

Supporting housing delivery through developer contributions:

Consultation response form

Final response will be submitted 10 May 2018

Reducing Complexity and Increasing Certainty

Question 1

Do you agree with the Governments' proposals to set out that:

i. Evidence of local infrastructure need for CIL-setting purposes can be the same infrastructure planning and viability evidence produced for plan making?

Yes Although it must be recognised that at the plan making stage the level of certainty that can be attributed to costs and designs must be heavily caveated as the development will equally not be known. The Draft PPG appears to acknowledge this by allowing average costs and values to be considered

ii. Evidence of a funding gap significantly greater than anticipated CIL income is likely to be sufficient as evidence of infrastructure need?

Yes

iii Where charging authorities consider there may have been significant changes in market conditions since evidence was produced, it may be appropriate for charging authorities to take a pragmatic approach to supplementing this information as part of setting CIL – for instance, assessing recent economic and development trends and working with developers (e.g. through local development forums), rather than procuring new and costly evidence?

Yes

Question 2

Are there any factors that the Government should take into account when implementing proposals to align the evidence for CIL charging schedules and plan making?

The Council is supportive of simplifying the process of CIL-setting, and for aligning the evidence for CIL with plan making. One of the key factors to consider will be timescales for plan preparation. Another factor is the ability to examine the plan alongside a CIL charging schedule, and ensuring this can be done in the most cost-effective way for local authorities.

Ensuring that consultation is proportionate

Question 3

Do you agree with the Government's proposal to replace the current statutory consultation requirements with a requirement on the charging authority to publish a statement on how it has sought an appropriate level of engagement?

Yes

Question 4

Do you have views on how guidance can ensure that consultation is proportionate to the scale of any charge being introduced or amended?

No

Removing unnecessary barriers: the pooling restriction

Question 5

Do you agree with the Government's proposal to allow local authorities to pool section 106 planning obligations:

i. Where it would not be feasible for the authority to adopt CIL in addition to securing the necessary developer contributions through section 106?

Yes

ii. Where significant development is planned on several large strategic sites?

Yes

Question 6

i. Do you agree that, if the pooling restriction is to be lifted where it would not be feasible for the authority to adopt CIL in addition to securing the necessary developer contributions through section 106, this should be measures based on the tenth percentile of average new build house prices?

No

ii. What comments, if any, do you have on how the restriction is lifted in areas where CIL is not feasible, or in national parks?

The proposed approach outlined in Q6i is too arbitrary.

Question 7

Do you believe that, if lifting the pooling restriction where significant development is planned on several large strategic sites, this should be based on either:

i. a set percentage of homes, set out in a plan, are being delivered through a limited number of strategic sites; or

ii. all planning obligations from a strategic site count as one planning obligation?

ii. All

Question 8

What factors should the Government take into account when defining 'strategic sites' for the purposes of lifting the pooling restriction?

The size of development and/or scale of development is an important factor. The cross boundary nature of sites is another factor (i.e. sites affecting more than one local authority area).

Question 9

What further comments, if any, do you have on how pooling restrictions should be lifted?

None

Improvements to the operation of CIL

Question 10

Do you agree with the Government's proposal to introduce a 2 month grace period for developers to submit a Commencement Notice in relation to exempted development?

No Comment

Question 11

If introducing a grace period, what other factors, such as a small penalty for submitting a Commencement Notice during the grace period, should the Government take into account?

No Comment

Question 12

How else can the Government seek to take a more proportionate approach to administering exemptions?

No Comment

Question 13

Do you agree that Government should amend regulations so that they allow a development originally permitted before CIL came into force, to balance CIL liabilities between different phases of the same development?

Yes

Question 14

Are there any particular factors the Government should take into account in allowing abatement for phased planning permissions secured before introduction of CIL?

Viability evidence in relation to the development site should be taken into account when assessing the CIL liabilities in different phases.

Question 15

Do you agree that Government should amend regulations on how indexation applies to development that is both originally permitted and then amended while CIL is in force to align with the approach taken in the recently amended CIL regulations?

Yes

Increasing market responsiveness

Question 16

Do you agree with the Government's proposal to allow local authorities to set differential CIL rates based on the existing use of land?

Yes

Question 17

If implementing this proposal do you agree that the Government should:
i. encourage authorities to set a single CIL rate for strategic sites?

No

ii. for sites with multiple existing uses, set out that CIL liabilities should be calculated on the basis of the majority existing use for small sites?

Yes

iii. set out that, for other sites, CIL liabilities should be calculated on the basis of the majority existing use where 80% or more of the site is in a single existing use?

Yes

iii. What comments, if any, do you have on using a threshold of 80% or more of a site being in a single existing use, to determine where CIL liabilities should be calculated on the basis of the majority existing use?

Local authorities should be able to target differences in the increase in land values by setting different CIL rates (e.g. higher rates for sites with higher increases in land value (greenfield land)). Using a threshold of 80% to determine 'majority existing use' is clear. Under the current system rates must take into account land with lower uplift in an area, and evidence suggests that CIL rates tend to be set at a 'lowest common denominator' level, to accommodate the least viable proposals. This leads to some developments paying less than they might otherwise be asked to contribute.

Question 18

What further comments, if any, do you have on how CIL should operate on sites with multiple existing uses, including the avoidance of gaming?

None

Question 19

Do you have a preference that CIL rates for residential development being indexed to either:

- a) The change in seasonally adjusted regional house price indexation on a monthly or quarterly basis;
- OR
- b) The change in local authority-level house price indexation on an annual basis

Yes (b)

Question 20

Do you agree with the Government's proposal to index CIL to a different metric for non-residential development?

No – the cost of infrastructure to be indexed is not linked to the development cost

Question 21

If yes, do you believe that indexation for non-residential development should be based on:

- i. the Consumer Price Index? OR
- ii. a combined proportion of the House Price Index and Consumer Prices Index?
- ii a combined proportion of the House Price Index and Consumer Prices Index would be preferred over CPI however it should be based on the index for whatever infrastructure is being used to fund.

Question 22

What alternative regularly updated, robust, nationally applied and publicly available data could be used to index CIL for non-residential development?

See 21

Question 23

Do you have any further comments on how the way in which CIL is indexed can be made more market responsive?

Question 24

Do you agree with the Government's proposal to?

i. remove the restrictions in regulation 123, and regulation 123 lists?

Please select an answer from this drop down menu

Yes

ii. introduce a requirement for local authorities to provide an annual Infrastructure Funding Statement?

Yes

Question 25

What details should the Government require or encourage Infrastructure Funding Statements to include?

The Council agrees that charging authorities should report annually on how they propose to use developer contributions, through infrastructure funding statements. Both developers and communities often want reassurance that contributions are spent to support development.

Question 26

What views do you have on whether local planning authorities may need to seek a sum as part of Section 106 planning obligations for monitoring planning obligations? Any views on potential impacts would also be welcomed.

The Council is supportive of improving the transparency and increasing accountability around what developer contributions are spent on. CIL charging authorities use a proportion of the levy to cover administration costs (including reporting), and it would be much fairer if similar provision was made for section 106 planning obligations.

Local planning authorities should be able to seek a sum for monitoring planning obligations as part of a section 106 agreement. The ability to phase developer contributions payments by way of pre-commencement and pre-occupation triggers, in accordance with development cash flow, often benefits the signatories of the legal agreement (i.e. the developer). Whilst delayed or late payments are already penalised through the use of index-linking contributions, the administration costs of this, and the monitoring, collecting, recording and reporting payments should be shared with those benefitting from negotiated payments terms. The onus is on the signatories to satisfy the 106 obligations, but in practice planning authorities do not always have the tools and the resources to enforce timely and accurate payments. A more universal and standardised approach to monitoring planning obligations, and reporting on collection and payments, may ensure all signatories of agreements are held to account. This requires additional burdens funding or additional planning/administration fees.

Transparency associated with developer contributions relies on accurate information handling, and since legal agreements can go back a number of years, the process of digitising the obligations, triggers, and payment information may not be feasible or a priority for some authorities.

A Strategic Infrastructure Tariff (SIT)

Question 27

Do you agree that Combined Authorities and Joint Committees with strategic planning powers should be given the ability to charge a SIT?

Yes

Question 28

Do you agree with the proposed definition of strategic infrastructure?

Yes

Question 29

Do you have any further comments on the definition of strategic infrastructure?

The Council agrees that 'strategic' infrastructure in this context should be projects with multiple benefits that have a direct impact on all the local areas across which the SIT is charged e.g. a piece of infrastructure that has impacts which cross administrative boundaries. Strategic infrastructure defined by an arbitrary fixed cost or size threshold does not reflect local circumstances and the relative scale of cross-boundary issues and economies.

Question 30

Do you agree that a proportion of funding raised through SIT could be used to fund local infrastructure priorities that mitigate the impacts of strategic infrastructure?

Yes

Question 31

If so, what proportion of the funding raised through SIT do you think should be spent on local infrastructure priorities?

Between 15 – 25 % to be consistent with NHP proportion

Question 32

Do you agree that the SIT should be collected by local authorities on behalf of the SIT charging authority?

Yes

Question 33

Do you agree that the local authority should be able to keep up to 4% of the SIT receipts to cover the administrative costs of collecting the SIT?

Yes

Technical clarifications

Question 34

Do you have any comments on the other technical clarifications to CIL?

No