

MCIL2 Examination:

London First Comments on TfL's Speaking Note (Use of Guidance)

Introduction

1. London First strongly supports the delivery of Crossrail 2 as being vital for the future economic growth of London and the business community has long been committed to making a significant financial contribution towards the delivery of Crossrail 1 and 2.
2. However, as expressed in the EiP hearing sessions, London First has concerns regarding the cumulative impact of MCIL2 on development viability when combined with the policies being brought forward by the Mayor in his draft new London Plan. There is also significant concern regarding the substantial changes to development economics in key regeneration areas arising from the proposed realignment of the southern boundary of the Central London charging area for office, retail and hotel development. The Central London charging area would now incorporate three Opportunity Areas (OAs) – Elephant and Castle OA, Waterloo OA and Vauxhall Nine Elms Battersea OA.
3. London First is concerned that there has not been adequate viability evidence put forward to justify the approach to MCIL2, particularly in relation to the OAs.

General Application of the Guidance

4. The GLA/TfL Speaking Note dated 12 September 2018 acknowledges that new Planning Practice Guidance (PPG) was introduced in June 2014. The guidance expands on the wording in the Planning Act 2008 and the CIL Regulations 2010 (as amended), to assist with interpretation of the legislation. The Planning Act 2008 requires that the relevant authority uses “*appropriate available evidence*” in the preparation of charging schedules, and the Act and the CIL Regulations require consideration of the effects of the levy on economic viability across the relevant area.
5. Since 2014 the PPG has required a CIL charging authority to sample directly an appropriate range of types of sites across its area when setting rates in a CIL charging schedule. It states:

“In addition, a charging authority should directly sample an appropriate range of types of sites across its area, in order to supplement existing data. This will require support from local developers. The exercise should focus on strategic sites on which the relevant Plan (the Local Plan in England, Local Development Plan in Wales, and the London Plan in London) relies and those sites where the impact of the levy is likely to be most significant (such as brownfield sites).”
6. London First considers that some sampling should have been undertaken as the new guidance represents a material change in circumstances since MCIL1 was subject to examination. The PPG makes specific reference to the London Plan and it emphasises that the sampling of sites becomes more important where differential rates are proposed (as is the case for MCIL2). Yet the consultants advising GLA/TfL have not undertaken any sampling.
7. London First agrees that the collection of MCIL1 has indeed been tested during the last six years and has proved to be effective. However, it does not automatically follow that assumptions can be made about the methodology that sits behind it or that it should be applied to new areas without robust analysis. In other words, a simple charging regime does not justify a simple evidence base to underpin it.

8. London First further considers that some sampling could have been undertaken without incurring significant costs as relevant data is readily available.
9. Whilst we accept GLA/TfL's arguments that MCIL2 will be a strategic CIL across a wide area, at the very least sample site viability assessments should have been undertaken in the areas which will see substantial increases in the rates charged – i.e. in the OAs.
10. The JLL 'Analysis of proposed office rates in the Central London Charging Area' submitted during the Examination does not, in the opinion of London First, provide suitable evidence at a sample level, of viability. This is because the analysis is based firstly on high level spot figures largely taken from research reports rather than scheme specific locational characteristics; and also does not factor in the significant costs of developing in these areas. Inevitably on the value side these spot comparable figures for areas of Nine Elms, Waterloo, Elephant & Castle and the various submarkets of the City, West End and Canary Wharf, lack the detail required for an appropriate analysis (*RICS Comparable Evidence in Property Valuation IP 26/2012*). In addition, the relativity of the proposed CIL rate as a percentage of value also ignores the cumulative impact of policy on viability and therefore deliverability of schemes.

The Opportunity Areas

11. The OAs in the Central London charging area extension south of the river will see an enormous increase in the CIL rates charged for commercial development compared to the 2016 Crossrail SPG planning obligations, for example, by as much as 200-300% for office floorspace (as set out in DP9's Note to the Examiner following day 1 of the EiP).
12. Delivery of the spatial strategy set out in the London Plan (both the 2016 version and the more ambitious new Plan) is highly dependent on the OAs and the huge potential they have to deliver significant housing and employment growth. Viability in these areas is already made a lot more complex by the higher site preparation costs and the significant investment needed in local infrastructure projects – i.e. the additional costs on development that had previously been holding back these areas from realising their potential prior to their designation as an OA. These areas are by their very nature of being an OA very different in land value and rental value terms compared to the rest of the Central London zone and the planning policy and viability climate for them needs to be pro-growth if they are to deliver the ambitious housing and employment targets envisaged.
13. In this context, and in devising CIL rates on a London-wide scale, London First believes that one could reasonably interpret the "strategic sites" and "brownfield sites" referenced in the PPG advice on sampling as constituting sites within the OAs. The MCIL2 evidence base could reasonably be expected to demonstrate the potential effects of the increased CIL rates on the economic viability of sites within the three new OAs south of the river since these are the "strategic sites" on which the London Plan relies.
14. At the very least sampling should have been undertaken in these areas where viability is already fragile and to justify the enormous uplifts in CIL rates proposed for office, retail and hotel uses. London First is concerned that the MCIL2 charging schedule as currently proposed presents a real risk to constraining growth and preventing delivery in the OAs. More robust evidence should have been presented by GLA/TfL to justify the new boundary to the Central London charging area including sample viability assessments in accordance with the PPG guidance.

London First

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