

OFFICER DELEGATED DECISION REPORT 8 OCTOBER 2021

Report title: Approval of CIL Mandatory Social Housing Relief for development at Tesco Stores 275 Kennington Lane and 145-149 Vauxhall Street, London, SE11 5RH.

Ward: Oval

Portfolio: Deputy Leader of the Council (Planning, Investment and New Homes): Councillor Matthew Bennett.

Report Authorised by: Eleanor Purser and Sara Waller: Strategic Directors for Sustainable Growth and Opportunity.

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REPORT SUMMARY

The report seeks Officer Delegated Decision approval by the Strategic Directors for Sustainable Growth and Opportunity in relation to a claim for Mandatory Social Housing Relief sought by the applicant, Berkley Homes (Central London) Ltd, under the Community Infrastructure Levy (CIL) Regulations 2010 in relation to the phased planning permission for Tesco Stores 275 Kennington Lane and 145-149 Vauxhall Street, London, SE11 5RH (reference number: 18/02597/EIAFUL as varied by 20/02203/VOC). This claim is for the mandatory social housing relief which concerns phase 3 - plot B (Block G) of the development.

FINANCE SUMMARY

This report relates to the approval of mandatory relief of CIL liability. Approval of this relief will mean that the CIL receivable will reduce from £4,646,364 to £2,483,274.

RECOMMENDATIONS

To approve the mandatory social housing relief, claim for £2,163,089.53 in respect of 8,431.36 sqm of qualifying Gross Internal Area (GIA) including the qualifying dwellings and qualifying communal area, as this claim meets the conditions set out in Regulation 49 of the Community Infrastructure Levy Regulations 2010 as amended to qualify for mandatory social housing relief. The total CIL that the Council will receive after the social housing relief will be £2,483,274.

1. CONTEXT

- 1.1 The Community Infrastructure Levy (CIL) is a charge on development that allows the Council to raise funds to pay for infrastructure that is needed to support development. Lambeth Council is the collecting authority for both the Mayor of London which has been charging Mayoral CIL throughout London since April 2012 and the London Borough of Lambeth having adopted its own CIL Charging schedule from October 2014.
- 1.2 On 21 December 2018 a phased planning permission 18/02597/EIAFUL was granted for Tesco Stores 275 Kennington Lane and 145-149 Vauxhall Street, London, SE11 5RH. The permission allowed the demolition of existing building and redevelopment of the site to provide a mixed-use development comprising the erection of 3 new buildings (Plot A,B,C) ranging from 4-17 storeys to provide 571 residential units (Class C3), a replacement Tesco store of 4,655sqm (including sales area/back of house and car parking), 2,638sqm of Class B1 office, 1,159sqm of flexible commercial floorspace (Class A1-A3, B1), 62 retail and 24 disabled residential car parking spaces; with associated cycle parking and landscaping/public realm improvements along Cutlers Way and Phoenix Street.
- 1.3 A phased planning permission means a planning permission which provides for development to be carried out in phases. Each phase of the development is treated as separate chargeable development for CIL charging purposes. This provides a mechanism for developers of larger schemes to spread the payment of CIL across phases.
- 1.4 On 30 March 2021 planning permission 20/02203/VOC was granted to vary the original permission 18/02597/EIAFUL for the development concerning phase 3 - plot B (Block G). The variation sought the addition of a new storey to most parts of Block G and to allow for an increase of 15 residential units and increase in flexible commercial space of 105sqm.
- 1.5 The total CIL liability for phase 3 - plot B (Block G), resulting from the varied permission is £4,646,364.21, which is made up of £962,545.03 Mayoral CIL and £3,683,819.18 Lambeth CIL.
- 1.6 The rules governing the adoption, calculation, application, and enforcement of CIL are all stipulated in the Community Infrastructure Levy Regulations 2010 as amended. The Regulations also prescribe a number of reliefs and exemptions from CIL. A development that incorporates social housing is entitled to mandatory relief from CIL on the social housing element. Social housing relief can be applied to most social rent, affordable rent, and intermediate rent dwellings, provided by a local authority or private registered provider, and shared ownership dwellings. They are subject to meeting specific conditions as set out under Regulation 49 of the Community Infrastructure Levy Regulations (2010).
- 1.7 Regulation 49 states that mandatory social housing relief applies where at least one of several conditions are met, including the following:
 - Dwellings must be let as an assured tenancy or a secure tenancy by a registered provider, local housing authority or non-registered provider of social/affordable housing.
 - Dwellings must be occupied in accordance with shared ownership arrangements.
- 1.8 A collecting authority must give full relief from paying the levy on the portions of the chargeable development intended for social housing, in line with the calculation under Regulation 50, which is explained further in the next section of this report provided the conditions set out under regulation 49 are met. The claimant meets the conditions as set out regulation 49 as shown in Appendix 1,

which is an assessment of the mandatory social housing relief claim.

2. PROPOSAL AND REASONS

- 2.1 The CIL Regulations give full relief from paying the levy on the portions of the chargeable development intended for social housing and the qualifying amount for the social housing relief is calculated under Regulation 49C and 50 of the CIL Regulations.
- 2.2 The calculation table below shows the Gross Internal Area (GIA) of the chargeable development which is used to work out the qualifying social housing relief in relation to this planning permission. A qualifying dwelling is one that satisfies the criteria as set out under Regulation 49, mentioned in paragraph 1.5.

CIL Social Housing Relief Calculation - Gross Internal Areas (GIA)

GIA of relevant residential development, including the qualifying affordable dwellings	17,949.70sqm
GIA of qualifying affordable dwellings	6,773.00sqm
GIA of communal area for the benefit of residents of qualifying affordable dwellings	3,530.51sqm
GIA of qualifying communal development (X x A/B) as per Regulation 49C	1,658.36sqm
GIA of qualifying affordable dwellings and qualifying communal development	8,431.36sqm
Social Housing Relief in respect of Mayoral CIL	£432,721.37
Social Housing Relief in respect of Lambeth CIL	£1,730,368.16
Total Social Housing Relief	£2,163,089.53

- 2.3 As a result of the social housing relief calculation carried out under Regulation 49C and 50 of the CIL Regulations 2010 as amended the total social housing relief qualifying amount is £2,163,089.53. The total social housing relief for this development comprises the qualifying social housing relief for Mayoral CIL which is £432,721.37 and the qualifying social housing relief for Lambeth CIL which is £1,730,368.16. Please see the table below:

Mayoral CIL before Social Housing Relief	£962,545.03	Lambeth CIL before Social Housing Relief	£3,683,819.18
Mayoral CIL Social Housing Relief	£432,721.37	Lambeth CIL Social Housing Relief	£1,730,368.16
Mayoral CIL due	£529,823.66	Lambeth CIL due	£1,953,451.02

- 2.4 The social housing relief is given by deducting the qualifying amount from what would otherwise be the amount of liability to CIL that would arise in respect of the chargeable development. The original total CIL liability was £4,646,364.21. After deducting the social housing relief of £2,163,089.53, the total CIL due would be £2,483,274.68.

3. FINANCE

- 3.1 The total CIL liability for this development is £4,646,364, which is made up of £962,545 Mayoral CIL and £3,683,819 Lambeth CIL as detailed in the body of the report. Approving the mandatory relief will mean that CIL is reduced to £529,823 Mayoral CIL and £1,953,451 Lambeth CIL which will be used to support the wider capital programme.

4. LEGAL AND DEMOCRACY

- 4.1 This report accurately sets out the criteria for mandatory relief under the Community Infrastructure Levy (CIL) Regulations 2010 and applies it to the circumstances of the development. The report advises that this development qualifies for mandatory relief. The council has no discretion in determining mandatory relief and if the application meets the relevant criteria, it must be granted.
- 4.2 The Council's Constitution requires that issues of an important or sensitive nature will be published on the Council's website for five clear days prior to the decision being taken (Constitution, Part 2, Section 3) by the Cabinet Member or officer concerned. It is suggested that this proposed decision is published online in the interests of transparency. Any representations received during this period must be considered by the decision-maker before the decision is taken.
- 4.3 The power to act on all matters relating to delivery of the functions of CIL are currently vested in the Strategic Directors for Sustainable Growth and Opportunity as provided for in the Council's Scheme of Delegation. This includes approval of applications for mandatory social housing relief.

5. CONSULTATION AND CO-PRODUCTION

- 5.1 There is no requirement for external or internal consultation for this report.

6. RISK MANAGEMENT

- 6.1 There is no risk to the Council from any decision to grant CIL social housing relief. As a Council, Lambeth values affordable housing even if this reduces the amount of CIL that can be obtained from a development. In accordance with the CIL Regulations 2010 as amended, a collecting authority must give full relief from paying the levy on the portions of the chargeable development intended for social housing in line with the calculation under Regulation 50 and if the social housing relief criteria under Regulation 49 are met. If the claim for mandatory social housing relief is not approved, the Council may face legal action from a developer because such a decision will be considered unlawful if the development meets the criteria to qualify for relief as set out under Regulation 49. A risk register is therefore not applicable for this report.

7. EQUALITIES IMPACT ASSESSMENT

- 7.1 The Equalities Impact Assessment for this report is included at Appendix 2. In summary, it concludes that the grant of mandatory social housing relief on the development at Tesco Stores 275 Kennington Lane and 145-149 Vauxhall Street, London, SE11 5RH for phase 3 -plot B (Block G), will not have any negative impact on any of the groups with protected characteristics in Lambeth.
- 7.2 The Impact Assessment indicates that the grant of social housing relief for this development will result in positive benefits for people, particularly those that rely on the delivery of social housing, including those from black and ethnic minority communities, certain disability groups, older people and young families.

8. COMMUNITY SAFETY

- 8.1 There are no direct community safety implications arising from the recommendations in this report.
- 8.2 CIL and S106 funds can be used to invest in projects that contribute towards community safety.

9. ORGANISATIONAL IMPLICATIONS

Environmental

- 9.1 There are no direct environmental implications arising from the recommendations in this report.

Health

- 9.2 There are no direct health implications arising from the recommendations in this report.

Corporate Parenting

- 9.3 Not applicable.

Staffing and accommodation

- 9.4 None.

Responsible Procurement

- 9.5 Not directly applicable to the recommendations in this report. Procurement decisions on projects funded by CIL and S106 are subject to the applicable processes.

Good Quality Jobs with Fair Pay and Decent Working Conditions

- 9.6 Not directly applicable to the recommendations in this report. However, the S106 agreement attached to the planning permission provides funding for projects relating to employment support.

Quality Apprenticeships, targeted Employment for Lambeth residents and Lambeth Priority Group

- 9.7 Not directly applicable to the recommendations in this report. However, the S106 agreement attached to the planning permission provides funding for projects relating to the delivery of apprenticeships and other forms of employment support.

Reduce Emissions: Lambeth Council has a commitment to being Zero Carbon by 2030

- 9.8 Not directly applicable to the recommendations in this report. However, the S106 agreement attached to the planning permission provides funding for projects related to reducing carbon emissions.

Single Use Plastics

- 9.9 Not applicable.

Positive Health and Wellbeing

- 9.10 Not applicable.

Other Offers (Innovation)

- 9.11 Not applicable.

10. TIMETABLE FOR IMPLEMENTATION

10.1 Following approval of this report and its recommendation, the claimant will be informed of the grant of mandatory social housing relief immediately and revised CIL liability notice issued, as the claimant will be implementing the planning permission imminently.

10.2 The table below details the stages and deadlines for implementing the recommendations:

Activity	Proposed Date
Officer Member Decision	TBC
Issuance of a Revised Liability Notice/Notification of Developer of Decision	Immediately after approval of the relief
Commencement of Development	Immediately on approval of relief

Audit Trail				
Name and Position/Title	Lambeth Directorate	Date Sent	Date Received	Comments in paragraph:
Councillor Matthew Bennett	Deputy Leader of the Council (Planning, Investment and New Homes)	27.09.2021	27.09.2021	
Eleanor Purser and Sara Waller, Strategic Directors	Sustainable Growth and Opportunity	23.09.2021	27.09.2021	Recommendation
Matthew Gaynor, Assistant Director of Finance (Capital Planning & Major Projects)	Finance and Property	06.09.2021	12.09.2021	Finance summary and 3.1
Peter Flockhart, Senior Planning Lawyer	Legal and Governance	06.09.2021	22.09.2021	4.1
Marianna Ritchie, Democratic Services	Legal and Governance	06.09.2021	09.09.2021	4.2 – 4.3
Rob Bristow, Director of Planning, Transport and Sustainability	Sustainable Growth and Opportunity	06.09.2021	22.09.2021	
Nabeel Khan, Director of Economy, Culture and Skills	Sustainable Growth and Opportunity	06.09.2021	22.09.2021	
Catherine Neal, Head of Operations & Innovation	Sustainable Growth and Opportunity	06.09.2021	22.09.2021	
Benny Clutario, CIL/S106 Manager	Sustainable Growth and Opportunity	06.09.2021	22.09.2021	Throughout

Report History	
Original discussion with Cabinet Member	n/a
Report deadline	n/a
Date final report sent	n/a
Part II Exempt from Disclosure/confidential accompanying report?	No
Key decision report	No
Date first appeared on forward plan	n/a
Key decision reasons	n/a
Background information	Community Infrastructure Levy (CIL) Regulations 2010 (as amended) Town and Country Planning Act 1990
Appendices	Appendix 1 – Officer Assessment Appendix 2 – Equalities Analysis

**APPROVAL BY CABINET MEMBER OR OFFICER IN ACCORDANCE WITH SCHEME
OF DELEGATION**

**I confirm I have consulted Finance, Legal, Democratic Services and the Procurement Board,
and taken account of their advice and comments in completing the report for approval:**

Signature: _____ **Date:** _____

Post: Neela Ajithkumar
CIL/S106 Monitoring Officer, CIL/S106 Team

I approve the above recommendations:

Signature: _____ **Date:** _____

Post: Eleanor Purser and Sara Waller: Strategic Directors for Sustainable Growth and
Opportunity

Any declarations of interest (or exemptions granted): None

Any conflicts of interest: None

Any dispensations: None