritised locally. This dynamic could also have the impact of actually delaying the delivery of new homes if applications that might have otherwise been permitted following reasonable negotiations are instead not negotiated in good faith and subsequently called-in for further consideration.

The Council also notes that any routine use of the new PSI category would clearly involve additional casework for the Mayor and GLA. There are well known shortages of qualified planners nationwide and across London, and there is reasonable concern as to whether capacity exists to process such casework in a timely manner. There is also

significant evidence from within the current system that the Mayor's involvement in planning applications typically adds additional delay to determination timescales. The Council's Housing Delivery Test Action Plan[2] identifies two very clear examples of where the Mayor's involvement in calling-in local planning applications significantly delayed their determination, with one application for over 400 homes (19/0510/FUL) taking the Mayor five years to determine.

The Council notes that the main evidence presented to justify the new PSI category is a series of statistics relating to applications in London since 2021. These statistics suggest the new PSI category could have potentially been used on 33 refused applications London since 2021. This equates to around 8 applications a year, which itself reflects a very low refusal rate of just 16%. Of these 33 refused applications, the consultation document notes that 19 were appealed but is not clear how many of these appeals were allowed. It would appear in any case to be an extremely low figure.

In Richmond, the Council already takes a very positive approach to growth where there are not strong reasons to refuse permission. In 2024/25, the Council approved 92% of planning applications involving major residential development.

As set out above, the Council notes that the justification for the PSI category does not appear to stem from evidence demonstrating that a significant number of development sites are being unreasonably refused by London Boroughs and/or that the new PSI category is necessary to improve the quality of decision-making. The Council is concerned that the rationale for the new PSI category may instead be to ensure it can be used in tandem with the GLA's proposed new planning route to enforce compliance with the lower affordable housing requirements proposed under that route.

As the Council's separate response to the GLA's own consultation sets out, the proposed new planning route is insufficiently targeted and risks lowering affordable housing requirements for a large number of sites which can viably afford to deliver significantly more. The Council is also concerned that the proposed new planning route is being introduced without the publication of a sound evidence base made available for scrutiny, and that the envisaged impacts of the proposed new route on the types of challenge facing the development industry have not been made sufficiently clear.

This being the case, the Council envisages scenarios where developments come forward proposing a lower level of affordable housing under the new planning route despite conflicting with development plan policy and in spite of the available evidence (in the form of the Whole Plan Viability Assessment and, in some cases, recent site-specific viability assessments relating to that specific site) suggesting a higher level of affordable housing can be achieved. This might include sites which have only very recently received permission for a higher level of affordable housing, either through the

[2] Housing Delivery Test Action Plan - June 2025

Fast Track Route or through the Viability Tested Route with the provision of a site-specific viability assessment. In such instances, the decision-maker is obliged by law to consider whether the development meets the requirements of the development plan and only depart from the development plan where material considerations indicate otherwise. Where a development proposes a level of affordable housing which conflicts with the development plan, and the available evidence indicates that the development would still be viable at a higher level of affordable housing, it would clearly be irrational for a decision-maker to allow the development to come forward at that lower level of affordable housing.

The Council therefore wishes to caution against any interpretation that might be reached in the development industry that the new PSI category will be used to "automate" compliance with the new planning route. Any use of the new PSI category where the new planning route is relevant must follow a transparent approach to decision-making which reflects the above and which, critically, in relevant cases, is transparent on the evidence being relied upon to justify any departure from the development plan.

Question 30: Do you agree with the streamlined process for the new PSI category? Please state why.

Notwithstanding the Council's concerns expressed under Question 29, the Council has no specific concerns over the proposed process for the new PSI category. Where a new PSI category is to be introduced, the Council supports the suggestion that the process should be designed to align with existing established processes, limited to C3 residential development and to cases where the Council has already resolved to refuse the application. The Council does not consider it appropriate for the call-in powers to exist for applications where the Council has not already reached its own view on the decision that ought to be made.

The Council notes that, unlike other PSI categories, the Mayor would not be required to consider the application to have an impact on more than one Borough in order to utilise his powers of call-in. As set out in its comments under Question 29, the Council is concerned that the new PSI category gives the Mayor opportunities to centralise decision-making on applications which are clearly not of a strategic nature and considers that the proposal that applications need not impact on more than one Borough is further evidence of the non-strategic nature of many applications at this scale.

Question 31: Do you agree that development in Category 3D of the Schedule of the Mayor of London Order 2008 should be brought into scope of the Mayor's call-in power? Please state why.

No, the Council does not consider it appropriate for development in Category 3D to be brought into scope of the Mayor's call-in powers.

The Council considers that the existing provisions within the Mayor of London Act already strike a balance between empowering local planning authorities to take decisions locally whilst enabling strategic input from the Mayor by allowing him to offer views on a proposal upon submission and to direct authorities to refuse applications prior to a decision being taken.

The Council's view is that it is important that individual Boroughs are equipped and entrusted to take decisions relating to the Metropolitan Open Land and Green Belt locally, both in terms of plan-making and decision-taking. Boroughs will be guided by relevant national policy, London Plan policy and local policy. The proposed threshold of 1,000 sqm is considered extremely low and could be the equivalent of as few as 10 homes. Applications at this scale could not reasonably be considered strategic and their call-in risks the greater centralisation of decision-making, displacement of community-driven Local Plans and the undermining of local decision-making. The provisions would also undermine the primacy of the plan-making process for considering whether alterations to Metropolitan Open Land or Green Belt are justified and is likely to lead to greater amounts of speculation by developers who may consider that the Mayor may apply policy differently to the Borough. The Council would also want to be clear that this process should not be used to undermine the work underway to inform the London Plan review, in which the Council is a participating borough in the London-wide Green Belt review. The outcomes of that review, and how that informs Local Plans, should ensure a properly strategic and plan-led approach to development, rather than taking an ad-hoc approach through call-in powers,

Part of the justification provided for expanding the Mayor's call-in powers is that it will enable the Mayor to secure high quality development on low quality Metropolitan Open Land and Green Belt. However, there is no explanation provided in the consultation document as to why individual councils would be unable to secure this high-quality development themselves, through their Local Plans and decision-making, guided by the same national, regional and local policy as the Mayor. Part of any justification might have been clear evidence that Boroughs were taking decisions on Category 3D land which are being routinely overturned on appeal, and that therefore reasonable opportunities to accelerate housebuilding in London on suitable sites were not being taken, however no such evidence is provided. As a result, there is considered to be no justification for expanding the Mayor's call-in powers to include Category 3D land, particularly at such a low threshold, and, in the absence of any justification, the Council would not support measures which undermine the primacy of local decision-making.

Question 32: Do you have any comments on any potential impacts for you, or the group or business you represent, and on anyone with a relevant protected characteristic that might arise under the Public Sector Equality Duty as a result of the proposals in this document? Please provide details.

In light of the matters included in the Council's response, the Council is concerned that the measures proposed, including related proposals from the GLA, could have disproportionate negative impacts upon those with protected characteristics. The main cause of these impacts would be a reduction in the amount of affordable housing delivered and the amount of CIL received. Where the measures lead to a reduction in the amount of affordable housing delivered, and/or, as a consequence of reduced CIL, a reduction in the amount of community infrastructure delivered, the Council considers there to be a high risk of disproportionate negative impacts on those with protected characteristics.

The Council is concerned that the consultation does not include sufficient objective and evidence-based analysis of the likely impacts of the measures upon those with protected characteristics. In places, the justification for the measures appears to be a highly subjective view that the measures will deliver more affordable housing and/or CIL that would happen without the measures. However, as raised in the Council's responses, opportunities to better target the measures so that they would only benefit developments which otherwise would not have come forward at all have not been taken and it is highly likely that the measures will be used to reduce affordable housing and CIL contributions where they are not strictly needed.

The Council considers that Equality Impact Needs Assessments (EINA) are effective tools for considering the likely impact pathways of proposed measures on those with protected characteristics. Prior to introduction of the proposed measures, the Government should make an EINA available for public scrutiny. Any EINA should address both the short term and long term impacts of proposed policy as whilst the provisions themselves are time-limited, the potential impacts on affordable housing stock and community infrastructure provision could be longer lasting.

Question 33: Is there anything that could be done to mitigate any impact identified?

As above, the Council considers that the Government should produce and publish an Equality Impact Needs Assessment to consider the likely impact pathways of the proposed measures on those with protected characteristics.

The Council has identified within its response a range of opportunities to better target the proposed measures.

Question 34: Do you have any views on the implications of these proposals for the considerations of the 5 environmental principles identified in the Environment Act 2021?

The Council notes that the measures proposed are not predominantly relevant to the Environment Act 2021 or the outcomes that the five environmental principles seek to achieve.

However, in relation to the proposal for CIL relief, the Council would note that it is possible that any significant degree of lost CIL revenue could potentially jeopardise the delivery of planned infrastructure projects which would help to mitigate impacts of development on the environment, whether directly or indirectly, including in relation to biodiversity, outdoor recreation, climate change, air quality or river-works. The inability to deliver such works may therefore undermine the principles set out in the Environment Act 2021 if it is not possible to fully mitigate the impacts of development on the environment. The Council would therefore encourage the Government to undertake further analysis of the impacts of the proposals on the environment, potentially in the form of Strategic Environment Assessment, Habitat Regulations Assessment or Environmental Outcome Report and make this available for public scrutiny.