THE TOWN AND COUNTRY PLANNING ACT 1990, S.2A
GREATER LONDON AUTHORITY ACTS 1999 & 2007
THE TOWN AND COUNTRY PLANNING (MAYOR OF LONDON) ORDER 2008

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JOINT REPRESENTATIONS TO THE MAYOR OF LONDON

BY THE LONDON BOROUGH OF ISLINGTON
AND THE LONDON BOROUGH OF CAMDEN

AFFORDABLE HOUSING, VIABILITY AND SITE LINKAGES

16TH SEPTEMBER 2014

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1. INTRODUCTION

1.1 This statement of representations is submitted to the Mayor of London by the London Borough of Islington and the London Borough of Camden to provide comments to, and assist the Mayor prior to his determination of, Royal Mail Group's planning applications relating to the land at the Mount Pleasant Sorting Office site.

1.2 The statement sets out the Councils profound concerns with the proposals, with specific reference to the level and type of affordable housing proposed by the applicant, the process and approach adopted in assessing the development's viability, and the absence of adequate viability review mechanisms and linkages between the sites. Other outstanding issues relating to the sites will be set out in separate documents.

1.3 These representations reiterate and expand on a number of previous submissions and evidence provided to the Mayor including:

- BPS Independent Review of Assessment of Viability February 2014
- BPS Update Viability Review April 2014
- CEBR Response to Gerald Eve Position Note of March 2014 (April 2014)
- Joint Borough Phasing and Linkages Note 9th May 2014
- Joint Borough Draft Proposals for Viability Reviews Note 9th May 2014
- BPS Response to GVA Independent Review of 23rd May 2014 (5th June 2014)
- Joint Borough Response to Applicants Affordable Housing Offer of 11th June 2014 (18th June 2014)

1.4 These representations should be read in conjunction with these documents.

1.5 The representations also reflect the issues and concerns that have been consistently raised by the Councils with the GLA and applicant's team since the application was called in and in particular since receipt the applicant's most recent revised affordable housing 'offers'. These relate to:

a) **Revised affordable offers** of 11th June and 7th July 2014 for 24.4% affordable housing (35% Affordable rent, 65% intermediate) which did not reflect the conclusions of the May GVA Report (from which levels of between 30% & 42% were regarded to be achievable – BPS figures) and which were not at the time supported by updated viability appraisals. The current revised affordable housing offer (the Post Islington CIL now remains the only relevant offer) does not represent the maximum reasonable level of affordable housing provision and is therefore contrary to the Statutory Development Plan (comprising both the London Plan, Islington & Camden's adopted policies).

b) The **unacceptable affordable housing tenure split** with a significant overprovision of intermediate housing and lack of affordable rented housing in the applicant's revised offers at a mix which is contrary to the Statutory Development Plan (comprising both the London Plan, Islington & Camden's adopted policies).

c) The transfer of the additional costs associated with the **Islington CIL** in their entirety into a **downgraded affordable housing offer** which is contrary to National Planning Practice Guidance. A lack of transparency in relation to the way that this has been calculated, including whether or not account has been taken of the Mayoral and borough instalment policies.

d) An **inappropriate mix and lack of affordability of affordable rent units**, a lack of information provided to the GLA and the councils, and inconsistencies with the updated appraisals undertaken by Gerald Eve.

e) **A failure to commit to the implementation of a comprehensive development (phasing linkages),** by result of the proposed severability of the Islington residential led phases from the remainder of the development proposed by the applicant which is contrary to London Plan policy, the site specific SPD and supporting Council policies, the joint basis of the applications and of the assessment of viability. This would lead to unacceptable environmental impacts and render the viability assessment process obsolete as the viability assessment is based on the assumption that the scheme will be taken forward as one development.

f) The proposed terms of **viability review** mechanisms put forward by the applicant which are wholly inadequate and do not form a proper basis for ensuring that the maximum reasonable amount of affordable housing is provided throughout the scheme as required by the Development Plan and leave issues such as the application of a considered land value to the review unaddressed as an inconsistency between GVA and Gerald Eve.

g) **A lack of transparency by the applicant and GLA** with the boroughs in relation to the viability assessment process in the period between release of the May GVA Report and the Gerald Eve August Position Note provided to the boroughs on 26th August, which has severely limited the Councils ability to properly scrutinise the conclusions eventually reached by GVA.

h) The **significant diversion of approach adopted by GVA** in their August Report which now supports the applicant's offer, compared with their May report in particular in relation to: the adoption of an **excessive fixed land value** at the expense of affordable housing and assumption that land value will be entirely unaffected by CIL which is contrary to National Planning Practice Guidance. The deletion of other important aspects of their May report relating to the **timing of land payments and review mechanisms** without justification. Conclusions that the applicant's proposed profit target is acceptable without any evidence of reasoning. Based on advice from BPS, the Councils fundamentally disagree that the affordable housing 'offer' represents the maximum reasonable level of affordable housing that can viably be provided and with the applicant's assertion that a policy compliant tenure split cannot be provided. A response to GVA's report by BPS is appended to this statement.

i) The **absence of any evidence that the GLA have themselves properly interrogated or questioned the basis for the change in approach adopted by GVA**, or explored the reasons for the significantly different and evidenced conclusions of BPS who conclude that 42% affordable housing at a policy compliant tenure split is viable.

j) The **lack of transparency by the applicant** prior to and after call-in of the application and in particular the **refusal to provide the applicant's bespoke viability** model to the councils, its advisors or the GLA or its advisors, despite having previously provided written agreement to provide such access to the Council's advisors. GVA have not fully scrutinised the basis of the model, have had to rely on amended appraisals undertaken by Gerald Eve.

k) **Gerald Eve's position that the scheme cannot viably support the affordable housing offer lacks credibility** given the findings of the independent assessors that Gerald Eve has, (at the very least) underestimated current residential sales values, residential values growth, and having overestimated site value.

1.6 As can be seen, a considerable number of substantive issues remain unresolved, relating to affordable housing, viability and linkages, notwithstanding that a number of other outstanding

issues are yet to be properly addressed. The Councils await important information from the applicant team to enable it to properly understand and evaluate the applicant's revised affordable housing offer dated 7th July 2014 and to comment meaningfully on the applicant's revised viability appraisals made available to the Councils on 26th August 2014. The GLA have also not received this information and so are also not yet in a position to fully evaluate these issues. The Councils are therefore extremely surprised and disappointed that GLA officers feel that they are in a position to be able to bring a recommendation before the Mayor on 3rd October, in less than three weeks time from now.

1.7 GLA officers have not yet clearly indicated their own views to the Councils on a wide range of these important matters. For some issues it appears they are not yet in a position to do so. For example, the councils have not yet seen the draft Section 106 Heads of Terms proposed by the GLA. It remains unclear about what these are, despite the Councils being statutory consultees in respect of the S106 agreement and again, there is less than three weeks before the scheduled hearing. The Councils request that they are given adequate time to review the GLAs proposed Heads of terms and given the opportunity to discuss these with the GLA in sufficient time to seek changes if required prior to publication of the report.

1.8 Unless, as a minimum, the issues identified in this statement are addressed, should the Mayor's resolve to grant consent, that decision will not only be clearly contrary to the policies of the statutory Development Plan including his own London Plan, but also contrary to National Planning Practice Guidance and the Mayor will be in breach of his statutory duties. The Councils cannot however see how this is achievable in the short period of time before GLA officers must draft their report in the weeks preceding the Mayor's proposed hearing date of 3rd October 2014. The Councils therefore urge the Mayor to defer his decision to allow further investigation of the proposals by his officers allowing them to reach well evidenced and judged conclusions, and thereafter to allow adequate consultation to take place and to ensure that all parties have certainty over what the scheme will or will not deliver.

1.9 In light of this lack of clarity and the significant gaps in evidence and justification in the applicant's case, the Councils are also extremely concerned that the appointed timescale of 5 minutes to make oral representations at the hearing is wholly insufficient and does not satisfy the Mayor's statutory duty to give the councils a meaningful opportunity to set out their case to him. The Councils therefore request a minimum of 15 minutes each to be able to present their cases to the Mayor.

2. ASSESSMENT OF DEVELOPMENT VIABILITY – SEQUENCE OF EVENTS AND AFFORDABLE HOUSING OFFERS

2.1.1 At the time of the applications being submitted to the Councils, there was no formal affordable housing offer, just a figure used for the Environmental Statement (EIA) testing purposes. That figure was 19% affordable housing.

2.1.2 The Councils raised significant concerns with Gerald Eve and DP9 acting for Royal Mail Group throughout this stage of the application process, particularly relating to the approach taken to land value, which had little or no regard to the statutory Development Plan, and residential sales values and growth[1].

2.1 Formal Affordable Housing Offer (1 October 2013) The formal affordable housing offer was received on 1 October 2013. That offer was for:

- 10.4% Affordable housing (by units)
- 11.9% affordable housing (by habitable rooms)
- Tenure split of 67.5% social rented units and 32.5% intermediate units (by habitable rooms).

2.1.1 For reasons including many of those set out above, this offer clearly did not represent the maximum reasonable level, and was accordingly not acceptable to the Councils. At the time that the Mayor called in the application the Councils and their advisors were still waiting for further evidence and information from the applicant to support that offer. The failure to provide the maximum reasonable level of affordable housing formed proposed reasons for refusal/ objection in reports considered by Camden and Islington Planning Committees in February / March 2014.

2.1.2 Given the Council's objections to the proposed affordable housing levels, informed by the work and the advice of BPS, the GLA appointed GVA to provide them with advice on the financial viability of the development and the resultant affordable housing levels that could be achieved.

2.2 Revised Affordable Housing Offer (March 2014) Gerald Eve (acting for Royal Mail Group) produced an update Financial Viability Assessment dated March 2014 that was received by the Councils in April. This included a revised affordable housing offer which comprised of:

- 19.2% affordable housing by units (across the two sites)
- 21.3% by habitable rooms
- 69:31 split social rent / intermediate based on habitable rooms

2.2.1 The Councils provided updated reports undertaken by BPS (financial viability) and CEBR (residential house price projections) to the GLA in April 2014 responding to Gerald Eve's updated report to inform GVA's assessment of viability. These raised a number of fundamental concerns with the Gerald Eve appraisals, relating to:

a. excessive base land value;
b. unrealistic development programme (particularly timing of land payments);
c. unrealistically low sales values and forecast growth;

[1] Throughout this time the councils also had concerns relating to the level of rigour being applied to assessing the scheme by their advisors DVS. As a result the councils appointed BPS to act for them in August 2013.

d. absence of growth applied to 'pre-sold' units;
e. excessive 'enabling costs'; and
f. the absence of evidence supporting affordable housing values.

2.2.2 A meeting between the GLA, Royal Mail Group, the councils, GVA, Gerald Eve, BPS and CEBR took place on 30th April 2014 at which point the basis of GVA's instructions for the assessment of viability was discussed. It was agreed that this would take the form of a transparent process with all information exchanged shared directly with each of the parties.

2.2.3 The first draft GVA report (dated 23rd May 2014) was received by the councils on 29th May 2014. This purported to support the key concerns set out by BPS in their various reports in a number of areas, particularly relating to: the overestimation of site value; the underestimation of residential sales values and residential growth rates; and inappropriate timings of land payments and period before phase 1 begins. GVA initially concluded that the base land value should be materially less than the figure proposed by Gerald Eve [redacted] (Paragraph 5.29). Furthermore GVA questioned whether it would be reasonable to assume that a purchaser would effectively pay in full on Month 1 for all the phases, given an assumption that possession for Phase 1 cannot be given for 12 months and for phases 4 and 5 until c. month 57 (Paragraph 6.8). Changes to these assumptions have a significant impact on the outcomes of the model.

2.2.4 The GLA did not instruct GVA to comment on target profit level despite this forming an integral basis of determining whether the scheme would be viable or not and National Planning Practice Guidance which states that: "*a competitive return to a developer will vary significantly between projects to reflect the size and risk profile of the development and the risks to the project. A rigid approach to assumed profit levels should be avoided and comparable schemes or data sources reflected wherever possible*".

2.2.5 A response by BPS to the May GVA report was provided to the GLA 10th June 2014. This modelled the outcome of the GVA recommendations, finding that between 30-42% affordable housing could be provided depending on the final approach adopted in relation to site value and profit. Based on GVA assumptions and BPS' view of site value (£38.4m) and profit target (18% IRR[2]) BPS considered that 42% affordable housing could be provided.

2.3 Revised Affordable Housing Offer (11 June) The applicant issued a revised affordable housing offer on 11th June increasing overall provision to 24.4% consisting of a 59%:41% Affordable rent: Intermediate housing. Affordable rented units would be calculated on the basis of an equal split of 20%:40%:60% of market rent. The offer included a 'with CIL' scenario which introduced Discounted Market Sale units at 50% of market sales values at the expense of affordable rented units. The offer was not informed by an updated viability appraisal.

2.3.1 The boroughs sent a joint response to the GLA objecting to the revised offer on 18th June. This highlighted concerns relating to:

a. the absence of updated development appraisals supporting the revised offer;
b. the failure to reflect the conclusions of the May GVA report;
c. the lack of information and affordability of affordable rented units;
d. the downgrading of the affordable housing offer with the introduction of the Islington CIL and the introduction of Discounted Market Sale units; and
e. the absence of adequate linkages and viability review mechanisms proposed by the applicant.

[2] This 18% IRR also formed part of the conclusions of DVS, which were incorporated into the affordable housing offer that was in place at the time of the GLA's call in of the application

2.4 Further revised Affordable Housing Offer (7th July) The applicant issued a further revised affordable housing offer on 7th July, which is the offer currently being considered by the GLA. This too proposed overall provision of 24.4% affordable housing although now with a 35:65% Affordable rented: Intermediate split (as part of the 'with-CIL' proposal), and Discounted Market Sale removed. Again this was not based on an updated viability appraisal /modelling. This was also accompanied by further information relating to proposed site linkages and viability review mechanisms.

2.4.1 The components of this revised offer have been discussed between the parties at a series of meetings which have taken place since its receipt. The Councils have reiterated the concerns set out in their response to the 11th June offer which have not been addressed in any meaningful fashion. Further comments on the 7th July affordable housing offer, site linkages and viability reviews are set out in the next sections of this statement.

2.5 GVA Reports (23 July and 5 August) A second GVA (update) report dated 23rd July was sent to the Councils by the GLA on 8th August. The GLA subsequently advised that this draft had been sent in error and a corrected GVA (update) report dated 5th August was sent to the Councils on 13th August.

2.5.1 Both drafts include significantly revised conclusions particularly relating to land / site value and the timing of land payments. In places, sections of the report highlighting concerns with the approach adopted by Gerald Eve have been deleted entirely without commentary or explanation. GVA have now reached the conclusion, based upon the framework of their instruction from the GLA, that the latest offer proposed by Royal Mail Group in July is the maximum reasonable level of affordable housing that can be provided.

2.5.2 A subsequent response by BPS highlighting a range of issues, omissions and inconsistencies with the latest GVA report is appended to this statement (Appendix One). A meeting took place on 11th September, attended by each of the parties, at which the Councils were given a very limited opportunity to discuss with GVA the reasons for the changes in approach. However the Councils found many aspects of GVA's reasoning to be highly questionable or without evidence of full and proper justification and this meeting has had the effect of reinforcing the Council's concerns. Key issues remain that:

a) Contrary to GVA's initial view in their earlier report that a site value materially lower than [redacted] would be appropriate, GVA now support a land value of [redacted]. This is a level of landowner return that far exceeds normal levels [redacted] above Existing Use Value (EUV), compared with typical parameters of 10-30%) with priority given to the land owner payments at the expense of affordable housing. This together with the assumption that land value will be unaffected by CIL is contrary to National Planning Practice Guidance which states that in all cases site value should reflect policy requirements and planning obligations and any CIL charge. (Note: at the meeting of 11th September GVA stated that they had disregarded this aspect of the NPPG because it is 'guidance not policy'). NPPG is an important material consideration and so this approach in itself calls into question the validity of GVA's conclusions.

   Clearly where such a high premium above EUV is proposed there is scope for a lower site value to reflect Development Plan affordable housing and CIL requirements, in accordance with national guidance. This is particularly the case because in this instance there is no extinguishment of the existing use (as would normally be the case when ensuring that land value provides a return greater than EUV) and Royal Mail Group are receiving the benefit of new facilities. The costs of this have been included in the report and effectively takes the

form of an additional financial benefit to RMG of [redacted] (over and above the land value GVA now suggests as appropriate at [redacted], totalling a package of [redacted] value to Royal Mail).

b) Aspects of the original report relating to the timing of land payments and review mechanisms have been deleted without justification. The timing of land payments is a crucial component of the model which is particularly sensitive to assumptions relating to the timing of costs and values. An undocumented and questionable conclusion provided in regard to the impact of changes to land payments provided at the most recent meeting was considered to present further evidence of a failure to fully consider a matter with a potentially significant impact on overall development viability.

c) GVA have effectively supported a target IRR of 20% despite not providing any justification for this. At the 27th August all party meeting, the GLA case officer stated that the GLA had instructed GVA to accept the revised and increased target profit level recently proposed by the applicant, rather than asking them to express and evidence their own professional opinion. This is despite evidence from BPS that this level of profit, which equates to an equivalent of 34.1% profit on cost, is excessive. Again, the reason for the GLA enabling the applicant to disregard the lower and more appropriate IRR level (18%) informing the affordable housing offer at the time of the call-in renders this issue all the more disturbing. The Councils have yet to be provided with any justification from the GLA for why the applicant considered an 18% IRR to be tolerable in October 2013, but after the January 2014 call-in, 20% became the minimum acceptable level to be incorporated into an affordable housing offer.

d) GVA have not had access to the bespoke viability model used by Gerald Eve, due to Gerald Eve's refusal to provide this to the Councils, BPS (despite the explicit written agreement to provide access, at 40 of Gerald Eve's response to BPS comments of 7th November 2013), the GLA and GVA. GVA have therefore not been in a position to be able to properly scrutinise the basis of the model. Instead they appear to have relied on amended appraisals undertaken by Gerald Eve without seeing the calculations and cashflows (discounting of costs and values etc) that form the basis of the Internal Rate of Return model of assessment of profit. GVA have taken the outcomes of amended inputs presented by Gerald Eve at face value. It has also become apparent that GVA have not had the benefit of viewing information relating to the calculation of affordable housing values, in particular the basis of determining the rents for affordable rented housing. More detailed consideration is given to this in the next section.

2.5.3 Further concerns with GVA's approach are set out in the appended BPS report which also includes a summary of outstanding viability issues (Appendix One).

2.5.4 As is set out above, the Councils are also extremely concerned with the lack of transparency and openness by the applicant and GLA with the boroughs in relation to the viability assessment process in the period between release of the May GVA Report and a Gerald Eve August Position Note provided to the boroughs on 26th August. The councils were not party to the limited discussions / revised modelling provided during this time nor subsequently provided with information exchanged between Gerald Eve, GVA and the GLA in this period, prior to release of the later GVA reports. This was despite earlier agreements that all information exchanged would be shared directly between each of the parties.

2.5.5 It has now come to light that the applicant provided updated appraisals to GVA sometime after each of the revised offers were made (19th June, 29th July, 31st July). This was indicated verbally to the Councils at meetings after the release of the latter GVA reports, however, full details of this were only provided to the Councils on 26 h August with the circulation of the revised Gerald Eve August 2014 Position Note. It is however still not clear whether the details

set out in the Position Note represent the exact same information provided to GVA and whether any of that information has been omitted, amended or supplemented within the Position Note. The Boroughs have requested of the GLA that any information given to GVA which differs from that set out in the Position Note is provided to the Boroughs to ensure completeness and transparency.

2.6 The Councils are also concerned by the absence of any evidence that the GLA have themselves questioned the basis for the change in approach adopted by GVA, or robustly explored the reasons for the significantly different and evidenced conclusions of BPS who consider that 42% affordable housing at a policy compliant tenure split is viable.

2.7 The sequence of events is that the applicant did not amend their offer to fit the initial conclusions in the May GVA report as might be expected, but GVA have arrived at conclusions which directly correspond with the applicant's affordable housing offer.

2.8 Based on advice from BPS and the councils' concerns relating to the process which has led to the position where the GLA are highly likely to accept the applicant's affordable housing offer, the councils consider that GVA's conclusions, which they have acknowledged are contrary to National Planning Practice Guidance, cannot be relied on. The councils fundamentally disagree that the affordable housing 'offer' represents the maximum reasonable level of affordable housing that can viably be provided and with the applicant's assertion that a policy compliant tenure split cannot be provided.

2.9 The councils also observe that Gerald Eve's position that the scheme cannot viably support the affordable housing offer, which is based on widely different assumptions from both GVA and BPS, lacks credibility. The councils record their concerns that again Gerald Eve have been found by independent assessors to have, (at the very least) underestimated residential sales values and residential growth and overestimated land value, at the expense of delivering a proposal that is meets adopted Development Plan policies.

3. COMMENTS ON AFFORDABLE HOUSING OFFERS

3.1.1 The applicant's 7th July revised offer sets out a summary of planning policy to which for expedience no further comment is made, except to repeat the affordable housing tenure splits that are sought by each of the councils:

- Islington – Core Strategy policy CS12G 'delivering an affordable housing tenure split of 70% social housing and 30% intermediate housing.
- Camden - Core Strategy Policy CS6 sets a tenure mix of 60% social rented and 40% intermediate housing (and this is, of course, reflective of London Plan policy).

3.1.2 The applicant also refers to substantial costs to the Mail Centre being spent to enable the freeing up of the sites for mixed use residential led development. One point that should be made is that significant concerns were raised in relation to properly apportioning true 'enabling costs' to free up the development and separating those from simply business improvement / modernisation costs and those costs that addressed delayed maintenance of the building. Furthermore these have been included as an additional 'development cost' and so Royal Mail Group is set to benefit from the additional value associated with this modernisation in addition to base land payments. It is also erroneous to consider the enabling works representing purely a necessary cost. A substantial element is designed to protect the ongoing use by Royal mail of their neighbouring facility representing at least the benefit of preserving existing use value. This is distinct from other development sites where the existing use is usually lost to the land owner.

3.1 Community Infrastructure Levy (CIL)

3.1.1 Islington adopted its CIL Charging Schedule on 1 September 2014. The applicants state that an additional £5.1m is introduced as a scheme cost as a result of CIL adoption. The Councils are currently unable to verify the CIL figures provided by the applicant as a schedule of gross internal areas for the scheme (including affordable housing) has not yet been provided, as previously requested at the all party meeting on 13th August 2014.

3.1.2 The offer letter states that CIL adoption has a significant impact on financial viability, which the Boroughs question given that the additional cost amounts to less than 1% of development costs. As previously raised, the Councils consider that this amount should be deducted from the land value and should not impact on the delivery of affordable housing. The applicant has however translated the additional cost associated with CIL in its entirety into a revised affordable housing offer. This is clearly contrary to National Planning Practice Guidance Paragraph 14 and RICS guidance on Financial Viability in Planning[3] which require that site value reflects policy requirements and CIL charges.

3.1.3 The Mayor of London's CIL Examiner's Report also identifies a clear expectation that CIL charges are reflected in lower land values:

"Finally the price paid for development land may be reduced. As with profit levels there may be cries that this is unrealistic, but a reduction in development land value is an inherent part of the CIL concept. It may be argued that such a reduction may be all very well in the medium to long term but it is impossible in the short term because of the price already paid/agreed for development land. The difficulty with that argument is that if accepted the prospect of raising funds for infrastructure would be forever receding into the future. In any event in some instances it may be possible for contracts and options to be re-negotiated in the light of the changed circumstances arising from the imposition of CIL charges." (Paragraph 32) (Emphasis added)

3.1.4 The Examiner concluded that a historic price paid for land should not prevent CIL from being reflected in current land value, however clearly this approach is not relevant in this situation as no such transaction has occurred. As with other fixed costs, a developer would pay less for land to accommodate those costs compared with another site where the costs did not exist.

3.1.5 This approach was also reflected in the Islington Council's evidence submitted as a part of the Examination of its CIL Proposals (see Evidence Document 3 – Statement of Consultation, response to DP9 representation, p21 and also p31- 33).

3.1.6 There is no uncertainty in relation to Islington CIL liability as the scheme will be liable for Islington CIL. There is in this case therefore no reason why the Islington CIL should not be reflected in the fixed land value payment to Royal Mail Group adopted in the appraisal. Should the Mayor accept this approach which is clearly contrary to National Planning Practice Guidance, his decision would be open to challenge and it would be of great concern if the Mayor was to accept this approach.

[3] This states that Site Value may need to be further adjusted to reflect emerging CIL charging levels (alongside consideration to market transactions). It is clear therefore that adopted CIL charges which are fixed should have a bearing on site value, particularly where this is well in excess of Existing Use Value and the existing use is not being distinguished. The councils consider that the view expressed by GVA at the 11th September meeting that the market has not had time to adjust to the outcome of the Examination of the Islington CIL Charging Schedule in March 2014 is entirely unfounded, particularly because no land transaction has taken place.

3.2 Proposed Affordable Housing Tenure Split

3.2.1 It is clear that the applicant has sought to provide an affordable housing offer which minimises the provision of affordable rented units, and which completely disregards the London Plan and two boroughs' adopted planning policy tenure split requirements as referred to above. There is no extraordinary need for such an excess of intermediate housing in the vicinity of the sites, nor has the applicant claimed such a need. The low level of affordable provision and inappropriate tenure mix within this is further worsened when proposed size mix by tenure is taken into account.

Table: Calthorpe Street affordable housing offer – size mix by tenure(against policy target)

	Affordable Rent				Intermediate		
	UNITS	%	LBI TARGET		UNITS	%	LBI TARGET
1bed	1	3%	0%		28	54%	65%
2bed	12	41%	20%		20	38%	35%
3bed	2	7%	30%		2	4%	0%
4bed	14	48%	50%		2	4%	0%
TOTAL	29	100%	100%		52	100%	100%

Table: Produced by the Boroughs based on the applicant's 'offer'

Scheme Total	1bed	2bed	3bed	4bed	UNITS	%
Affordable Rent	1	20	22	15	58	35%
Intermediate	49	41	16	2	108	65%
Total Units	50	61	38	17	166	100%

With Islington CIL Offer (based on a stated 12.8% IRR adopted by Gerald Eve)

Scheme Total	By Units		By Habitable Rooms	
Intermediate as % of AH	65%		Incomplete information provided by applicant	
Affordable Rent as % of AH	35%		Incomplete information provided by applicant	
Average % FMRV	48%			
Calthorpe Street				
	Units	% of total	Habitable Rooms	% of total
Private	255	75.9%	786	75.9%
Intermediate	52	15.5%	134	12.9%
Affordable Rent	29	8.6%	116	11.2%
Phoenix Place				
	Units	% of total	Floorspace (sqm)	% of total
Private	260	75.4%	Incomplete information provided by applicant	

Intermediate	56	16.2%	Incomplete information provided by applicant	
Affordable Rent	29	8.4%	Incomplete information provided by applicant	
Calthorpe Street + Phoenix Place Total				
	Units	% of total	Habitable Rooms	% of total
Total units	681	-		-
Private	515	75.6%	1565	
Intermediate	108	15.86%	Incomplete information provided by applicant	
Affordable Rent	58	8.5%	Incomplete information provided by applicant	
Total Affordable	166	24.4%	542	25.7%

3.2.2 The 'with Islington CIL' offer currently stands at 24.4% by units and 25.7% by habitable rooms. However, there still remains uncertainty in regard to the actual habitable rooms total, which appears to have been altered following the submission of the application. The boroughs continue to await the applicant's explanation of this. This is not considered to be a remotely acceptable position to be in 3 weeks prior to the intended reaching of a decision on the scheme.

3.2.3 The overprovision of intermediate housing and reduction of 40 affordable rented units within the 'with Islington CIL' offer is also inconsistent with the representations submitted by DP9 on behalf of the applicant to inform the Islington CIL Examination which envisaged an increase of contributions of £8m and which would make less than a 2% difference to the overall affordable housing provision. That letter stated the following:

"The proposed scheme would require a reduction in AH from 21.3% to 19.4% (equivalent to the conversion of 12 affordable units to private sales) in order to maintain a financially neutral position on a growth model basis at a viability level which enables the development to proceed (assuming an unchanged charging regime for LB Camden)."

3.2.4 The Councils object to the cost of CIL being borne in its entirety by the affordable housing provision (and thus substantially diminishing that provision) for the reasons stated above, but even were this to be the case it would be appropriate to reflect any degree of impact in a split between affordable rented and intermediate tenures that remains reflective of local needs and Development Plan policies. Gerald Eve have, only after specific requests, now provided amended tables showing a lower overall affordable housing percentage of 21% when incorporating a 60% affordable rent: 40% intermediate split and 19% with a 70% affordable rent: 30% intermediate tenure split.

3.2.5 However, the appraisals in Gerald Eve's August Position Note do not disaggregate values for affordable rent and intermediate units and so it is impossible to verify whether the cost associated with Islington CIL has been properly reflected in the revised offer or with these amended tenure split scenarios. Gerald Eve agreed to provide updated appraisals indicating how the cost of CIL results in amended viability outcomes at the 11th September all party meeting. The Councils are concerned that this is still not available to the Councils or the GLA so close to the hearing date as it creates a fundamental policy objection.

3.2.6 Furthermore a cashflow model of the appraisal has not been provided and there is no indication that the Islington and Mayoral CIL instalment policies have been taken into account. If it has been assumed that CIL will be paid in its entirety as an upfront cost, this would clearly overstate the impact on viability. The applicants have therefore also been requested to

provide a cashflow of development viability so that the impact of Islington CIL can be verified. The Councils have no means of determining this themselves as they have not been provided with the Gerald Eve Model or cashflow assumptions that have been fed into that model.

3.3 Intermediate Housing – Assumptions and Values

3.3.1 The Boroughs have consistently advised that larger intermediate units are not supported on this site due to the demonstrable affordability issues. Details are provided below to illustrate the practical difficulties of delivering larger intermediate units in this high-value location (that households within the London Plan income thresholds could reasonably expect to purchase). The table below sets out the total monthly housing costs based on the following assumptions:

a. Present day value o[redacted] per square foot, as applied by Gerald Eve in March 2014
b. A 3b5p unit size of 947sqft (88sqm, unit type 3CA-C)
c. Open Market Value of [redacted] (based on Gerald Eve values)
d. Equity shares of 25-50%
e. Rental rate of 2.75% of the retained equity
f. Mortgage based on a 5.29% interest rate and 25 year repayment period
g. Service charge not included.

Table[5] based on Newlon (Registered Provider) Home Ownership Calculator

Share to Purchase (%)	25	30	35	40	45	50
Share Value (£)	£222,545	£267,054	£311,563	£356,072	£400,581	£445,090
Minimum 10% Deposit	£22,254	£26,705	£31,156	£35,607	£40,058	£45,509
Mortgage Required	£200,290	£240,348	£280,407	£320,465	£360,523	£400,581
Monthly Repayment	£1,205	£1,446	£1,687	£1,928	£2,169	£2410
Monthly Rent	£1,530	£ 1,428	£1,326	£1,224	£1,122	£1,020
Total Monthly Cost	£2,735	£2,874	£3,013	£3,152	£3291	£3430
Total Monthly Cost with 25% deposit	£55,636 deposit = £2,534 per month	£66,764 deposit = £2,634 per month	£77,891 deposit = £2,732 per month	£89,018 deposit = £2,831 per month	£100,145 deposit = £2,929 per month	£111,272 deposit = £3,028 per month

3.3.2 Currently, for a 3-bed unit the maximum household income threshold is £80,000. Taking a standard mortgage multiplier of 3.5 x annual income gives access to maximum mortgage finance of £280,000. This is an optimistic assumption regarding availability of mortgage finance as lenders will generally lend at lower multipliers in relation to dual-income households (e.g. they will only lend at the maximum multiplier for the higher income earner, and a lower

[4] Note that the August GVA report adopts an average value of [redacted] per square foot, but also refers to levels of [redacted] per square foot being more appropriate for this location. Therefore the table provides a much lower representation of likely rental costs.

[5] Link to the Registered Providers calculator for considering affordability of intermediate housing (shared ownership) products that informed this table. http://www.newlonhomeownership.co.uk/buying-information/mortgage-calculator/

multiplier for the other earner). Any amount above this must be met by an increased deposit, despite the minimum 10% deposit already being a substantial amount.

3.3.3 As set out in paragraph 3.3 of the London Plan AMR, for the criterion that provision is affordable to be met, the annual housing costs, including rent and service charge, should be no greater than 40% of net household income. At the maximum income of £80,000, monthly housing costs should be limited to £1867 per month. As an example, for 3-bed intermediate units to fall within the Mayor's affordability guidance, potential purchasers would be required to have a deposit of almost £200,000 – this would allow purchase of a 25% share with a minimal mortgage of £28,000 and rent on the retained equity resulting in a total monthly cost of £1700 (excluding service charge).

3.3.4 The final row in the table sets out the total monthly cost (excluding service charge) with a deposit of 25%, which is within the range of what buyers of intermediate homes in the borough have achieved and the average deposit of a first-time buyer in London. Even with a substantial 25% deposit, the total monthly housing costs for a 3-bed intermediate property in this location would be between 2 and 2.5 times greater than the £1,180 average housing cost for larger intermediate homes that is recommended by the Mayor.

3.3.5 As a comparison, the most expensive 3-bed intermediate units currently available in London are through L&Q at the OKR development. These units have an OMV of £540,000 offered with a 30% share (£162,000) and a minimum household income of £71,718 recommended to purchase this property. Indicative monthly rent is set at £866 and service charge at £150. The minimum 5% deposit required by L&Q would lead to mortgage repayments of £925 for a total monthly housing cost of £1941; a 10% deposit would reduce monthly costs to £1893 and a 25% deposit (£40,500) would reduce costs to £1747. To put this in context, the calculated OMV of the smallest two-bed flat (64sqm/689sqft) in the Calthorpe Street site is £[redacted].

3.3.6 In the absence of information from the applicant to the contrary, three and four bedroom intermediate units are not considered affordable for those households who would eligible for this tenure. Moreover, this example has been calculated based on the price per square foot assumed by Gerald Eve, whereas GVA in their assessment of the applicant's inputs have adopted a private sales value of [redacted] per sq foot and have stated that a price of [redacted] per sq foot would be more appropriate in this location. While limiting the maximum rental rate to 2% would somewhat improve affordability across the unit sizes, this in itself is insufficient to bring larger properties within reach of eligible households.

3.3.7 Moreover, no information has been provided regarding the assumed value of the intermediate units. The accommodation schedule provided on 29th August 2014 states that all intermediate units have an assumed capital value of [redacted] per square foot. There is no indication of how this value has been derived, as a minimum the assumptions regarding the initial share of equity purchased and the rent on the unsold equity should be provided to verify this assumption. In the absence of this information, there can be no certainty that the proposed intermediate units accord with the definition of this tenure.

3.4 Affordable Rented Housing – Assumptions and Values

3.4.1 The Councils set out comments relating to a lack of information available to assess the basis of establishing rents for affordable rented products in its response to the 11th June offer circulated on 18th June. The Councils have, only on 29th August, been provided with further details although a number of questions remain unanswered.

3.4.2 Both Islington and Camden are in the process of agreeing Affordable Housing Delivery Frameworks with the Mayor that will guide the delivery of affordable rented housing in the

respective boroughs. It is important to note that the conditions in the Mayor's 2015-2018 Funding Prospectus apply to all homes delivered as part of an RP's programme with the GLA, regardless of whether they are in receipt of grant funding or not (refer to The Mayor's Housing Covenant 2015-18 Programme Funding Prospectus FAQs), therefore any RP seeking to deliver affordable rented homes in the boroughs will need to have regard to the respective Delivery Frameworks.

3.4.3 While Islington's draft Framework seeks target rent levels across all unit sizes, Camden's draft Framework seeks target rents for three and four bed units, with some flexibility regarding rent levels for one and two bed units. To date, where affordable rent has been proposed as part of the affordable housing offer, Islington has successfully negotiated S106 agreements that ensure affordable rent properties are made available to eligible households in perpetuity at target rent levels.

3.4.4 The Councils have considered the rent levels put forward by the applicant for the affordable rented units. In the first instance, weekly rent levels have been calculated at 48% of the full market rental value (the applicants stated offer), where the full market rental value is that determined by Knight Frank (as set out in the 15th October 2013 Affordable Housing Offer). This approach is in line with guidance from the Regulator that affordable rent levels should take gross market rent as a starting point.[R./4]

	Market Rent	48% Market Rent	Central London LHA Rate (April 2014)	Target Cap 2014-15 (excluding service charge)	Target Rent + £150/month service charge
1bed	[redacted]	[redacted]	£258.06	£137.71	£175.21
2bed	[redacted]	[redacted]	£299.34	£145.80	£183.30
3bed	[redacted]	[redacted]	£350.95	£153.90	£191.40
4bed	[redacted]	[redacted]	£412.89	£162.00	£199.50

3.4.5 The proposed blended rate of 48% FMRV exceeds the applicable LHA rate for all but one-bedroom units, and is substantially above target rent for all unit sizes even when the cost of a monthly service charge at a rate of £150 per month (£37.50 per week) is accounted for. Although no information has been provided by the applicant on the rent levels that have been assumed for various unit sizes to arrive at a blended rate of 48% FMRV, they have advised that they envisage a range of rental levels across the units, capped at 60% FMRV. The Councils have therefore considered rent levels as 20%, 30%, 40%, 50% and 60% FMRV in assessing the offer.[R/4]

	Market Rent	20% Market Rent	30% Market Rent	40% Market Rent	50% Market Rent	60% Market Rent	Central London LHA Rate (April 2014)
1bed	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	£258.06
2bed	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	£299.34
3bed	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	£350.95
4bed	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	£412.89

3.4.6 As can be seen from the above table, at 60% FMRV all unit sizes exceed the Central London LHA rate. As the affordable rent can never be higher that the applicable LHA rate in London, it is not clear how a blended rate of 48% of FMRV could be achieved in practice when the majority of affordable rented units proposed are larger sized units (37 of the 58). Even at 40%

FMRV, the four bedroom units would exceed the applicable LHA rate, and at 20% FMRV these units would exceed the target rent plus service charge for an equivalent sized property.

3.4.7 It is also important to note that in setting affordable rent levels RPs must have regard not only to the Councils guidance on rent levels (which in Islington's case is that all rented properties should be let at target rent levels) but also their own internal policies on rent setting, which in many cases limit rent levels to c. £250 per week across all unit sizes; affordable rent levels set at 40%FMRV would therefore likely exceed RPs own guidance on rent setting for all but one-bed units.

3.4.8 In regards to the valuation of affordable housing units, Appendix C of the RICS Guidance Note sets out the information that should be included in a viability assessment. In relation to Affordable Housing, this includes the anticipated value of the affordable units with supporting evidence/explanation of how these have been valued and assumptions. To date, insufficient information has been provided by the applicant on how the anticipated value of the affordable housing units has been calculated.

3.4.9 For the affordable rented units, the applicant has stated that they 'envisage a range of rental levels across the units, capped at 60% of full market rental value (FMRV) with the blended rate capped at 48% FMRV'. However, the supporting evidence provided by the applicants (refer to table below) is limited to that set out in Table 4 below. Interrogation of the values used in the table raises several questions about the robustness of the approach to the affordable rented units, as follows:

a. Firstly, the % of FMRV that the affordable rented units would achieve appears to be **calculated based on the net rent**. As set out by the Regulator for Social Housing:

'Gross market rents are generally expressed inclusive of any service charges. An Affordable Rent…should take account of the service charge for a property (where applicable) and reflect the property size and location… Landlords are required to assess the gross market rent that the individual property would achieve and set the initial rent (inclusive of service charges) at up to 80% of that level.'

The affordable rented model provided by the applicant appears to have calculated the affordable rent level based on the net rent, and for 40%FMRV as opposed to the 48%FMRV set out in the affordable housing offer. It is not apparent that the applicant has had regard to the Regulator's guidance when valuing the affordable rented units. Moreover, while 48%FMRV may be a blended rate, it is reasonable to require that the applicant provide an explanation of how this blended rate has been arrived at, including the rent level assumptions for each unit in the scheme that are necessary to achieve this blended rate. It is necessary for the applicant to evidence that the value of the affordable rental units is based on the actual rent levels used to determine the level of provision in the proposed offer, in the absence of an RP partner for the scheme.

b. Secondly, the **service charge** is calculated as a % of the weekly rent with the result that service charges on the larger units are in the order of [redacted] per month. This is well above the standard rate estimated for new build properties of circa £150 per week (see for example L&Q development OKR), or the rate of c. £3/sqft/year generally assumed by RPs. It is not clear how this level of service charge could be incorporated into the affordable rent level.

c. Thirdly, the **capital value per square foot** has been calculated using the minimum unit sizes set out in the London Plan, and this value then applied to each unit based on its floorspace. The rationale for this approach is not clear and has not been justified.

Determining an affordable rent level requires an assessment of the gross market rent that the individual property would achieve; where there is a fully designed scheme the relevance of London Plan space standards as an input to the calculation of capital value is questionable.

[Redacted][R/4]

3.4.10 In summary, the level of detail submitted in support of the affordable housing offer is insufficient come to a sound judgement on the acceptability of the offer, and the current offer cannot be considered to represent the maximum reasonable amount of affordable housing. The input assumptions and resultant values underlying the affordable housing offer are not considered reasonable or appropriate, particularly for a scheme of this size seeking full planning permission across borough boundaries. The unwillingness of the applicants to provide supporting evidence and further explanation to justify the offer has resulted in an affordable housing offer that is wholly unacceptable.

3.4.11 The offer does not reflect in any sense local housing need or either borough's approach to ensuring affordability of the various tenures, nor is it based on a sound and clearly evidenced financial appraisal which demonstrates that the scheme has maximised affordable housing output.

3.5 Additional Enclosures to the July Affordable Housing Offer

3.5.1 The revised July affordable housing offer refers to being made on the basis of:

i) an agreed s106 and CIL package as set out in the attachments;
ii) Financial review clauses and linkages as proposed by Royal Mail Group (Hogan Lovells)
iii) Financial review parameters as set out by Gerald Eve (with no response as to why parameters sought by the boroughs in May are not agreed);
iv) CIL (Mayoral and Local) being phased in relation to the Calthorpe Street site (e.g. after completion of the enabling works);
v) The current scheme programme and associated areas.

3.5.2 These points are commented on separately below and in the following sections. The councils have fundamental objections to the review mechanism wording and linkages put forward by the applicant.

3.6 CIL and S106 Costs (Enclosure 1)

3.6.1 As noted above the CIL figures provided cannot be verified until GIA figures are provided as previously requested.

3.6.2 The councils note that the applicant appears to be proposing a significantly reduced Transport for London contribution from £820,000 to £220,000 without explanation. These are site specific contributions which are necessary to make the development acceptable in planning terms. The requirement for the works arise directly from the development. It has not been suggested that the costs of these works would be paid for through the Islington CIL, however

for clarity, the cost of these works did not form part of the infrastructure assessment that contributed towards assessment of infrastructure costs to be paid for through CIL. No guarantee can be given that future CIL receipts would be allocated towards these works.

4. SITE LINKAGES

4.0.1 The boroughs have significant concerns with the absence of meaningful linkages between the Camden and Islington sites proposed by the applicant.

4.1 Links offered in 7 h July Offer Letter The July 7th offer letter suggested / sought the following. The Councils' response is set out alongside:

4.1.1 (1.1) 5 year permission sought. No justification has been given for this and it is concerning given the clear and pressing need for more housing and particularly affordable housing, to be delivered. Additionally, any extension of the development programme has the potential to worsen the viability situation and therefore it is considered to be perverse to allow a greater period of time simply to implement one of the permissions. The Councils strongly object to this. The Councils therefore consider it inappropriate to allow a greater than 3 year implementation period.

4.1.2 (1.2) Link between enabling works and Phoenix Place implementation. As discussed at the 13th August joint meeting, the key concern of the Councils here is actually to prevent occupation of the most exposed and thus sensitive residential units until the 'enabling structures' have been completed. This is purely to ensure that the quality of residential amenity is secured at an acceptable level.

4.1.3 Therefore the Councils would seek to ensure that no occupation of any residential units in identified blocks within the Phoenix Place site could take place until such time as the 'Enabling Works' have been completed. The proposed condition that the Phoenix Place planning permission would not be implemented until the enabling works have been implemented offers no assurance that the enabling works would be completed prior to occupation of those specified Phoenix Place units / blocks.

4.1.4 Delivery of the two sites as one development is a key principle of the joint SPD for the site and is the basis for the applications' form, layout and composition and of the viability assessment. The Councils are extremely concerned that if the sites are sold to two separate developers (as the applicant has suggested) that they may resist any meaningful mechanisms to secure the holistic delivery of the comprehensive development across the two sites.

4.1.5 No other link was offered within the offer letter and the two planning authorities consider that to be entirely unacceptable in view of the likely environmental consequences and inconsistency with the basis of the viability assessment. The Councils are disappointed that the applicant has not had regard to the Phasing and Linkages document dated 9th May 2014 sent by email to all parties, in preparing the 7th July Offer letter which sets out the Boroughs' aims for and requirements regarding linkages between the sites.

4.2 Information Received Since the July 7th offer. A number of documents have been received by the GLA and Boroughs from the applicant since the 7th July including:

- GVA Financial Viability note dated 5 August 2014
- Gerald Eve Briefing Note: Phasing dated 13 August 2014
- M3 Memorandum dated 26 August 2014
- M3 GLA Call-in Development Delivery Position Note dated 9 September 2014

A response to the collective information is provided below.

4.3 Updated Phasing or Section Descriptions: The applicants' updated description of the phasing or 'sections' has been used as a basis of writing this response. For the purpose of reading the councils' updated linkages and phasing suggested approach, the councils' are using the following 'definitions' of the 'Sections' as follows:

- **Calthorpe Enabling Works**: CS (Islington): the capping over of the Royal Mail service yard including the construction of the acoustic roof / meadow
- **Phoenix Place Section 1:** southern part of the PP (Camden) site including Block A
- **Phoenix Place Section 2:** northern part of the PP (Camden) site including Blocks B, C and D
- **Calthorpe Section 3:** southern part of the CS site (Islington) including Blocks E, F, G and K and to include (if this section comes before Section 4): all of the energy centre, SUDS, refuse facilities, wheelchair accessible car parking spaces, cycle parking spaces, service vehicle route and 'The Garden' including the playspace proposed within it.
- **Calthorpe Section 4:** northern part of the CS site (Islington) including Blocks H, J and K, the Laneway, the Service Lane, Square C and 'the Garden' and to include (if this section comes before Section 3): all of the energy centre, SUDS, refuse facilities, wheelchair accessible car parking spaces, cycle parking spaces, service vehicle route and 'The Garden' including the playspace proposed within it.

4.4 Phasing programme:

4.4.1 The phasing and linkages note submitted to the GLA by the London Boroughs of Camden and Islington on 9 May 2014 provides information on the linkages the Boroughs deem necessary to ensure that the Mount Pleasant development comes forward in a sustainable and holistic manner, as envisioned by the Mount Pleasant Supplementary Planning Document (2012), policy BC6 of the Islington Finsbury Local Plan (2013) and the Camden Site Allocations Development Plan Document (2013).

4.4.2 Before submitting the 9th May note, the Boroughs considered the indicative phasing programme provided by the applicant. Since that note was submitted, GVA have carried out an assessment of the viability information provided by the applicant. Their report, dated 5 August 2014, provides two possible timetables for the works (see Table 1 and Table 2).

Table 1: the applicant's detailed timing assumptions[R/6]

Month	Enabling Works II	Enabling Works III	Phase 1	Phase 2	Phase 4	Phase 5
Start Construction	▮	▮	▮	▮	▮	▮
End Construction	▮	▮	▮	▮	▮	▮
Total months	▮	▮	▮	▮	▮	▮
Sales pre-construction			▬	▬	▬	▬
Sales during construction			▬	▬	▬	▬
Sales post construction			▮	▮	▮	▮

Source: Mount Pleasant Independent Review, GVA (5 August 2014)

Table 2: Applicant's timing assumptions use for appraisals adopting GVA assumptions[R/6]

Month	Enabling Works II	Enabling Works III	Phase 1	Phase 2	Phase 4	Phase 5
Start Construction	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
End Construction	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Total months	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
Sales pre-construction			[redacted]	[redacted]	[redacted]	[redacted]
Sales during construction			[redacted]	[redacted]	[redacted]	[redacted]
Sales post construction			[redacted]	[redacted]	[redacted]	[redacted]

Source: Mount Pleasant Independent Review, GVA (5 August 2014)

4.4.3 Table 1 suggests that the construction of [redacted]

4.4.4 Given the concurrent nature of the phases, the Boroughs consider that their proposed restriction on the occupation of the market housing in Phase 2 (with the exception of blocks B and D) until a contract has been let for the delivery of Phases 4 and 5, and Phases 4 and 5 have substantially commenced, should be acceptable to the applicant, and additionally, not affect viability given the relevant dates having been reflected in their viability assessment.

4.5 M3 Consulting Memorandum – 20 August 2014 A memorandum provided by M3 Consulting on the 26 August 2014, to accompany the applicant's presentation on phasing delivered on 20 August 2014, details the following linkages the applicant is prepared to agree to:

- Calthorpe Enabling
- Phoenix Section 1 – south of the site
- Phoenix Section 2 – north of the site
- Calthorpe Section 3 – south of the site
- Calthorpe Section 4 – north of the site

4.5.1 No commencement of Section 1 or Section 2 until a contract has been let for the construction and timely completion of the Calthorpe Enabling Works.

Boroughs' comments: The M3 GLA Call-in Development Delivery Position Note dated 9 September 2014 states that the above is an LBC/LBI requirement. However, the boroughs consider that the priority is the linkage seeking a restriction on occupation of residential units within the proposals (see section 5.0 below), until the completion of the Enabling Works which would not have the implications set out in the M3 (9 September) Position Note (Section 2.0) as occupation would take place at a much later date than commencement.

4.5.2 Not more than 50% of the market units in Sections 1 or 2 to be occupied until the delivery of all the Affordable Housing units on a Section by Section basis.

Boroughs' comments: Camden require that no market units be occupied until the Affordable Housing units within the respective section are completed and transferred to an RP. This approach was sought and secured in the s106 of the only other Camden scheme previously called in by the GLA and Camden would object to an approach giving less priority to the

delivery of Affordable Housing in this scheme[6]. Islington supports this approach and for consistency would seek to secure the same.

4.5.3 Not more than 50% of the market units in Section 3 (south section) to be occupied until the energy centre, SUDS, refuse facilities, The Garden, affordable housing for that Section and temporary arrangements for disabled parking, cycle parking and a service vehicle route have been completed.

Boroughs' comments: This is simply not workable and would result in a development that cannot function for the reasons set out below.

4.5.4 No more than 50% of the market units in the final section (be it either Section 4 or 5) to be occupied until the energy centre, SUDS, disabled parking, refuse facilities, service vehicle route and cycle parking to serve those sections has been completed, including the laying out and completion of the public accessible open space and play spaces.

Boroughs' comments: this again, is simply not workable and would result in a development that cannot function properly when first and considerably occupied.

4.5.5 The Boroughs do not accept that these linkages are sufficient to ensure that the development is delivered holistically, and in a way that protects the amenity of future residents of the PP & CS development. The offered restriction on occupation of up to 50% of the market units in the final section until the energy centre, SUDS, disabled parking, refuse facilities, service vehicle route and cycle parking for that section are completed is entirely inappropriate and insufficient: the completion of such essential elements of the accommodation would and will always be required prior to first occupation of either section. In addition, this fails to consider the affordable housing that would also need to be delivered – resulting in up to 70% of the development or section being occupied, without the essential services being available and functioning.

4.5.6 Temporary car parking at the direct frontage of the flexible retail units running along the base of Block E would heavily impact on the viability of those units, disrupt the service route, forcing those vehicles to encroach into the shared 'amenity space' of 'The Garden' and make this section both unsafe and unattractive for use as a route through the site.

4.5.7 Additionally, the majority of the refuse storage locations are beneath M3s 'Section 4' and are not proposed to be provided. There is no contingency for refuse, storage, management and movement to collection point or pick up and this is also unacceptable.

4.6 Delivery Sequence Implications (M3) 20 August

4.6.1 This document additionally provides an option (Calthorpe Phase – Option 2) that would provide for Section 4 being delivered prior to Section 3. This would be unacceptable as it would leave the Camden development and Phase 3 occupied without benefit of any public open space. Additionally, no testing of the temporary service vehicle route exiting the site from a temporary dropped kerb onto Farringdon Road has been tested by TfL. In this regard the borough's consider that 'The Garden' and the service route must be provided at the time of the first section coming forward whichever is the first, which effectively rules out Section 4 being delivered prior to Section 3.

4.6.2 General Note: Charles Trustram-Eve (GVA) confirmed that he had no regard to the linkages proposed by the applicant in his assessment of the viability advice he provided to the GLA in

[6] 80 Charlotte Street, 14 Charlotte Mews and 65 Whitfield Street

respect of this case, therefore the statement in section 5.0 of the M3 note is questioned for accuracy, and the linkages suggested by the Royal Mail have not influenced the current conclusions by GVA. The councils' are concerned that the lack of adequate linkages between the sites is entirely at odds with the basis of the viability assessment undertaken by Gerald Eve and considered by GVA which assumes a profit return based on the risks associated with delivery of the scheme as a whole. Should the flexibility sought by the applicant be reflected in the S106 agreement, this would require a fundamental reconsideration of the viability assessment for the scheme. This is considered further by BPS in the email at Appendix 2.

4.7 Joint Borough's Revised Linkages Position

4.7.1 LBC and LBI have discussed their 9 May 2014 phasing and linkages note (**Appendix 3**) and, with a view to reaching a compromise with the applicant, have agreed to revise their required linkages as follows:

1. **No occupation of blocks A1, A6 & A7 within Section 1 until the Calthorpe Enabling Works have been completed.**

   The noise and light pollution that would be caused from 24/7 operations at the Mail Centre directly opposite a dense residential development would not be acceptable on amenity grounds. The scheme has been assessed in terms of quality of accommodation as if the enabling structure has been completed to secure an acceptable standard of residential accommodation for future occupants. The roof is designed to be an acoustic barrier to noise escape which was an identified requirement within the jointly adopted 'Mount Pleasant' SPD (paragraphs 4.3.27-29).

2. **No occupation of blocks B & D within Section 2, and no occupation of any residential units within Section 3 and 4 until the Calthorpe Enabling works have been completed.**

   The noise and light pollution that would be caused from 24/7 operations at the Mail Centre directly opposite a dense residential development would not be acceptable on amenity grounds. The scheme has been assessed in terms of quality of accommodation as if the enabling structure has been completed to secure an acceptable standard of residential accommodation for future occupants. The roof is designed to be an acoustic barrier to noise escape. It is considered that Blocks B and D of Phase 2 would be of a sufficient distance so as not to be impacted by unenclosed operations at the Mail Centre and so are excluded from this provision.

3. **No occupation of any of the market housing in the relevant Section until all of the Affordable Housing in that same section has been completed and transferred to a Registered Provider.**

4. **No occupation of more than 50% of the market tenure residential units within Section 1 or 2 (whichever commences second) until Section 3 and 4 have been substantially commenced [substantial commencement to be defined (and not to include the Enabling Works already completed)] and a contract has been let for the timely completion of Sections 3 and 4.**

5. **[In the event that delivery is reversed]: No more than 50% of the market housing in Section 3 or 4 (whichever commences second) shall be occupied until Sections 1 and 2 have been substantially commenced and a contract let for their timely completion**

   The boroughs' agree that there should be a restriction on the occupation of a proportion of the market housing and commercial unit in Section 2 until a contract is in place for the timely

completion of Sections 3 and 4, and that Section 3 which shall incorporate the majority of the public open space within the Calthorpe Street site, has been commenced, to ensure that the site is developed in a holistic manner. A number of the benefits of the development are on the Islington side of the Mount Pleasant site, including:

i) The remainder of the affordable housing within the later phases (whichever order the scheme comes forward in). This is because the overall quantum of affordable housing (AH) is reduced due to the 'Calthorpe Enabling Works' resulting in a reduced amount of AH being provided within Sections 1 and 2 than would otherwise have been secured;
ii) the public open space,
iii) the majority of the new employment floorspace; and
iv) the affordable workspace.

Any additional on-site affordable housing required as a result of the second viability review would also be delivered on the Islington side (subject to phasing in the way the applicant suggests – although drafting should cover the reverse scenario playing out). Accordingly, both LBC and LBI request that Sections 3 and 4 follow the delivery of Sections 1 and 2 as closely as possible.

Note: wording to account for a potential reversal of the 'likely' delivery sequence is provided for above as well.

6. **None of Sections 3 or 4 to be occupied until the energy centre, SUDS, disabled parking, refuse facilities, service vehicle route and cycle parking to serve those phases has been completed including the laying out and completion of the publicly accessible open space and playspaces.**

7. **None of section 4 shall be occupied until section 3 has been completed in its entirety (to be reversed if the GLA do not agree that section 3 must be delivered prior to section 4 for functionality reasons).**

The facilities listed above will serve the commercial and residential tenants of the development so need to be provided prior to any occupation. The development could not effectively function without these being provided prior to occupation. Without these being ready on first occupation the development would have a significant impact on the functioning of the wider area and would not offer the appropriate amenity to residents operating in an unsustainable way for that time.

Additionally, 'The Garden' and service vehicle route is to be provided within Section 3 and therefore is needed in order for the development to function properly.

4.7.2 As discussed above, the Boroughs do not consider that these linkages are unduly onerous taking into account the applicant's projected phasing programme.

4.7.3 Moreover, the planning applications are the subject of a shared viability case, and a single section 106 agreement, and it is entirely inappropriate to allow for the application of costs borne by one or more parts of the development to be separated out of later sections. There must be certainty that all elements of the redevelopment scheme will share the burden. The applicant has not proposed separate viability reviews for the various development 'sections' within the comprehensive scheme viewed as a whole and thus the development sections must remain linked to remain consistent with the existing viability case made, without the ability to sever that link. This principle relates not only to viability but to the concept of holistic place making established firmly by the adoption of the Mount Pleasant SPD as well.

4.7.4 The boroughs' independent viability consultant, BPS has reviewed the boroughs suggested linkages and considers that, as a result of the way that the applicant has put forward their viability case (with significant upfront costs outlaid at the earliest stage), the scheme would be put at greater risk should any of the sections be delayed beyond the indicative programmes. As such, the linkages support an improved viability outcome rather than a worsened one. That email (Andrew Jones dated 13 September 2014) is attached as **Appendix 2**).

4.8 Delivery of the affordable housing units

4.8.1 If the affordable housing is delivered evenly between the phases and this is secured in the agreement then in respect of each phase the Councils would require their standard wording to secure completion of the affordable housing prior to occupation of the market housing.

4.8.2 The standard s106 clauses for each of the borough's are appended to this note (**Appendix 5**).

4.9 M3 GLA Call-in Development Delivery Position Note (9 September 2014)

4.9.1 This note, received on 9th September, provides additional possibilities of how the development could come forward. Neither would extend the timeframe for all parts of the development to be completed, although neither of these options has been modelled to test their impacts on financial viability (in terms of timing of payments etc).

4.9.2 The Councils' continue to consider that the first financial viability review must be linked to the substantial commencement of residential development, NOT substantial commencement of the Calthorpe Enabling Works. The whole concept of these reviews is linked to the delivery of affordable housing and therefore linking a review to the Enabling Works is considered inappropriate and incorrect. In this regard, the 'Revised Substantial Commencement Offer' is in the view of the Local Council's irrelevant.

4.10 Linkages Conclusions

4.10.1 The applicant has throughout discussions referred their understanding that 'no-where in London has cross-borough and across phasing linkages been secured', and contends that this would adversely affect viability of this scheme.

4.10.2 However, the boroughs are aware of the Earl's Court redevelopment s106 that was a cross borough comprehensive scheme that includes linkages of the very nature sought by Islington and Camden Councils.

4.10.3 Page 106 of that agreement referred to the requirement for affordable housing units on earlier phases to be completed and transferred to a Registered Provider prior to occupation of any private units on phases or sections within the other borough permission.

4.10.4 Additionally, page 110 provides a table that holds back occupation of market unit numbers until completion of replacement or affordable housing units has occurred within other phases (across borough boundary in cases).

4.10.5 The Councils consider that the linkages they are seeking are reasonable, similar to linkages secured elsewhere in London with the support of GLA officers and would not harm the financial viability of the scheme. The linkages seek to secure the full provision of the affordable housing levels secured within the consent as a whole as well as the proper functioning of the development.

5. VIABILITY REVIEW MECHANISMS

5.1.1 The Councils reiterate that the starting point of the applicant's financial viability offer is not supported by the two Councils and BPS. In this regard discussions on the inputs below are without prejudice to the high level objections to 'the affordable housing offer'.

5.1.2 The Councils submitted their proposed viability review mechanism wording to all parties for consideration on 9 May 2014 (Appendix 4). No response has been received in relation to that document setting out a rationale as to why it was considered unacceptable to the applicant.

5.1.3 Meaningful viability reviews are necessary due to the very significant number of uncertainties identified by BPS with respect of the viability assessment for the scheme, to ensure that the maximum reasonable affordable housing is provided in accordance with the Development Plan (see 9th May Note – Appendix 4). The councils are seeking a pre-implementation review and one single further review at an advanced stage of development. It is vital that these reviews take into account the viability of the scheme as whole and provide for the potential for additional on site affordable housing which accords with the development plan.

5.1.4 The key areas of concern in relation to the applicant's suggested reviews are set out below corresponding to the numbered points in the Gerald Eve Notes (Enclosures 3 and 4):

5.1 Enclosure 3 – Pre- implementation Viability Review

5.1.1 1.(a) - The Boroughs do not agree that the pre-implementation review should be linked to substantial implementation of the enabling works and would fall away once this is achieved. The review helps to ensure that the basis of the assessment of viability remains up to date and encourages delivery of the residential elements of the scheme. The Councils strongly object to this approach which has the potential to remove any review mechanism for the first of two phases of this development and is inadequate to ensure that the maximum reasonable level of affordable housing is achieved in accordance with the Statutory Development Plan. The Councils continue to consider that the first financial viability review must be linked to the substantial commencement of residential development, NOT substantial commencement of the Calthorpe Enabling Works.

5.1.2 1.(b) - The timeframe (3 years) is entirely inappropriate as due to changing market conditions, a viability assessment is likely to become out of date within a significantly shorter period (12 months or less). As previously requested a pre-implementation review is necessary except in the event of the substantial implementation of the first residential phase being achieved less than 6 months after the decision is issued (or following a failed Judicial Review). If this is not achieved a review is required to be submitted and agreed prior to substantial implementation of the first phase of residential development on either site.

5.1.3 The reasons for seeking this approach were set out in the joint borough note 'Draft Proposals for Viability Reviews' dated 9 May 2014 (**Appendix 4**).

5.1.4 (2) A cap of 50% affordable housing provision is agreed however this should be based on a policy compliant tenure split and a pre-agreed range of dwelling unit sizes.

5.1.5 (3) A Benchmark IRR of 20%. BPS have advised that a target IRR of 20% would be excessive (and DVS had previously identified an 18% 'hurdle rate'). According to Gerald Eve's figures, a target of an IRR of 20% equates to a profit on cost of 33.3%. The NPPG (Paragraph 24) states that: *"A rigid approach to assumed profit levels should be avoided and comparable*

schemes or data sources reflected wherever possible." Comparable evidence and schemes have not been provided to justify this level of target profit.

5.1.6 Based on advice from BPS it is considered that a figure of 18% IRR should be adopted. This reflects a blend between the profit margins normally seen on private residential development and that generally considered necessary in relation to affordable housing.

5.1.7 As is noted above, an 18% IRR was adopted as the basis for the applicants' 12/16% affordable housing offer at the time of the GLA call in. GLA officers have confirmed that GVA were not instructed to consider an appropriate level of target profit (along with matters such as the total appropriate level of Enabling costs, where again reliance was declared to be held on the DVS conclusions). The reasons for the applicant moving from this agreed input are unclear, which is of great concern to the Councils.

5.1.8 (4) A Site Value of [redacted] for the purposes only of the viability review is not agreed. This has a very substantial material impact on the affordable housing offer. The Councils do not agree with the figure of [redacted] that GVA have adopted in their latest report for the reasons set out above and in the appended BPS report. Despite our disagreement with the use of the [redacted] Site Value by GVA, there is no rational justification to utilise a different – higher-site value only for the purposes of a viability review. Gerald Eve's reasoning that a [redacted] figure should be used because this was the basis on which the review was offered, is without merit. This approach would automatically generate an additional [redacted] super-profit at the expense of additional affordable housing.

5.1.9 (5) Surplus Profit as drafted is agreed. Both scenarios must be modelled and provided as a part of the UFVA to enable the level of surplus profit to be determined. The model must be provided to the Councils in a format that enables it to be interrogated.

5.1.10 (6).(a) - The apportioning of the surplus profit is not agreed. The surplus profit should not be shared at all at this point in time. At this stage, no significant construction investment has occurred and there will have been very few if any residential sales so the review will not act as a disincentive to maximise value. The developer will have achieved the target profit and so sharing any surplus at this early stage in the development will amount to super profit. It is the view of the Boroughs that surplus profit identified within this review should be entirely fed back into the appraisal for the delivery of additional on-site affordable housing, with a scheme identifying where the additional Affordable Rent (at target rent or other agreed appropriate levels) units would be located. The proposal that the developer would benefit from 60% of the surplus is completely unacceptable and lacking in any justification from the applicant to date.

5.1.11 (6).(b) It is not agreed that the AHCC should be used to create additional intermediate affordable housing. This approach does not comply with the Development Plan. Additional onsite affordable housing should be provided at a tenure split that is consistent with the Development Plan policies. An additional affordable housing location plan should be provided indicating the blocks and units where this would be accommodated to safeguard the potential provision of relevant units as affordable housing.

5.1.12 (7) The updated viability appraisal should also be carried out in accordance with the Development Plan which forms the statutory basis for determining planning applications and Council guidance which is a material consideration.

5.2 <u>Enclosure 4 – Mid-Scheme Viability Review</u>

5.2.1 The key areas of concern corresponding to the numbered points in Enclosure 4 in relation to this suggested review are as follows:

5.2.2 (1). It is not considered that the terms set out by the applicant represents a mechanism to enable the maximum reasonable level of Affordable Housing to be delivered. As discussed at a number of meetings with the applicant and GLA, one of these sections could be commenced and the latter section left for a considerable amount of time which would not be acceptable in planning terms to either councils for the reasons set out in the previous section.

5.2.3 The trigger must be to 'substantial implementation'.

5.2.4 As discussed, the phases of the development should be linked in a manner to ensure that the developments are able to properly function / operate holistically, as they have been designed to do and as the financial viability assessments are based upon.

5.2.5 (2). In the meeting of 6th August discussion around this point took place and the applicant advised they would take advice from their viability consultant. At the meeting of 27th August, Robert Fourt confirmed that the assessments would not consider the scheme as a whole, but would apportion 'Site Value' and 'Enabling costs' to this later section. It is the view of the Councils that this mid-point review requires a review of the earlier sections (build costs, land payments, sales values etc) in order to inform the updated review being carried out. This is a consistent approach in terms of viewing the development holistically in terms of costs, values etc as Camden Council have accepted a lower affordable housing level due to the enabling works. To not take account of the values and costs across both phases of the scheme would effectively break that holistic link established in the SPD and to which the applicant went to great lengths to secure at the initial stages of the discussion over the form of viability assessment, and in the view of the Councils it would be perverse to separate the sites out in this way at the viability review stage.

5.2.6 (3). The proposals under this point put forward by the applicant are not entirely clear. There is no basis to apply a 24.4% affordable housing base position irrespective of the actual level of affordable housing within the respective sections of the development. This should be based on the actual level of provision (i.e. the initial review could secure an increase). The FVA should simply be carried out across the whole of the development, inputting known costs and values associated with the earlier phase. This review should follow on from any additional affordable housing uplift secured as a result of the pre-implementation review.

5.2.7 (4). A Benchmark IRR of 20% is not agreed. It is considered more appropriate to adopt a figure of 18% IRR for the reasons set out above.

5.2.8 (5). A Site Value of [redacted] is not agreed. See comment above in relation to the pre-implementation review.

5.2.9 (6). Agreed. Both scenarios must be modelled and provided as a part of the UFVA to enable the level of surplus profit to be determined. The model must be provided to the councils in a format that enables it to be interrogated.

5.2.10 (7).(a) The Additional Affordable Housing Contribution (AHCC), should all be used to increase the on-site affordable housing offer at a policy compliant tenure split. At this stage of the review it is considered appropriate to share the 'super profit' 50/50 between the developer and the provision of additional onsite affordable housing. An additional affordable housing location plan should be provided indicating the blocks and units where this would be accommodated to safeguard the potential provision of relevant units as affordable housing.

5.2.11 (7).(b) It is not agreed that the AHCC should be used to create additional intermediate affordable housing, but should be used to prioritise provision of affordable rent (at target rent or other agreed levels). Additionally the cap again must be reflective of planning policy, at 50%, having regard to the affordable housing provision already secured in either the original permission or the pre-implementation review. There is no basis for applying a cap of 30% affordable housing which could be exceeded in the first review. The applicant acknowledged this and agreed to consider this further at the 27th August all party meeting, however have subsequently confirmed that their position has not changed. BPS have identified that the impact of applying a growth model is offset by the much higher target IRR and assumptions relating to pre-sales of residential units at values which do not reflect sales value growth. The use of a growth model is no reason for applying an arbitrary cap on affordable housing provision that is contrary to the Development Plan.

5.2.12 (8). It is the view of the Boroughs that the UFVA should also be carried out in accordance with Council guidance.

6. JOINT COUNCIL CONCLUSIONS

6.1 The Councils continue to hold significant objections to the affordable housing offer put forward by the applicant and raise concerns relating to the process of assessing whether the maximum reasonable level of affordable housing that can viably be provided. These relate to:

- The level of proposed affordable housing which is lower than the maximum reasonable level of affordable housing that can be provided.
- A tenure split which is contrary to the all respective elements (Islington, Camden and the London Plan) Development Plan.
- Affordable rented units that are based on rents that will not be affordable or deliverable.
- Absence of meaningful linkages which will prevent delivery of a properly functioning, comprehensive form of development with associated environmental consequences, and which is not consistent with the basis of the viability assessment undertaken by Gerald Eve.
- Unacceptable viability review trigger points and drafting proposals which will not enable the maximum reasonable level of affordable housing to be secured.
- A development viability assessment process that is fundamentally flawed for the reasons set out in the statement and the appended BPS report, not least because it is based on an approach which is acknowledged by GVA to be contrary to National Planning Practice Guidance.

6.2 The development proposals currently before the Mayor are contrary to National Guidance and the Statutory Development Plan and the Mayor is therefore urged to negotiate 1) a higher level and policy compliant tenure split of affordable housing, 2) meaningful linkages between the sites and 3) viability review mechanisms that will effectively secure additional affordable housing if viability of the scheme improves; or to refuse planning permission for the applications.

BPS Response to GVA Independent Review
15 September 2014
Mount Pleasant

BPS Chartered Surveyors

Summary
The GVA finalised report is dated 5 August 2014 and has been produced following an opportunity for both the applicant and the two Councils to review the first GVA draft, issued in May 2014 with a further revision dated 23 July.

At the time of the May report we were generally pleased that many of the issues that we viewed as presenting an unreasonably distorted view of viability in the GE reports had been identified as such by GVA. Although we identified some further aspects of the GVA report which either did not address key issues because they were outside the scope of the brief or which failed to draw a precise conclusion, we were on the whole supportive of the report which gave a clear indication that levels of affordable housing in excess of 35% were supported as a conclusion to their review.

Consequently we are now surprised that GVA conclude that an offer of 24.4% (166 units) represents the maximum contribution this scheme can viably support. In the main the GVA report remains largely consistent with its earlier draft but with some notable and indeed critical exceptions.

Our more specific points are summarised below:

Growth

We note that GVA are consistent in their preferred growth rates but have not commented on the respective merits of adopting higher profit targets and a growth model or using current day values and a lower profit target.

Land Value

The GVA May report made the following statement:

Adopting Gerald Eve's assumption of 750 units, the land value is equivalent to [redacted] net of Enabling Costs [redacted] gross of Enabling Costs ([redacted]). We note that none of the comparables seemingly substantiates a figure of [redacted] per dwelling, but there may be additional items to be taken into account that we have not yet included in the Table above, and which will back up this figure.

The latest report despite this conclusion now supports a land value of [redacted] which appears to be a direct contradiction to GVA's earlier thoughts. The justification for this being that they have considered other land sales from around London albeit the facts of which are not presented in their report in any detail.

Our reading is that GVA are of the view the site could command a market value of [redacted] or possibly more based on the assumption that the market might offer this level of consideration potentially irrespective of whether the value is justified by this scheme. In effect the presumption is that alternative development options may vindicate the use of a higher land value in benchmarking the current scheme. It should be recognised that all development scenarios for which no planning consent exists would still need to meet the requirements of planning policy in particular the provision of affordable housing.

This is a critical issue as without planning consent this site has no significant inherent value; therefore most of the identified land value is derived from the grant of consent. Through favouring a higher land value GVA is in effect making a quantitative decision about the appropriate apportionment of value generated by the consent between the delivery of affordable housing and land value to the site owners. The NPPF suggests that land owners should be entitled to a competitive return but does not suggest this return should be based purely on market sentiment.

In the absence of a significant existing use value there appears to be no clear justification or explanation as to how GVA's land value conclusion has been reached with its consequent impact on the delivery of affordable housing at such a low level. This decision seems to run contrary to Development Plan policies of both the GLA and the local authorities concerned which seek to maximise the delivery of affordable housing.

GVA consider that reliance on the results of a residual valuation of this scheme may be unsafe as they have concerns that this scheme may not optimise the value of the land and that they instead seek to apply a tone of land value from a wider pool of other land transactions about which GVA admit full information is not necessarily known. Whilst we accept that applying alternative methods of valuation is an appropriate response to assessing an unknown value, the issue in this instance is we believe more clear cut.

It is acknowledged by GVA that in relation to this scheme full compliance would result in a negligible land value. This conclusion remains in part based on the latest Gerald Eve modelling assumptions which we continue to challenge.

However for purposes of discussion assuming we accept this point it is also true to suggest that a land value in excess of [redacted] would generate negligible affordable housing. The question therefore remains one not of valuation but of the application of planning policy.

The NPPF seeks to provide a competitive return to land owners, but also seeks to maximise the delivery of affordable housing consistent with viability. Therefore accepting the parameters of site value being say [redacted], the issue is what level of return over EUV represents a competitive return and what position maximises delivery of affordable housing.

The adoption of a land value of [redacted] clearly pushes the pendulum very much in favour of the land owner at the expense of affordable housing.

We believe it is inappropriate to somehow suggest that because the market may choose for other reasons to bid say [redacted] for this site, this figure should in any way influence a balanced decision about the allocation of land value generated purely by the planning

process for the scheme under consideration. [redacted] represents an uplift to the land owner of [redacted] over EUV or 180% which against normal uplift parameters of 10-30% cannot seem anything other than excessive.

Impact of CIL

GVA make the following statement regarding CIL:

The offer from the Applicant is for 166 affordable units (24.4%). If the consent is issued prior to the implementation of CIL by Islington then there would be 98 Affordable Rent units (59%) and 68 Intermediate Tenure. If the consent is issued after the CIL is payable then the no of Affordable Rent units is reduced to 58 (35%) and the balance becomes Intermediate Tenure.

This statement suggests that all the impact of CIL would be reflected in a reduction in the level of rented tenure. In effect the cost is carried by the affordable housing with no impact on land value.

We are not aware that land value should be ring fenced in this way from the impact of CIL, particularly as there is no significant underlying existing use value to suggest that land value cannot move downwards. This is in our view contrary to NPPG which states,
"In all cases, land or site value should:

- *reflect policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy charge"*

Programme and Timing of Land Payments

In GVA's May report it made the following statement:

"This also raises the question as to whether it is reasonable to assume that a purchaser will effectively pay in full on Month [redacted] for all the phases, given an assumption that possession for Phase 1 cannot be given for [redacted] months and for Phases 4 and 5 until c Month [redacted]. Further, the timing for Phases 4 and 5 is subject to completion of the Enabling Works Package 3, and the timing of this may be outside the control of the purchaser; we note that it has been suggested that Phases 4 and 5 could be sold separately.

"We consider that it would be reasonable to assume a deferment of the majority of the land payment until possession can be given, with a deferment of payment for Phases 4 and 5."

The finalised GVA report makes no reference to this very important aspect of the GE modelling. We regard this as highly significant and has a very significant bearing on viability, especially given the use of IRR as a basis for computing viability. We cannot understand why this reference has been omitted when it is such a critical element.

The revised modelling assumptions bringing forward development of phase 1 by 12 months does not really address this point. Particularly as the value of unit sales are frozen at the assumed point of sale and in the main reflect no growth from this point which is not reflected in actual market practice.

At a meeting with GVA held at the GLA on 11 September 2014 we were advised that GVA's opinion of land value had been discounted back to reflect the timing of the land payments and the subsequent dates for vacant possession of the two sites (Calthorpe and Phoenix) back to the present day. In this way, they claim to have overcome the need to move the timing of the land payments.

We regard it is a considerable omission to not set forth such reasoning as in fact GVA are suggesting the site has a value considerably in excess of the figure they advocate taken on present day terms. The timing of the land payments has a very significant impact on IRR and if GVA have assumed this also has a significant impact on land value it must surely raise the question as to why such timing assumptions have been adopted as they are clearly not in the interest of Royal Mail as land owner other than that of having an artificially suppressive impact on IRR and thereby overall viability.

The terms of any S106 must therefore require a high degree of transparency regarding the time and scale of land payments actually secured in order that these critical assumptions can be properly assessed prior to implementation.

Residential sales Values

These are consistent with GVA's previous recommendations. The proposed sales values show an average of [redacted], but GVA acknowledge that the scheme should be able to achieve values of [redacted], the pricing being a reflection of quantum.

We remain concerned that given the extensive lead in period for the enabling works there remains a very significant opportunity to both enhance sales rates and values through unit sales off plan. No comment has been made regarding GE's approach to "freeze" unit prices where forward sold without any allowance for growth.

Enabling Costs

In undertaking their analysis GVA's final report appears to accept that the enabling works would need to be delivered in full by the site's developer.

We remain of the view that based on work undertaken by DVS a substantial element of the enabling works remain "benefit in kind" rather than true enabling works which effectively serves to inflate the land owners return still further. DVS identified a realistic figure of [redacted] which should be considered as true enabling works compared to Gerald Eve's use of [redacted] The difference in effect represents additional land value to the site owner.

Profit

GVA had previously not commented on the suitable level of profit as this was outside their brief.

GVA now conclude that by adopting a base land value of [redacted], and having revised their position on the timing of land payments, the IRR falls to 11.7% on a non-growth basis and 20.1% with growth.

Given GVA's recommendation that the scheme cannot viably support a higher provision of affordable housing, these figures effectively represent GVA's view of what constitutes a minimum acceptable level of profit.

There is no explanation as to why GVA consider these rates appropriate particularly when Gerald Eve suggested a growth based target of 18-20% and both ourselves and DVS viewed 18% as more appropriate when reflecting the blended profit appropriate to a mixed private and affordable housing scheme.

Existing Use Value - Sale and Leaseback

We note GVA accept the existing use value of [redacted] is reasonable and appear to dismiss the use of a Sale and leaseback as a mechanism for establishing a site value through the fact that it could be sold and leased back irrespective of whether the scheme was developed. GVA also rightly identify a considerable number of potential pitfalls which would make any assumption of value through this route problematic and as such not to be relied upon.

Review Mechanism

The GVA report notes and accepts the offer made by the applicant for reviews

a) A review if the enabling works have not been implemented with 3 years
b) A review prior to the implementation of the last two stages of the development

The terms for these reviews are critical and as yet no proposed heads of terms have been outlined. In respect of a) we regard 3 years as being too long given the consent would have in any event lapsed and we would regard a much shorter period to be more appropriate. We understand the local authorities would also strongly object to the grant of a 5 year consent. In respect of b) the absence of detail as to its operation and what criteria for the review should be taken as fixed, together with the practical consideration of how to enable further delivery of onsite affordable is a critical factor in determining the relevance and benefit of this review.

Conclusion

We regard the decision concerning viability should be made on an assessment of all relevant facts. The scope of GVA's report omits consideration of critical elements:

a) True value of enabling works
b) Detailed investigation of the development programme and timing of land payments
c) Profit (although this has now by implication been included)
d) Impact of forward sale assumptions on unit values adopted within the GE model

We maintain our view that appropriate consideration and balance should be given to the impact of planning consent being granted on this site and the balance that should be struck between the need to comply with planning policy and to provide the land owner with a competitive return. In this context the return must be measured against the uplift in site value over the existing use value of [redacted], there being no other realistic minimum land value from which to gauge this benefit. It should however be recognised that uniquely, the enabling works effectively preserve the existing use and its value to the land owner therefore any land payment should be regarded as a net return to the land owner with the costs of the enabling works reflecting at least their value as benefit to the land owner in preserving and enhancing the current use. In this context the low level of affordable housing can really be seen as a decision to prioritise a disproportionate return to the land owner over the delivery of affordable housing.

We estimate that the following percentage of affordable housing can be delivered at the following land values. It will be seen that we differ in our views from GVA in respect of the relevant percentages.

Land Value[R/5]	Affordable Housing (by area) deliverable*
[redacted] (as BPS suggested)	42%
[redacted]	40%
[redacted]	37%
[redacted]	34%

*Note: Based on 18% IRR and reflecting revised timings of land payments relative to construction commencement

A net gain of even [redacted] should be considered a substantial incentive on any land owner to bring a site forward for development. [redacted] simply serves in our view to over emphasise the value to the land owner at the expense of affordable housing. It is also evident that Gerald Eve maintains that the land value should be at least [redacted] which raises the question as to whether the latest affordable housing offer is in the mind of the applicant fully supported by viability or whether they still seek to contest GVA's conclusions.

The failure to consider all aspects associated with the viability of this scheme serves to generate a wide margin between what we view as a supportable and viable level of affordable housing at a given land value compared to what the applicant is promoting as supportable.

BPS Chartered Surveyors
15 September 2014

Addendum1
Summary of Viability Issues - Mount Pleasant
September 2014

BPS Chartered Surveyors

Introduction

This addendum seeks to summarise the viability issues that we regard as remaining highly relevant to the issue of whether the proposed development will deliver the maximum level of affordable housing consistent with viability. These are issues which have either not been explored through the recent GVA review or which have not in our view been adequately evidenced or justified by the applicant and their advisors.

In combination they represent areas of considerable doubt concerning the true viability of the current proposals. This note has been prepared with reference to the following documents:

- PN1 Introduction, Phasing, and Enabling Costs (Nov 12)
- PN2 Enabling Costs (Dec 2012)
- PN3 Site Value (Feb 13)
- Sales and Leasback position note June 2013
- PN4 Input, Results and Conclusions (March 13)
- November 2013 addendum note, with revised appraisal, and detailed cashflow
- GLA viability position note, without appraisals (March 2014) Produced by Gerald Eve
- GLA position note Aug 14 - this included Gerald Eve latest appraisals, and the versions with GVA assumptions - produced by Gerald Eve
- GVA Briefing Note (May 2014)
- GVA Briefing Note (August 2014)

Access to Appraisals

The foundation of Gerald Eve's conclusions concerning viability rests with their appraisals. These have been produced on a bespoke excel based format and utilise complex cashflows.
At no time has access been provided to these appraisals to allow for review of their formulae or to test the impact of alternative assumptions. This approach runs entirely contrary to standard practice.

Furthermore, it has created a situation where Gerald Eve have effectively controlled the flow of information and the basis on which variant appraisals have been run, and has prevented the development of a common methodology for testing viability of the scheme, and must inevitably lead any independent observer to question why it has been necessary to control access in this way given that it has been an acknowledged obstacle to progress throughout.

We have not been informed whether GVA has been given full access to the model to verify that appraisals that have been generated on appropriate assumptions, however during the term of their review we were asked by GVA to provide our valuation estimates

based on their suggested amendments to the Gerald Eve appraisals, which indicates that access was not been provided.

Viability Conclusions

Gerald Eve has concluded that the Applicant's offer of 7 July 2014 and GVA's conclusions are entirely consistent with one another. They further conclude:

It follows that the findings of the GVA IRBN and information provided within this Position Note (and previously) together with other information submitted by the Application as part of the planning application provide a basis for agreeing a Section 106 Agreement.

They note that:

Whilst we disagree with GVA concerning the sale and leaseback approach we note that GVA comment a Base Land Value of [redacted] *is preferred to that of the Applicant's* [redacted]
The latest Gerald Eve Position Note reports two sets of figures, one relating to the applicant's view of scheme viability and the other relating to GVA's.

However, and consistent with all previous Gerald Eve reports, there is an apparent mismatch with Gerald Eve/Applicant's view of viability compared to the affordable housing offers. The latest appraisals based on the Applicant's land values assumptions shows the scheme generating IRR's of 6.7% (present-day) and 12.5% (growth). These returns clearly fall below the targets sought by the applicant and endorsed by GVA. Therefore the Applicant is unable to justify its own offer adopting both its preferred land value assumptions and profit targets.

This apparent failure to reconcile offers with apparent viability has not been explained by the Applicant. In order for any future review mechanism to be relevant it is vital that either:

a) The basis of valuation adopted for decision making is reflected in the baseline figures used or;

b) Further efforts are made to reach an agreed viability position.

The current mismatch simply paves the way for future arguments about viability which will be counter-productive to scheme delivery and if the Applicant's figures are adopted, counter-productive to the current proposed level of affordable housing delivery.

Profit target

Gerald Eve has previously accepted 14% IRR as a suitable blended profit target for a present-day model. This was agreed also by DVS, BPS, and GVA.

The latest present-day model (with GVA's assumptions) shows the scheme as viable at 24.4% affordable housing.

The profit is blended, thus at 20% IRR, assuming a 6% IRR for the affordable element, this gives a 24% IRR for the private element.

We previously commented that given the high IRR applied (20%) to the growth model relative to the present-day model, the former does not appear to be the most advantageous from the point of view of maximising affordable housing delivery, and that a present-day model, supplemented by a reasonable review mechanism, would in our view maximise delivery.
For the growth model based on GVA assumptions the Profit on Cost is 34%. This is a blended figure so assuming an 8% profit on cost for the affordable element it would appear to represent a 42% profit on Cost for the private housing which far exceeds typical profit targets we would expect to see from other similar applications. For the same appraisal the blended profit as a percentage of GDV is 25.4%.

The failure to consider the appropriateness of the profit targets and in particular to reflect the differing risk profiles associated with affordable housing and private housing and the consequent impact on overall blended profit levels is a significant omission. The absence of analysis of the relationship of IRR profit levels to other more usual profit measures such as profit on cost and profit as a proportion of GDV simply masks the high profit levels sought using an IRR.

The use of IRR then further magnifies the impact of decisions in the programming about which we comment below.

Enabling Works

The original viability submission prepared by Gerald Eve highlighted enabling costs in three phases with a total estimated cost of [redacted]. DVS, who has been the only party charged to date with assessing the realism of these estimates, concluded that:

a) None of the phase 1 enabling works should be considered as legitimate scheme costs

b) The totals for phases two and three should not exceed [redacted].

The GVA version of the latest appraisal (present-day) shows enabling costs with a revised figure of [redacted] By contrast, the latest appraisal based on the Applicant's and Gerald Eve's assumptions (also present-day) includes enabling costs of [redacted]
GVA were not asked to consider the validity of the enabling works so there is no apparent explanation why there should be two different figures adopted.

We continue in the view that firstly the validity of the enabling cost estimates needs further definition and clarity. Where works are purely to the benefit of the landowner they should be seen as part of the land consideration not as enabling works.

The enabling works serve to preserve the operation of the main sorting office by capping over the main vehicle access at basement level on the Calthorpe site and to re-provide staff parking. Arguably these works would not be necessary if the applicant was not seeking to maintain and enhance its current operations. Consequently it should be seen that the bulk of this cost is aimed at preserving "existing use" not facilitating a residential development. In consequence we take the view that they are exclusively to the benefit of the land owner and should in consequence be seen as consideration not as a site "abnormal" development cost.

Put simply in the absence of the sorting office operation there would be no requirement for the majority of the enabling works.

Pre-sale growth

The modelling of sales prior to completion assumes that at the point of sale no further growth is applied. In reality whilst developers would no doubt prefer to sell in advance of practical completion it is not evident from our research that in doing so they would willingly forgo sales value growth over the construction period.

Typically we have found that some significant growth is still applied to the agreed price reflecting a proportion of the growth anticipated by completion. This reflects the fact that the developer does not access the cash until completion therefore the only benefit of an advance sale is in reducing overall sale programme and reducing risk prior to construction. The reduction in risk is not mirrored in the IRR profit target applied and sales value growth has not been applied.

GVA has not commented upon this issue, despite it having a major impact on viability and impacting on the legitimacy of the growth model and the IRR targets adopted.
As the period prior to sales has been reduced, this further reduces the growth applied to the pre-sale units. It is therefore even more important to apply a realistic level of growth to the pre-sale units if a growth model is to be relied upon.

Land Value

The key issue remains that the existing sorting office related uses on the site are being re-provided or otherwise preserved (in the form of basement facilities and replacement car parking) and arguably improved. This has not been addressed by GVA in its land value analysis. This is a unique situation in comparison to other schemes where existing use is generally replaced. GVA has not sought to comment on this issue.

Reliance on the level of consideration generated on other site sales has proved to be the primary consideration in setting a land value appropriate for this site for both GVA and Gerald Eve. Neither party has considered what would represent "competitive returns to the land owner" which is the key criterion set out by the NPPF.

We remain of the view that "competitive returns" should reflect in this instance the impact on the land owner of development, the risks involved in promoting the site and the loss of existing use value, the latter of which we would argue is nil. They should not simply reflect a level of land value extrapolated from other sales where inevitably

different circumstances prevail and which in extrapolation have the effect of representing a higher level of relevance than current planning policy on which the grant of planning consent is sole basis on which land value is actually founded.

This has led to the willing acceptance of a land value which has the effect of suppressing the overall level of affordable housing that can be delivered in favour of an exaggerated return to a land owner whose current interest will be preserved through the enabling works and can therefore regard any additional payment as a premium or incentive payment.
This apparent imbalance has not been considered or been in any way justified.

Islington CIL

Both Gerald Eve and GVA fully accept that implementation of CIL will result in less affordable housing being justified, and accept that a change in the tenure mix is appropriate. GVA accept that the negative impact of CIL should be entirely borne by affordable housing.

In their latest Briefing Note, GVA do not have regard to National Planning Practice Guidance which states:

> *Land Value*
>
> *Central to the consideration of viability is the assessment of land or site value. Land or site value will be an important input into the assessment. The most appropriate way to assess land or site value will vary from case to case but there are common principles which should be reflected.*
>
> *In all cases, land or site value should:*
>
> *reflect policy requirements and planning obligations and, where applicable, any Community Infrastructure Levy charge;*[7]

Development timing

Gerald Eve has tested the impact of moving the start date of Phoenix Phases to 12 months earlier and concluded that it has limited impact.

This adjustment does not address the principal issue concerning the proposed timing of the phase 2 enabling works, which, contrary to GVA's comments, we have raised as an issue in our various reports. The latest programme indicates that enabling works start 2nd ¼ 2014 and site construction on the residential scheme does not begin until 1st ¼ 2018 which we maintain represents an undue delay and artificially exacerbates the period of negative cashflow.

Land Payment timing

[7] National Planning Policy Guidance

The payment for both sites remains in the latest appraisals scheduled at April 2014 and in a lump sum rather than staged payments. GVA, in its August Briefing Note, is not now questioning this approach, despite having previously objected to it in their May 2014 Briefing Note as quoted below:

"This also raises the question as to whether it is reasonable to assume that a purchaser will effectively pay in full on Month 1 for all the phases, given assumption that possession for Phase 1 cannot be given for 12 months and for Phases 4 and 5 until c Month 57. Further, the timing for Phases 4 and 5 is subject to completion of the Enabling Works Package 3, and the timing of this may be outside the control of the purchaser; we note that it has been suggested that Phases 4 and 5 could be sold separately.

"We consider that it would be reasonable to assume a deferment of the majority of the land payment until possession can be given, with a deferment of payment for Phases 4 and 5."

The previous position taken by GVA echoes our own continuing objection to this element of the cashflow programme.

By way of example of the scale of the impact of the timing of the land payment, in a previous iteration of the model (using previous GVA assumptions), at a 20% IRR the scheme can support 30% affordable housing when the land payments are split in two (with second payment at start of the first Calthorpe phase), but 23% if the payment is upfront - i.e. 7% more of the scheme would be delivered as affordable housing by splitting payment as GVA previously proposed.

This continues to be an unrealistic assumption on the part of the Applicant as in our experience no developer would willingly pay for a site then wait 57 months for vacant possession, particularly where vacant possession hinges on further payments to fund works carried out by the land owner but which critically affect the ability of the developer to deliver their housing scheme and for which complex cross collateral warranties would be required.

By contrast the latest development programme shows M3's assumption that land sale dates reflect completely different assumptions from those used in the appraisals. This must surely raise questions as to why the appraisal continues to reflect unrealistic assumptions in this regard.

M3's latest 26th August 2014 Memorandum to the GLA confirms that the completion of the enabling works will allow the sale of Calthorpe Street to take place.

Affordable Housing Values

The lack of information concerning the affordable housing valuation was raised by BPS and has only now been addressed in the August 2014 report. GVA did not however provide an opinion of affordable housing values as this was outside their brief.

In the latest Gerald Eve spreadsheet intermediate values are shown as [redacted] psf which is consistent with the original GE appraisal, and we agreed at the time this was a broadly reasonable figure. The rented units are shown as [redacted] psf which is higher than the [redacted] psf used in the original appraisal.

The higher values have only been adopted in the latest appraisals and it is questionable as to why these amendments have not previously been incorporated if they are now considered acceptable.

This change illustrates how figures can move around and the necessity of there being a single agreed appraisal which is commonly accessible with supporting assumptions provided at the time of the initial submission.

APPENDIX 2 – Site linkages and viability Email, Andrew Jones (BPS) dated 13 September 2014

[Redacted][R/5]

APPENDIX 3 – 9 May 2014 Borough Phasing and Linkages Note

Mount Pleasant (Joint Islington and Camden)
Phasing and linkages note

9 May 2014

The Mount Pleasant Supplementary Planning Document (SPD)

Through the Mount Pleasant SPD, the London Boroughs of Islington and Camden identified the following priorities for the redevelopment of the site:

- The creation of a new neighbourhood which integrates fully into the local area and supports a new mixed and balanced community.
- Provision of new housing, particularly affordable housing, much of which would be homes suitable for families.
- Promotion of a strong local economy that provides a range of opportunities for different types and sizes of businesses.
- Opening up the site with both new and improved streets that make better connections between Mount Pleasant and the surrounding neighbourhoods.
- Creation of new high quality and inclusive public spaces for local people both on the site and at its four corners.
- Promotion of high quality design for buildings and public spaces which sustain and enhance the historic significance of the site and its surrounding area.

Paragraph 4.3.40 of the Mount Pleasant SPD states that:

'Islington and Camden councils are committed to a joint approach with regard to viability and planning obligations. As a principle, the comprehensive development of the Mount Pleasant site across the two boroughs would be considered as a whole, with costs, benefits and viability assessed accordingly'.

Phasing Principles Document

In order to emphasise the importance of developing the whole site, LBI and LBC discussed and agreed a phasing principles document which was provided to the applicant on 14/10/2013 (enclosed).

The following comments were received from the applicant on 25/11/2013:

'The proposals to link Phase 2 and Phase 4 (or Phase 5) is unacceptable to Royal Mail. It would prejudice the entire disposal strategy (which envisages separate disposals of Phoenix Place and Calthorpe Street) and would impact on scheme viability. As you know, RMGs strategy is to fund Phase 3 with the proceeds of the sale of Phoenix Place (Phases 1 and 2).

To link Phase 2 to either Phase 4 or 5 would create a situation where development finance would not be forthcoming, and even if it were, given the increased risk associated with any purchase it would reduce the value of the Phoenix Place site dramatically and in all likelihood to

an extent where the proceeds from that sale would not cover the construction costs associated with Phase 3. This is not something that we can accept and would in reality blight both sites from coming forward.

As previously discussed and agreed, RMG has accepted the link between the implementation of Phase 1 and Phase 3 insofar as Phase 1 cannot commence until Phase 3 has commenced, however this was on the basis that there would be no links between Phase 2 and Phases 4 or 5. We have also explained why additional links between Phase 3 and Phases 4 and 5 are not required, Phase 3 represents a significant capital investment by RMG and it is only a downturn in the market that would result in Phases 4 and 5 not being delivered. This position remains.

Notwithstanding (and this addresses your point on review mechanisms) in order to provide sufficient comfort to Officers and Members, and in order to act as an incentive to RMG to progress with Phases 4 and 5, we are willing to discuss the possibility of a review in relation to Phases 3, 4 and 5 inclusive should either Phase 4 or 5 not be implemented within 3 years of the completion of Phase 3. This would be subject to the nature and mechanism of such a review'.

Prior to, and following, receipt of these comments, the LPAs requested evidence to demonstrate that the proposed linkages would have an unacceptable impact on scheme viability. This evidence had not been received at the point the decision was called in by the Mayor.

The absence of linkages/ phasing was a reason the application was considered unacceptable by the boroughs. This note sets out (as requested) the linkages/ phasing that the boroughs consider necessary together with their reasons.

The boroughs' position (May 2014):

Definitions of Phases:

- **Phase 1:** southern part of the PP (Camden) site including block A:
- **Phase 2:** northern part of the PP (Camden) site including blocks B, C & D:
- **Phase 3 / Enabling Works**: CS (Islington): the capping over of the Royal Mail service yard including the construction of the acoustic roof / meadow
- **Phase 4:** southern blocks part of the CS site (Islington) including Blocks E, F and G
- **Phase 5:** northern blocks of the CS Site (Islington) including blocks: H, J and K, the Laneway, the Service Lane, Square C and 'The Garden'

The phasing linkages set out below have been derived from the phasing / construction plan set out in the Gerald Eve Viability Position Note One. The linkages sought by the boroughs are less stringent than the construction programme that the Gerald Eve viability assessments are based on. The developer would be expected to construct in accordance with that plan although it is accepted that alternative plans could be acceptable subject to a viability review and consequential redrafting of the phasing

The following linkages are considered necessary by Camden and Islington:

1. **No commencement of Phase 1 or Phase 2 unless a binding contract is in place for the commencement and completion as soon as possible thereafter of both Phases 1 and 2.**

   This linkage is required to ensure that, once it has commenced, the Phoenix Place development is built out in a timely manner.

2. **No commencement of Phase 1 or Phase 2 until a contract has been let for the construction and timely completion of the Phase 3 / Enabling Works and these works have been substantially commenced.**

   The occupation of most of Phases 1 and 2 would not be acceptable to Camden until the Enabling Works have been completed in order to ensure an appropriate standard of residential amenity for future occupiers. This clause ensures that the delivery / completion of the Enabling Works would be on track for completion prior to first occupation of these phases.

   Additionally, Phases 4 and 5, on the Islington side of the development, cannot commence until Phase 3 (the enabling works) has been completed. To ensure that the scheme is delivered in the holistic way envisioned by the Mount Pleasant SPD, the boroughs are seeking to secure commencement of the enabling works by restricting commencement of Phases 1 and 2 until the enabling works have substantially commenced.

3. **No occupation of Phase 1 or Phase 2 (with the exception of Blocks B and D in Phase 2) until Phase 3 (Enabling Works) have been completed**

   The noise and light pollution that would be caused from 24/7 operations at the Mail Centre directly opposite a dense residential development would not be acceptable on amenity grounds. The scheme has been assessed in terms of quality of accommodation as if the enabling structure has been completed to secure an acceptable standard of residential accommodation for future occupants. The roof is designed to be an acoustic barrier to noise escape. It is considered that Blocks B and D of phase 2 would be sufficient distance so as not to be impacted by unenclosed operations at the Mail Centre and so are excluded from this provision.

4. **No occupation of Phase 2 (with the exception of Blocks B and D) until a binding contract is in place for the commencement of Phases 4 and 5 and their completion as soon as possible thereafter.**

   The Councils' want to secure the timely and logical progression of development from the of Phase 3 (Enabling) through to Phases 4 and 5 as one whole. This is because the later phases would build above the unsightly concrete structure of the Enabling Works which would leave a structure that would not enhance the character or appearance of the Conservation Area, or the setting of nearby Listed Buildings. Additionally, it is the basis of the viability assessment and the holistic treatment of the development proposal.

   The boroughs' agree that there should be a restriction on occupation of the market housing in Phase 2 until a contract is in place for the commencement of Phases 4 and 5 to ensure the site is developed in a holistic manner. A number of the benefits arising from the CS development contribute towards making the Camden development acceptable including:
   i) the public open space,
   ii) the majority of the new employment floorspace; and
   iii) the affordable workspace.

Any additional on-site affordable housing required as a result of the viability assessments currently being carried out would also be delivered on the Islington side. Accordingly, the boroughs consider that Phases 4 and 5 should follow the delivery of Phases 1 and 2 as closely as possible to ensure the timely delivery of the additional affordable housing

5. **No commencement of Phase 4 or Phase 5 unless a binding contract is in place for the commencement and completion as soon as possible thereafter of both Phases 4 and 5.**

This linkage is required to ensure that, once it has commenced, the Calthorpe Street site is built out in a timely manner with the delivery of all of the necessary

6. **Not to occupy more than 50% of the Phase 2 Market Units until Phases 4 and 5 have been substantially commenced [substantial commencement to be defined].**

This is to secure the progression of phases 4 and 5 in quick succession, due to these phases being necessary to make phases 1 and 2 acceptable in planning terms, particularly in relation to the quantum of publicly accessible open space, commercial floorspace and affordable workspace being delivered within them.

7. **None of Phase 4 or Phase 5 to be occupied until the energy centre, SUDS, disabled parking, refuse facilities, service vehicle route and cycle parking to serve those phases has been completed including the laying out and completion of the public accessible open space and playspaces.**

The facilities listed above will serve the commercial and residential tenants of the development so need to be provided prior to occupation. The development could not effectively function without these being provided prior to occupation. Without these being ready on first occupation the development would have a significant impact on the functioning of the wider area.

General Affordable Housing Requirements:

On the basis that each phase carries its own requirement to deliver affordable housing:

In respect of each phase there shall be no implementation of the planning permission unless the there is a contract with a Registered provider for the construction and completion and subsequent transfer to the RP of the freehold or the grant of a lease for a term of not less than 125 years of the Affordable Housing Units (further detailed terms regarding this see LPAs template agreement)

None of market housing in each phase to be occupied until the affordable housing in the relevant phase has been completed and handed over to a Registered Provider.

Viability review

See separate note.

APPENDIX 4 – JOINT BOROUGH DRAFT VIABILITY REVIEW CLAUSES NOTE 9 MAY

Mount Pleasant
9 /5/2014
Islington and Camden Councils
Draft proposals for Viability Reviews

Introduction

At the meeting held between representatives of Camden, Islington, GLA and the Royal Mail Group on 30 April 2014 Islington and Camden were asked to supply details of the viability reviews that it would seek.

Following this request this note as been prepared by the boroughs and their professional advisers.

The boroughs do not consider that the provision for viability reviews obviates the need for a robust assessment of viability prior to the grant of planning permission.

The boroughs would seek both a pre-implementation review to address current uncertainty and a single further review some 2/3rds through the scheme.

Reasons for requiring reviews

The requirement for a pre-implementation review is consistent with London Plan Policy[8] Policy 3.12 –extract

B Negotiations on sites should take account of their individual circumstances including development viability, resources available from registered providers (including public subsidy), the implications of phased development including provisions for re-appraising the viability of schemes prior to implementation ('contingent obligations'), and other scheme requirements.

At this stage the following key components of site viability are largely unknown due to the fact that there is no developer or Registered Provider currently engaged in delivering the scheme:

1. Timing of development commencement
2. Phasing and construction plan
3. Timing and scale of proposed land payments
4. Timing for RMG to provide vacant possession
5. Sales rate of private houses

[8] Revised Early Minor Alterations to the London Plan published 11th October 2013

6. Approach to determining sales value of units "pre-sold" before practical completion

7. Scheme viability

8. Value of the affordable housing

9. Accommodation of the necessary linkages required by the Council's between the two sites

10. The current conclusion promoted by the GE appraisals that the scheme cannot viably deliver any significant quantum of affordable housing

In addition to the above Camden and Islington Council's disagree with RMG's approach to defining:

11. Current sales value of the private and affordable residential unit values

12. Use of a growth model, especially as this is tied to a pre-condition that would require that there would be no review of viability

13. Proposed profit rate

14. Proposed growth forecasts used in the proposed growth model

15. Allied to the scale of the proposed scheme there are variables relating to right of light allowances that may be altered if the proposed scheme is altered in any way

Given the above it would be scarcely credible to suppose that the current scheme appraisal prepared by Gerald Eve should remain the sole determining factor dictating the level of affordable housing that could viably be delivered by this scheme.

The proposed review terms are summarised below:

Pre-implementation Review

It is suggested that the level of affordable housing to be delivered by the scheme is determined by a pre implementation review and that the development should commence within 6 months of such review being agreed, to ensure that the review remains relevant. In addition this should be submitted post land payments for the sites. The revised review should not result in less than the amount determined as appropriate at the grant of planning permission.

The submission should include the following:

a) The timing of land payments (in relation to cash flow) but utilising the GLA determined benchmark land value which has been agreed by the two Councils as reasonable in the context of the explanation as to how that has been arrived at by the GLA and its advisors.

b) A detailed phasing plan showing how the required linkages between the two sites would be achieved and estimated timing of construction and how sales are to be managed. [such phasing to be consistent with any S106 requirements]

c) Proposed sales values of the private residential units based on evidenced comparable sales values of relevant and nearby schemes.

d) The proposed value of the affordable housing element supported by an RP offer which had also explored the availability of grant and other subsidy.

e) An elemental cost plan for the scheme together with relevant specification and any plans on which the cost plan was prepared. The intention being to benchmark the scheme at an elemental level using BCIS.

f) A detailed and justified financial appraisal which evidences assumptions

g) A proposal for affordable housing delivery including unit numbers, location, type and tenure and proposed point of delivery tying in to the proposed phasing plan.

There would be an obligation on the Council's to review this within a 10 week period

Further Review

It is consistent with best practice for multi-phased schemes to be subject to further reviews. In this instance and for the sake of simplicity it is proposed that instead of phase by phase reviews there is one single further review.

This would be carried out at point [say 2/3rd through construction of the scheme but in any event prior to the occupation of more than 25% (by units) of the market units, but in any event at a point before the detailed internal specification of a given number of units has been fixed.

The development is not to be occupied further until the viability review has been approved and the additional affordable housing quantum has been agreed, the locations and details for their provision also approved and contracted to the Registered Provider.

We would want these possible further locations to be set aside at this stage.

The additional units should equate to the shortfall on policy i.e. the difference between the committed affordable housing delivery levels at scheme implementation and adopted policy target of 50% provision. These units are identified at implementation as PD but capable of being converted to affordable tenures. They will need to be carefully identified on plan and in relation to the provision of additional rented tenure will need to identify blocks which are capable of delivery.

Process and basis of review

Recognising that at the point of the further review the scheme will be in progress it is intended that the process be as simple and as rapid as possible. Therefore it would seek to retain as many assumptions as possible from the pre-implementation review (but for the avoidance of doubt this would exclude sales values and build costs). The proposed approach is expanded upon below:

a) Any surplus should be shared equally between the developer and provision of additional affordable housing up to a point where the scheme had delivered policy compliance. In this way the developer would never receive less than target profit.

b) It is proposed that the pre-implementation cost plan is updated by reference to BCIS index adjusted by the relevant location factor.

c) The land value benchmark and developer profit target is also retained unaltered from the figure suggested by GVA subject to agreement from the two boroughs.

d) The sales values of the PD element are updated to reflect actual sales and agreed sales.

e) The programme is updated to reflect the actual programme.

f) The value of the affordable reflects the RP offer unless this is varied by actual sales of intermediate tenure units or subsequent allocation of grant.

On the basis of the above it should be possible to review viability within a short period. The developer would be required to provide only the update sales and programme information on an open book basis.

The numbers of additional units would be determined by reference to the difference in value between their value for private sale and their value as affordable as determined by an offer sought from the RP already engaged in the scheme and reflecting any additional grant or subsidy then available.

To aid in the further drafting of these clauses it would be helpful for the applicant to provide an affordable housing schedule and plans:

- identifying the current affordable housing offer (or at the very least once GVA have provided some conclusions and those have been discussed by the parties)

- Identify those units that could be changed from private tenure to affordable tenure to secure a policy compliant affordable housing delivery (50%)

APPENDIX 5 – BOROUGH STANDARD AFFORDABLE HOUSING CLAUSES

London Borough of Islington's Standard Affordable Housing Operative Clauses

1 The Owner shall not Implement or permit the Planning Permission to be Implemented until the Owner has entered into a contract with a Registered Provider for the construction and completion and subsequent transfer to the Registered Provider of the freehold or the grant of a lease for a term of not less than 125 years of all of the Affordable Housing Units in accordance with paragraphs 10.2 and 10.3 of this Schedule and written confirmation of such has been received by the Council.

1.1 The premium and any annual or other charges for any such freehold transfer or lease as is paid by the Registered Provider shall not include or reflect any costs relating to the value of the Site and such disposition shall be with the benefit of:

1.1.1 full and free rights of access for pedestrians from the public highway to the Affordable Housing Units; and

1.1.2 full and free rights to the passage of water, soil, electricity, gas and other services through pipes, drains, channels, wires, cables and conduits which shall be in the adjoining land up to and abutting the boundary of the Affordable Housing Units, all such services to be connected to the mains, and all other necessary rights and easement to enable the Affordable Housing Units to be used for residential purposes.

1.2 None of the Market Housing dwellings shall be Occupied until:

1.2.1 the Owner has completed the freehold transfer or granted a lease of the Affordable Housing Units in accordance with paragraphs 10.1 and 10.2 above;

1.2.2 all of the Affordable Housing Units have been constructed in accordance with the Planning Permission and are ready for immediate residential Occupation; and

1.2.3 written notification of the above has been received by the Council.

4.1 AFFORDABLE HOUSING

4.1.1 On or prior to Implementation to submit to the Council for approval the Intermediate Housing Scheme.

4.1.2 Not to Implement nor permit Implementation until such time as the Council has approved the Intermediate Housing Scheme as demonstrated by written notice to that effect.

4.1.3 To commence all works of construction conversion and fitting out necessary to make the Affordable Housing Units as approved by the Council suitable for occupation as Affordable Housing and thereafter to proceed with and complete such works in a good and workmanlike manner using good quality materials to the reasonable satisfaction of the Council (as demonstrated by written notification to that effect) in accordance with the specification approved by a Registered Provider.

4.1.4 To ensure that the Affordable Housing Units shall not be otherwise used, occupied and shall be retained in perpetuity for no purpose other than (i) for the provision of Social Rented Housing for occupation by tenants at rental levels being in accordance with the targets set by the Regulator (ii) for the provision of Affordable Rented Housing in accordance with the Intermediate Housing Scheme; and (iii) for the provision of Intermediate Housing for occupation in accordance with the Intermediate Housing Scheme as the case may be.

4.1.5 Not to occupy or allow occupation of any part of the Development until such time as:

(i) the Affordable Housing Units have been transferred or demised to a Registered Provider approved by the Council for a term of no less than 125 years;

(ii) the works of construction conversion and fitting out of the Affordable Housing Units have been completed in accordance with the requirement of Sub-Clause 4.1.3 hereof.

4.1.6 To ensure that the Affordable Housing Units are constructed, occupied and used solely as Affordable Housing pursuant to the objects and purpose of the Council so as to provide

accommodation for the households in need of Affordable Housing in accordance with the definition of the eligible persons criteria as agreed by the Government, the Homes and Community Agency (or successor bodies) or the Council from time to time.

4.1.7 The Registered Provider or the Council shall not dispose of its interest in the freehold or leasehold of the Affordable Housing Units or any part thereof (except by way of mortgage) other than to any other Registered Provider registered with the Regulator or any other body organisation or company registered with the Charity Commissioners for England and Wales and approved by the Homes and Communities Agency or the Regulator or the Council.