LONDON LEGACY DEVELOPMENT CORPORATION

EMT ADDENDUM REPORT

Subject: **QEOP Fixed Estate Charge (FEC) analysis**
Meeting date: **21/12/2015**
Report to: **EMT**
Report of: **Mark Hutton- North &** s40 [redacted]

FOR DECISION

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1. SUMMARY

1.1. This addendum paper is presented to finalise the April 2015 Fixed Estate Charge (FEC) paper **(Appendix 7)** by corporately adopting a BID (Base Indexation Rate) Date and an updated 'tool kit' for the FEC. The BID is the date from which the base rate of £1.50, £1.00 or £0.50 per sq foot is applied and thereafter the rate is the BID + Inflationary Indexation increases (**Appendix 1**).

2. RECOMMENDATIONS

2.1 EMT members are invited to:

2.1.1 **NOTE** that Here East, UCL East, Stadium and Venues have different commercial arrangements and consequentially 100% consistency is not achievable as varying review dates and concession terms have been worked into different commercial arrangements.

2.1.2 **NOTE** the current contractual positons have a mixture of RPI & CPI with the exception of Here East which is based on IPD Index.

2.1.3 **AGREE** a base rate index date of 1 April 2015 for all future agreements except Olympicopolis.

2.1.4 **AGREE** the UCL East base rate date of 1 July 2016 is applied to the rest of Olympicopolis (Stratford Waterfront) site except for the residential tower, as this site differs in occupation from the other development platforms. The residential tower BID to be 1 April 2015 in line with the other residential developments Chobham Manor (CM) and East Wick (EW) & Sweetwater (SW).

2.1.5 **AGREE** the updated FEC 'Tool Kit' and apply to all new lease negotiations

2.1.6 **AGREE** that the adopted BID of 1 April 2015 is communicated to all of LLDC, and that those contracts under negotiation but not signed adopt this date. Any deviations from using this date will require EMT approval.

3. BACKGROUND

3.1. The FEC strategy was adopted for QEOP following legal advice in 2011 and 2013. The rationale is to provide an income stream to contribute towards the self-sufficiency of the Park and to collect FEC in place of ground rents to protect the collective ownership of the park estate by reducing the risk of enfranchisements and Right to Manage. The paper presented to EMT in April 2015 analysed the various contractual terms entered into to review consistency and application of the charge in line with the strategy.

3.2. The analysis detailed in the April report showed that the principle of including a FEC provision was being consistently applied in line with the strategy (except for the stadium, which has a different form of calculation denoting its unique size, specification and operating model). However, it was identified that variations in review terms, phasing and base indexation dates were occurring. To protect the strategy and control the consistency of application, a working 'tool kit' was proposed and accepted in principle and the need for a default base indexation date was identified.

3.3. The Venue leases contain disparate BIDs, however, the leases are all short term (less than 21 years) and therefore subject to change; the FEC income (currently [redacted]) is not significant in the context of the remainder of the estate and for these reasons the Venues should not guide the BID date decision.

3.4. Here East's lease provides for 5 yearly reviews in accordance with IPD (Investment Property Databank UK Quarterly Digest Rental Value Growth Index for Standard Offices – Central & Inner London) and for that reason cannot guide the adopted BID date.

3.5. The stadium has separate agreement terms as the nature of the unit does not allow the per sq foot NIA terms to apply; this is therefore also excluded from this analysis and should not guide the decision.

4. TOOL KIT

4.1. The FEC tool kit wording has been revised to be less legalistic in line with the feedback from EMT. An addition to the tool kit is a requirement for Asset & Estate Management team (POV) to be provided with a summary of the FEC practical collection terms (solicitors or development surveyor to provide) as a matter of course in order to ensure accurate income collection. **(Appendix 6)**

5. BASE INDEXATION DATE OPTIONS PROPOSAL

Following a review of the current contractual arrangements (**Appendix 2**) there are two potential dates that could be adopted:

5.1. **1 April 2015** as the date contractually entered into within the CM and EW & SW Development Agreements. This is the earliest date in existing agreements.

5.2. **1 July 2016** as the date within the completed UCL East agreement for lease. To align CM & EW &SW with this date would require a 15 month indexation uplift holiday (their current contractual date is 1 April 2015).

6. FINANCIAL IMPACT

6.1. Maximising FEC income for the QEOP Estate is key to the principle of self-sufficiency and financial viability. Analysis of the financial impact has been undertaken to compare the potential income and losses of adopting the 1[t] July 2016 date as opposed to 1 April 2015. The assumptions made on the RPI / CPI increases have a substantial impact on whether there is any significant income loss to consider.

6.2. The average RPI over the past 15 years is 2.51%. Using this percentage as the year on year uplift the loss of income between 2015 & 2025 would be £483,652 if using the July 2016 date and providing a 15 month uplift holiday to CM & EW & SW.

6.3. The average RPI over the past year is 0.4%. Using this percentage the loss of income would be £69,342 if using the July 2016 date and providing a 15 month uplift holiday to CM & EW & SW.

6.4. See **appendices 3, 4, 5 & 6** for a more detailed methodology and forecast including CPI.

7. REPUTATIONAL IMPACT

7.1. Consistency of BID as far as achievable is advisable as significant differences in rates could result in tenant dissatisfaction and reputational damage. Whilst this is a consideration the financial principle is considered more significant.

8. CONCLUSION

The income loss consideration depends on forecasting assumptions. On the basis that there **could** be a loss should the RPI or CPI increase over the next year then the recommendation is to adopt the earliest base rate date (1 April 2015). The difference in dates between EW & SW & CM and UCL East is marginal and not considered administrationally onerous. Stratford Waterfront (SW) differs in composition of tenure and occupation from the rest of the development platforms and therefore can justifiably be treated separately in the future, using 1 July 2016.

9. APPENDICES

- Appendix 1 – FEC Base Rates
- Appendix 2 – Current contractual terms
- Appendix 3 – Methodology
- Appendix 4 – Re-profile of income – Scenario 1
- Appendix 5 – Re-profile of income – Scenario 2
- Appendix 6 – Tool Kit
- Appendix 7 – April 2015 EMT paper

Appendix 1 – FEC BASE RATES

Use	Charge
Commercial and University	£1.50 per sq. foot p.a.
Private housing (including PRS units), State Schools, Civic, Community and Culture Amenities	£1.00 per sq. foot p.a.
Affordable housing	£0.50 per sq. foot p.a

Appendix 2

CURRENT CONTRACTUAL POSITION

Site / Property	Base Index Date	Index
Residential estate charge - Chobham Manor	1.4.2015	RPI
Residential estate charge - EW and SW	1.4.2015	RPI
Residential estate charge - other LCS (Pudding Mill Lane)	TBC	TBC

Extracted - not relevant to the request

Extracted - not relevant to the request

Venues.

Extracted - not relevant to the request

Here East.

Extracted - not relevant to the request

Stadium.

Extracted - not relevant to the request

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[i] Development confirming the positon

Appendix 3

METHODOLOGY

The below describes how re-profiling FEC income using forecast inflationary increases was undertaken. The purpose is to identify and compare potential income losses between adopting July 2016 in comparison to April 2015 as a Base Indexation Date. It outlines the assumptions made in forecasting inflationary increase; depending on the forecast assumption the outcome as to whether there is a significant loss to consider changes. Whether CPI or RPI increases over the next 18 months is the critical point as to whether there is any significant monetary loss.

Options for BID dates to adopt.

To achieve a consistent BID across the QEOP estate would require adjustments and financial compromise. Base Index Dates options to be considered are:

- **1st April 2015** - applies to East Wick & Sweetwater development agreements. Agreeing this date would require that UCL East (and SW) have a different arrangement (July 2016 BID) as the UCL East date is contractually set at July 2016.
- **1st July 2016 -** in line with UCL East lease agreement for lease terms and issue Chobham Manor & Eastwick & Sweetwater developments a FEC uplift 'holiday' for the period 1st April 2015 to the 1st July 2016 (15 months) and bring the BID dates in line.

FORECAST INFLATIONARY INDEXATION (CPI & RPI)

<u>Average from 2015</u>

RPI - Average from 2015	0.40%
CPI - Average from 2015	0.10%

<u>Average 2000-2015</u>

RPI - Average from records 2000 to 2015	2.51%
CPI - Average from records 2000 to 2015	2.12%

Scenario 1
1st April 2015 & 1st April 2016 are compared using an assumed forecast inflationary rate of 2.513% RPI & 2.123% CPI (the average of 2000-2015 rates) – the potential FEC income loss over 10 years using this model is £400-£483k.

Scenario 2
1st April 2015 & 1st April 2016 are compared using an assumed forecast inflationary rate of 0.4% RPI & 0.1% CPI (the average of 2015 rates) – the potential FEC income loss over 10 years using this model is £17-£69k.

Please note the analysis compares April 2015 to April 2016 rather than to July 2016, this enables a simpler calculation and is considered sufficient for the purposes of this analysis especially bearing in mind the forecasts are and can only be assumptions.

- The figures used are the current 10 year plan forecast figures[1] for Fixed Estate Charge stripped of an inflationary index[2]
- The calculation only includes income which can be influenced contractually - Here East & UCL East income have therefore been excluded from the calculation because their review and base rate terms have been established contractually and cannot be altered
- Historic RPI & CPI Figures have been taken from the office of national statistics[3]. The office does not provide forecasts for future increases.

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[1] The projections are provided by Development or Asset & Estate Management

[2] an inflationary rate of 3% year on year has been assumed and netted off from the forecast figures to provide income net of inflation

Appendix 4 - RE-PROFILE OF 10 YEAR PLAN FEC INCOME - SCENARIO 1

10 year Plan Figures from Finance

	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	Base Index Date	Index
Residential estate charge - Chobham Manor	6,836	182,524	382,693	647,260	915,283	1,042,804	1,079,302	1,117,078	1,156,175	1,196,642	1.5.2015	RPI
Residential estate charge - EW and SW	0	89,573	312,506	579,165	832,851	1,149,072	1,402,361	1,584,015	1,686,041	1,753,764	1.5.2015	RPI
Residential estate charge - other LCS (Pudding Mill Lane)	0	0	0	0	0	0	0	26,950	55,786	86,609	TBC	TBC

Extracted - not relevant to the request

Assumed Annual RPI (%) (Average from records 2000 to 2015)

2.513333333

Assumed Annual CPI (%) (Average from records 2000 to 2015)

2.123529412

Using 1 April 2016 as base

	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	Total over 10YP	Loss from a year of delayed compounding
Total Income with RPI	6,836	511,657	973,079	1,489,755	1,992,836	2,417,289	2,692,158	2,923,877	3,079,054	3,163,755	19,250,296	(483,652)
Total Income with CPI	6,836	511,657	969,378	1,478,447	1,970,190	2,380,731	2,641,362	2,857,800	2,998,027	3,068,786	18,883,213	(400,845)
								Difference between CPI & RPI			(367,082)	

It is always advantageous to link the payments to the CPI and income to the RPI - RPI will always be higher

Appendix 5 - RE-PROFILE OF 10 YEAR PLAN FEC INCOME - SCENARIO 2

10 year Plan Figures from Finance

	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25	Base Index Date	Index
Residential estate charge - Chobham Manor	6,836	182,524	382,693	647,260	915,283	1,042,804	1,079,302	1,117,078	1,156,175	1,196,642	1.5.2015	RPI
Residential estate charge - EW and SW	0	89,573	312,506	579,165	832,851	1,149,072	1,402,361	1,584,015	1,686,041	1,753,764	1.5.2015	RPI
Residential estate charge - other LCS (Pudding Mill Lane)	0	0			0	0	0	26,950	55,786	86,609	TBC	TBC

Extracted - not relevant to the request

Assumed Annual RPI (%) (Average from 2015)

0.4

Assumed Annual CPI (%) (Average from 2015)

0.1

Using 1 April 2016 as base

											Total over 10YP	Loss from a year of delayed compounding
Total Income with RPI	6,836	511,657	953,018	1,428,965	1,872,112	2,224,037	2,425,869	2,580,353	2,661,282	2,678,118	17,342,247	(69,342)
Total Income with CPI	6,836	511,657	950,171	1,420,438	1,855,380	2,197,573	2,389,842	2,534,436	2,606,114	2,614,765	17,087,212	(17,080)
									Difference between CPI & RPI		(255,035)	

It is always advantageous to link the payments to the CPI and income to the RPI - RPI will always be higher

Appendix 6 – Fixed Estate Charge Provisions – Tool Kit for future leases (as updated following EMT Feedback)

The following are guidelines to drafting Fixed Estate Charge provisions within future leases/transfers at QEOP.

1. This charge should be 'fixed' and described as such (Fixed Estate Charge (FEC).
2. The FEC is not to be referable to the cost of the estate services. If a link can be established between the level of the charge and the cost of the services, then the charge could be said to be subject to the various statutory tests set out in sections 18-30 Landlord and Tenant Act 1985.
3. Any increase (or decrease) in the charge over time should be made by reference to an index rather than the actual cost of providing services.
4. The obligation(s) upon LLDC as landlord/transferor in respect of estate services should be limited to a general covenant to carry out the estate services e.g. no covenant to enforce estate charge provisions in other leases etc.
5. LLDC as landlord/transferor should reserve the right to itself to elect an "Estate Management Company" by notice to the tenant/transferee.
6. The fixed charge should be reviewed from a base index value date that is consistent for leases/transfers estate wide. Leases already in place (i.e Chobham Manor, Here East etc) have differing base index dates. For all new leases , **1st April 2015 (see addendum**) is to be specified as the "Base Index Value" date for the FEC charge; indexing of the agreed £psf rate will be calculated annually from this period, using the negotiated indexation methodology (i.e. CPI, RPI). A CPI indexed figure will be maintained by LLDC for reference and published
7. While the Index measurement by which the fixed charge is varied differs between older leases/transfers –RPI, CPI, IPD Index etc, the basis for the indexation should be RPI unless an alternative indexation measure is negotiated.
8. It is best practice that the fixed charge be varied upwards only.
9. It is best practice that the fixed charge be varied annually.
10. A plan showing the extent of the "Estate" is to be attached to the lease/transfer reflecting the area in respect of which LLDC will provide estate services/pay for services out of collected estate charge as at completion of the document.
11. LLDC must retain the ability to vary the extent of the "Estate" by including this within its definition. Comfort can be provided to a tenant re. this right of variation with a requirement that the rights, facilities and amenities granted to the tenant/transferee not be materially diminished.
12. A list of estate services should normally be inserted in the lease/transfer. A provision should be included permitting LLDC as landlord to vary, substitute or change the estate services at any time in the interests of good estate management.
13. A lead-in or Charge free periods for payment of the fixed estate charges may be agreed with tenants/transferees although it is preferable to minimise these.

14. On completion of agreement for lease, development agreement or lease a resume of collection and review terms should be provided to Asset & Estate Management.

EMT REPORT

Subject: QEOP Fixed Estate Charge (FEC) analysis - update
Meeting date: 08/06/2015
Report to: EMT
Report of: Mark Hutton- North

FOR NOTE & DECISION

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1. SUMMARY

1.1. A review of the various leases/transfers in place across QEOP was undertaken to determine any issues associated with a Fixed Estate Charge (FEC).

1.2. Through the analysis of the FEC provision of existing leases across the QEOP, variations were identified. These will create an administrative burden over time. While the variations agreed to date have not significantly increased the risk that the FEC might be viewed as a variable service charge (which could mean that the charge was subject to various statutory requirements) it is strongly recommended that the FEC element of any leases are negotiated using a 'tool kit' approach to ensure commonality across the QEOP. EMT members are invited to note the analysis and agree the 'next steps' proposed.

2. RECOMMENDATIONS

2.1 EMT members are invited to:

2.1.1 NOTE the analysis of the variations between the FEC elements of leases on the QEOP.

2.1.2 AGREE the use of the Tool Kit for drafting considerations for estate charge provisions wherever possible (but recognising that negotiated commercial considerations will take precedence).

2.1.3 NOTE the revised 'blue line' estate map February 2015 (FEC).

2.1.4 NOTE that the details of leases under development, including Phase 2, UCL and Stratford Waterfront will be added when available to the Estate Charge Provisions Table and that this be maintained by POV, via legal, as part of the Asset and Property Management function.

3. BACKGROUND

3.1. This paper is an investigation into the variations between leases written for developments on QEOP and concerns that these could negatively impact the "fixed estate charge" status of the Estate Strategy. It is accepted that there are risks arising from the differences, therefore this paper looks at:

- the potential risks associated with the FEC regime;
- whether those risks are major or minor;
- proposals for minimising the risks in future via a 'tool kit'

3.2. The strategy identifying the Fixed Estate Charge (FEC) requirement for the QEOP estate was established in documents submitted to the Investment Committee dated 22 October 2013. These identified that there would be a fixed estate charge generating an income stream to support the management of the future QEOP estate management entity. Several reference sites were identified and used to demonstrate the need for the FEC at QEOP. A key reference site was s43 [redacted], managed by s43 [redacted] and a visit to this site to discuss the FEC had been arranged.

Two significant leases have already been established at QEOP using the FEC principles; Chobham Manor and Here East. It is noted that there are potentially significant differences between them. Other established leases with FEC elements include;

- those for the trading accounts of the venues London Aquatics Centre (LAC), Copper Box Arena CBA, and Podium café;
- Camden Society (Timber Lodge);
- Kiosks;
- E20 Stadium LLP.

The leases being prepared for the phase 2 schools, phase 2 development UCL East and Stratford Waterfront all include FEC elements.

3.3. Extracted - not relevant to the request

3.4. Extracted - not relevant to the request

4. Fixed Estate Charge – Principles

4.1. The Fixed Estate Charge has been set up on the basis that residential and commercial occupiers alone should not pay the full costs of managing the parklands and venues. Instead, they are required to pay a fixed charge towards these costs, as the Park occupiers benefit from the facilities provided on the Estate. The balance of the costs is currently made up by the Legacy Corporation through public funding. The FEC is indexed to reflect inflation because the cost of providing the Estate Services will increase over time.

4.2. The structure of the FEC takes the Legacy Corporation outside the provisions of the Landlord and Tenant Act (Sections 18-22) and the requirements of the RICS Service Charge Code for Commercial Property (3rd Edition, 2014).

4.3. The basis upon which the Charge has been established is that our long term tenants will contribute as follows:

Use	Charge
Commercial and University	£1.50 per sq. foot p.a.
Private housing (including PRS units), State Schools, Civic, Community and Culture Amenities	£1.00 per sq. foot p.a.
Affordable housing	£0.50 per sq. foot p.a

4.4.

These principles have been applied consistently to all LLDC long leasehold tenants (except for the stadium, which has a different form of calculation denoting its unique size, specification and operating model). There are some variations in relation to detailed aspects of the application of the FEC that have been negotiated with Legacy Corporation's long leasehold tenants, however such variations do not undermine the fundamental principles set out above.

5. POTENTIAL RISKS ASSOCIATED WITH THE FEC REGIEME

5.1. Any issues identified with the FEC relate to the leases in preparation and those completed for different parts of QEOP appearing to have different interpretations of the same FEC strategy.

5.2. The potential issues identified as being associated with the FEC regime include:

Risk	Significance of risk
Risk of a challenge to the FEC as a variable service charge	Major – failure to maintain FEC would result in onerous variable estate charge requirements being applied to the management of the estate
'Blue Line' plan attached to leases defines "Estate" incorrectly	Major – potential opportunity for some tenants to challenge amount of FEC payable in some situations
Misapplication of estate charge provisions	Major – potential to fail to maintain FEC provision resulting in onerous variable estate charge requirements being applied to the management of the estate
Inconsistencies in FEC lease provisions resulting in:	
- Reputational damage through stakeholders paying differing levels of FEC	Major – reputational damage and administrative burden in challenges to FEC payments
- Administrative burden through complex FEC collection procedures across estate.	Minor – managerial issues in Estate Management
Future estate charge provisions – commonality	Minor – managerial issues in Estate Management

6. ANALYSIS

6.1. To analyse the position on the FEC, this paper outlines the position LLDC has adopted on different agreements and reviews the potential risks identified at section 4 to identify what the organisation needs to prepare to safeguard its position with relation to the FEC.

6.2. A summary of the estate charge provisions contained in existing leasehold/transfer arrangements (whether these documents have yet completed or not) is summarised in Appendix 1.

6.3. This research identifies a number of differences including:

6.3.1. the use of different inflationary indexes (ie RPI, CPI and IPD) being used. This will result in different FEC charges for the same category of service over time. This increases the complexity for FEC collection and potential disquiet within the Park tenant community;

6.3.2. different start dates for indexation due to different development periods;

6.3.3. the use of inconsistent and partly inaccurate estate maps representing the blue line area of the QEOP estate;

6.3.4. differing frequency of the review of the FEC charges; some annually, some 5 yearly.

6.4. Following analysis it was concluded that there were differences in indexing methodology and inconsistent 'base' years for indexation. This situation has the potential for a negative impact on wider estate management where different terms may cause dissatisfaction between tenants. If a direct linkage between the FEC payment and the delivery of a particular service level or service provided is made this could overturn the basis of the FEC and introduce the more problematic requirements of the Variable Estate Charge. However, with mitigation in place and the adoption of 'best practice' through a tool kit approach to future drafting, it is felt that any differences were manageable.

6.5. It is noted that the findings do not breach the requirement that the FEC be fixed and not referable to the cost of the estate services; however there is an administrative impact which requires a working solution to be implemented.

6.6. While discussing the impact of the variations within leases on the FEC, it was noted that consistent legal advice suggested that to avoid challenges from FEC payers the QEOP estate strategy should not contain any significant detail relating to services provided and that the documents such as the Park Management Plan should be clearly separated from any estate strategy documentation. It is important that the FEC is fixed and not referable to the cost of the estate services. If any link between the FEC and costs can be established, the FEC could be said to be a Variable Service Charge and therefore subject to various statutory requirements.

6.7. Analysis of the potential risks is summarised as:

Risk	Observation/Mitigation and Action
Risk of a challenge to the FEC as a variable service charge	Not seen as an issue having reviewed current documentation
'Blue Line' plan attached to leases defines "Estate" incorrectly	Mitigation - Revised 'Blue Line Plan' developed in conjunction with Real

	Estate by POV
Misapplication of estate charge provisions	Not found - Table prepared showing comparison of FEC provisions in existing leases (see Appendix 1)
Inconsistencies in FEC lease provisions resulting in: - Reputational damage through stakeholders paying differing levels of FEC - Administrative burden through complex FEC collection procedures across estate.	Observation; some inconsistencies identified. Mitigation – 'toolkit' prepared to demonstrate best/current practice to prevent most inconsistencies, subject to individual negotiations. See Appendix 2.
Future estate charge provisions	'Tool kit' prepared to demonstrate best/current practice to prevent most inconsistencies, subject to individual negotiations. See Appendix 2.

7. NEXT STEPS

7.1. The working solution is to have a toolkit for drafting considerations for fixed estate charge provisions. This toolkit should be consistently used wherever possible; however it needs to be cognisant that negotiated commercial considerations will take precedence. A 'tool kit' of drafting considerations for future leases is attached at Appendix 2 and should be used as the basis for considerations when negotiating the FEC element of future leases/transfers.

7.2. A requirement is the development of a revised estate map that identifies LLDC FEC interests in the QEOP within a blue line. The requirement for lease development is that the area within the blue line should reflect the area in respect of which LLDC will provide estate services and wish to pay for those services out of the FEC. A revised Blue Line map (February 2015) is attached at Appendix 3a and 3b.

7.3. The leases in development for Phase 2, UCL and Stratford Waterfront should be analysed and terms added to the table at Appendix 1 and this maintained by POV as part of the Asset and Property Management function.

8. FINANCIAL IMPACT

8.1. The organisation needs to have clear visibility of the forecast income of the current and future FEC within current and proposed leases. This is a key part of the 'next steps'.

9. REPUTATIONAL IMPACT

9.1. There is a potential reputational impact from within the Park tenant community. Over time, different tenants will be paying different FEC for the same 'utility' of the park. While this situation is generated by differing FEC start dates, indexing methodologies, review periods and negotiated settlements, the situation could cause disquiet amongst tenants who may challenge LLDC.

10. APPENDICES

- **Appendix 1 – Estate Charge Provisions Table Feb 2015**
- **Appendix 2 – Fixed Estate Charge Provisions – Tool Kit drafting considerations for future leases**
- **Appendix 3a – Final Draft 'Blue Line' Estate plan February 2015 (FEC) – Development Platforms**
- **Appendix 3b – Final Draft 'Blue Line' Estate plan February 2015 (FEC)**

- **Appendix 1 – Estate Charge Provisions Table May 2015**

(see attached)

Estate Charge Provisions Table – as at 300415

Extracted - not relevant to the request

Lessee/ Document	Category of FEC charge	Financial charge	Frequency of payment	Payment in advance?	Interim provisions/ estate charge free periods	Collection provisions	Extent of "Estate"	Transferor general covenant to provide services[1]	Ability to vary Estate Services	Indexation – Index for measurement	Indexation - start date	Indexation – frequency of review	Comments
Chobham Manor Residential Block Lease	Private Residential & AH	Per lease, to be assessed by the developer as a share of a figure of [redacted] p.a. under the Development Agreement. The CM arrangement equates to c£1psf for private and 50p for the AH, but the developer stands behind the obligation. He will in turn charge the residents but has the ability to look at the charging arrangements to residents.	Quarterly	Yes	Payable upon occupation of the unit	To be collected by a block management company	QEOP as edged blue, but subject to right for LLDC to vary the extent of the Estate subject to Property remaining part of the Estate and facilities etc granted to the Tenant under the lease not being materially diminished	Yes LLDC may by notice elect that an estate management company will carry out some/all of the services.	Yes	"All Items" index figure RPI	01.04.15	Annual	
Chobham Manor Residential Freehold transfer	Private Residential & AH	Per lease, to be assessed by the developer as a share of a figure of [redacted] p.a. under the Development Agreement. The CM arrangement equates to c£1psf for private and 50p for the AH, but the developer stands behind the obligation. He will in turn charge the residents but has the ability to look at the charging arrangements to residents.	Quarterly	Yes	Payable upon occupation of the unit	To be collected by a "Manager" – management company	QEOP as edged blue, but subject to right for LLDC to vary the extent of the Estate subject to Property remaining part of the Estate and facilities etc granted to the Tenant under the lease not being materially diminished.	Yes LLDC may by notice elect that an estate management company will carry out some/all of the services. LLDC responsible for losses etc in the event that unit holder informs LLDC that estate services are not being provided and LLDC has not subsequently restored this provision.	Yes	"All Items" index figure RPI	01.04.15	Annual	

Extracted - not relevant to the request

Extracted - not relevant to the request

Extracted - not relevant to the request

Extracted - not relevant to the request

Extracted - not relevant to the request

Phase 2 agreements	Commercial, Private Residential, AH	Commercial space £1.50 per sqft GIA, PRS and Private for sale housing £1.00 per per sqft GIA, Affordable Housing element £0.50 per per sqft GIA	TBA	TBA	TBA	TBA	TBA	TBA	TBA	RPI	01.04.2015		

Extracted - not relevant to the request

Extracted - not relevant to the request

Appendix 2 –
Fixed Estate Charge Provisions – Tool Kit drafting considerations for future leases

It is recognised that the drafting of leases at the QEOP will be influenced by significant commercial pressures to achieve the best negotiated settlement for LLDC. However, the following items represent a guide to the drafting considerations of future leases/transfers at the QEOP to support the Fixed Estate Charge obligations and to ensure commonality across the QEOP wherever possible.

1. It is important that this charge is fixed (and is not referable to the cost of the estate services) and that any increase (or decrease) in the charge over time is made by reference to an index rather than the actual cost of providing services. If a link can be argued between the level of the charge and the cost of the services, then the charge could be said to be subject to the various statutory tests set out in sections 18-30 Landlord and Tenant Act 1985 and considered to be a variable service charge.

   Although it is a matter of fact as to whether this is a *fixed* charge, it is best practice to label it as such.

2. The obligation(s) upon LLDC as landlord/transferor in respect of the estate services should be limited. Ideally this should be no more than a general covenant to carry out the estate services e.g. no covenant to enforce estate charge provisions in other leases etc.

3. LLDC as landlord/transferor should reserve the right to itself to elect that an "Estate Management Company" carry out some or all of the estate services from time to time by way of notice to the tenant/transferee.

4. The fixed charge will generally be based upon a monetary value per square footage of the net internal area of the demise.

5. The fixed charge should ideally be reviewed from a base date that is consistent for leases/transfers estate wide. The Chobham Manor base date is 1 April 2015. Alternatively the fixed rate per square footage could be updated in line with a later base date but ensuring park-wide consistency.

6. The Index measurement by which the fixed charge is varied differs between the leases/transfers – some are varied by reference to RPI, CPI, IPD Index etc. So as to be consistent the index for *residential* leases/transfers should be RPI.

7. It is best practice that the fixed charge be varied upwards only.

8. It is best practice that the fixed charge be varied annually.

9. A plan showing the extent of the "Estate" should be attached to the lease/transfer. This should reflect the area in respect of which LLDC will provide estate services and wish to pay for these services out of collected estate charge as at the time of completion of the document.

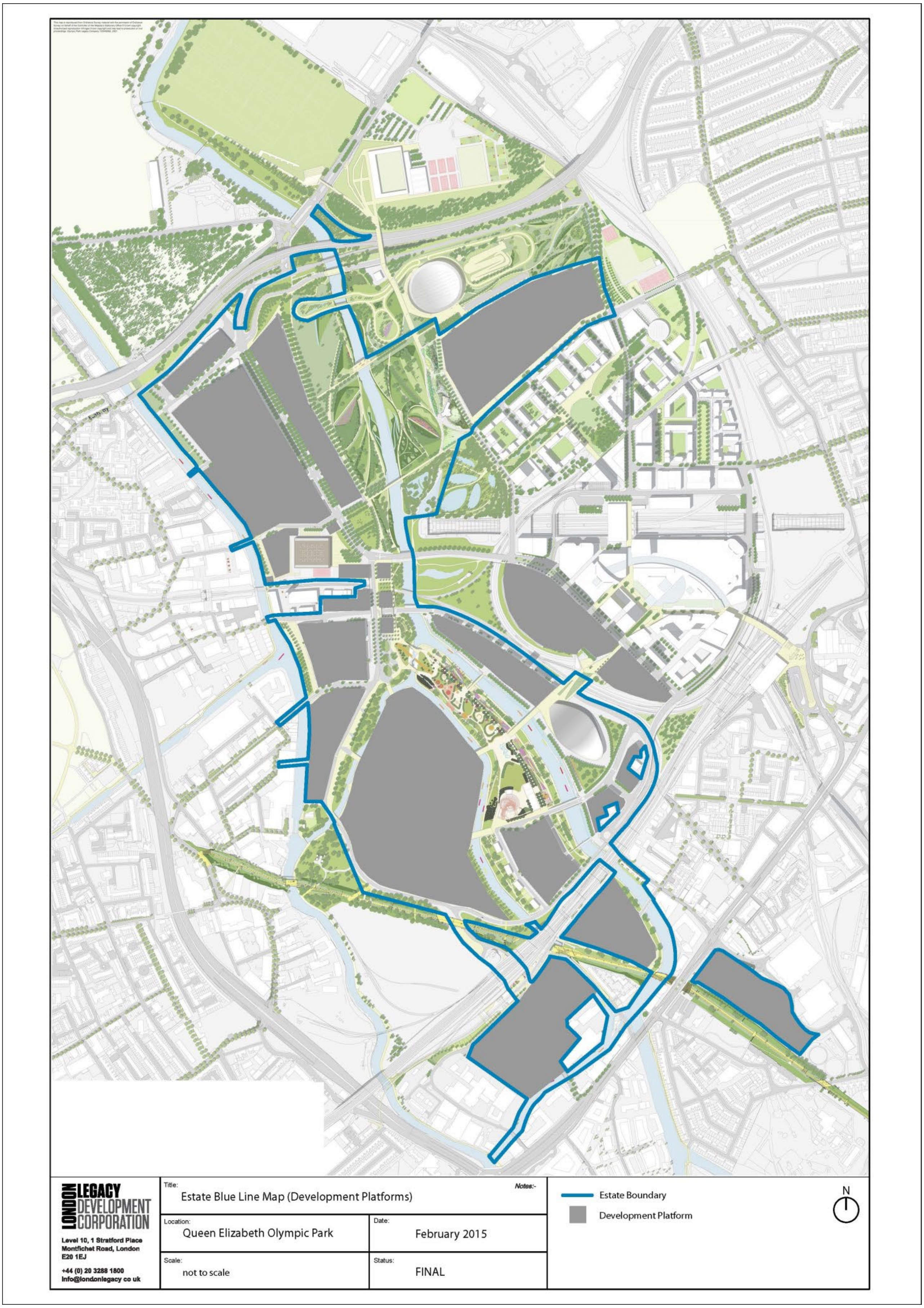
10. Further to point 9 above, it is important to include the ability for LLDC to vary the extent of the "Estate" – typically including this within its definition. This right of variation is normally tempered by a requirement that the property demised remain part of the "Estate" and *the rights, facilities and amenities granted to the tenant/transferee are not being materially diminished.* If such tempering is

included, it is important to consider the nature of the rights etc granted to the tenant/transferee and again consider whether the ability to vary these rights should be included in the drafting (e.g. the right to vary access rights, the right to vary the communal estate areas). The key point is to build in flexibility for LLDC as landlord so that it can vary the estate services that it provides whilst providing comfort for the tenant/transferee that it will not be negatively affected.

11. It is usual to set out a list of estate services in the lease/transfer, although not always necessary. If these services are listed, a provision should be included permitting LLDC as landlord to vary or substitute or change the estate services at any time as in its reasonable opinion is necessary in the interests of good estate management. Again this provides LLDC will the elasticity regarding estate services that it requires.

12. It is acknowledged that, dependent upon individual negotiations, lead-in periods for payment of the fixed charge have been agreed with tenants/transferees. These lead-in periods often provide for charge-free periods based upon rates of occupation/completion of underlettings etc. It is preferable that these lead-in periods are minimised since they will lead to a shortfall in estate charge collection.

Appendix 3a – Final Draft 'Blue Line' Estate plan (FEC) – Development Platforms



Appendix 3b – Final Draft 'Blue Line' Estate plan (FEC)