

**RTPI Cymru**



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Nick Iles  
Community Infrastructure Levy Policy Statement  
Planning Division  
Welsh Assembly Government  
Cathays Park  
Cardiff CF10 3NQ

Dear Nick

**Consultation on the CIL in Wales**

RTPI Cymru is pleased to submit a response to the policy statement on the Community Infrastructure (CIL) in Wales. RTPI Cymru's Policy and Research Forum has considered the proposals and its responses are contained in the attached appendix against the questions. It was done without the benefit of any up to date information about the extent of the operation of S106 in Wales; has such work been undertaken/published?

The Forum considers that there needs to be a far more detailed consideration of issues regarding the introduction of the CIL, than this consultation permits. This particularly centres on the mechanisms for developing infrastructure plans and the role for and linkages with LDPs and the Wales Spatial Plan.

We assume that separate Regulations would be needed to implement the CIL in Wales. Given the pressure on the Assembly Government's Planning Division, what is the earliest the CIL could be brought in? Are Assembly Members going to proceed if development slows down in Wales?

I trust you find the Forum's comments helpful but do not hesitate to contact me should you require any further clarification. The Forum has no objection to these comments being made public.

Yours sincerely,

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## **RTPI Cymru Response to the CIL**

### **1. Should introduction of the CIL be discretionary, for local planning authorities to decide, or a mandatory requirement? Please explain your reasoning.**

Introducing a scheme which is voluntary for local planning authorities (LPAs) would create difficulties when cross border infrastructure / services needs arise. However, the Forum considers that there does need to be allowance for local circumstances, particularly to reflect local market conditions given the wide variation across Wales.

Whilst one option is that the CIL could introduce an arrangement which allows for local application of CIL to be discretionary, but that cross-border CIL should be mandatory to support sub-regional infrastructure, this would also lead to difficulties.

The Forum therefore proposes that the scheme should be mandatory, but that LPAs have the option to zero rate its application locally provided there is evidence to justify this position. This would work against the idea of a national 'de minimis' charge. This could also be the case within an LPA, where some areas would have a zero charge.

The idea of waiving the charge in exceptional circumstances needs more thought and perhaps some principles in guidance or LDPs. Some guidance should be given about how the charge would be considered on public land, especially that owned by the local authority.

The definition of infrastructure should include a definition of 'commercial' development, for example, does it include leisure development?

### **2. Should introduction of the CIL be linked to the development plan preparation process? If not, how else might the process be managed?**

The LDP will provide the basis on which to define where infrastructure is required providing the linkage to development areas. This is the most comprehensive framework available for such a scheme. It would be even more essential if CIL is not mandatory.

Cross border issues will need to be considered with input from appropriate sub-regional groupings, e.g. the transport and waste groups.

It should be noted, however, that CIL, with the requirement for an Infrastructure Plan and a Charging Schedule, will add significantly to the workload involved in progressing LDPs, and mechanisms will need to be considered for resourcing this workload.

We do not believe that there should be a separate examination for infrastructure plans. The charging schedule should be set outside the LDP in SPG to allow for changes to be made more easily to reflect changing market conditions. However a formula underpinning the charging schedule should be included within the LDP. LDP Wales and PPW should be amended as soon as possible to outline how the CIL and S106 would be considered in LDPs and SPG. This might also include how an LDP will take account of regional requirements and suggest some form of arbitration for disagreement about the figures in SPG.

SPGs should be used in advance of the adoption of LDPs but should not detract from LDP preparation.

### **3. With each local planning authority responsible for calculating, collating and distributing finance to deliver infrastructure within their respective administrative boundaries, how will the appropriate infrastructure necessary to support development beyond their administrative boundary be delivered, particularly as CIL is voluntary?**

A process for setting in place cross-border agreements should be established as part of this. At the current time, other than through RTPs or Waste Plans, there is no

requirement for a LPA to consider the impact of development beyond its boundaries if it chooses not to, unless it is called in. This needs to change.

A form of mediation needs to be in place for situations where neighbouring authorities may oppose a particular development and need infrastructure to support it.

**4. Should sub-regional infrastructure be delivered by local planning authorities voluntarily collaborating to identify the necessary requirements? If not, what alternative mechanisms could be utilised to ensure that the appropriate infrastructure is delivered?**

LPAs already work together sub-regionally through various groupings including waste management and transport e.g. SEWTA. These groups provide the most appropriate sub-regional groups which are able to provide accountability and transparency. This mechanism should be enhanced.

This could be supplemented by the Wales Spatial Plan sub-regional groups, which are able to provide a sub regional framework. However, given the current voluntary status of the WSP groups, the Forum considers them to not be the most appropriate mechanism for agreeing sub-regional needs. They do not have sufficient accountability or transparency to provide a robust evidence base on which to base these decisions.

**5. How can the Wales Spatial Plan area strategies be best used to progress sub-regional collaboration by local planning authorities in relation to infrastructure and the CIL?**

See comment under 4. Whilst the WSP area strategies provide a framework, they are not yet developed enough in a fully sustainable manner on which to base all sub-regional infrastructure needs, related to particular developments. They do however provide a useful framework and a forum for sub-regional collaboration and consultation and mediation.

**6. Should the scope of section 106 of the Town and Country Planning Act 1990 be reduced in the light of the CIL, and should national policy in Wales on the use of section 106 be made statutory?**

At present national policy in Wales on the use of Section 106 is limited to that contained in the Circular (13/97), which is considerably out of date and fairly restrictive. The priority should therefore be to update planning policy in respect of Section 106 (Planning Obligations) in line with modern best practice.

Whether CIL or S106 should be the lead mechanism for providing resources for infrastructure will vary across Wales and between different sites. CIL will be particularly beneficial for the provision of infrastructure for cross-border impacts and S106 is being maintained for affordable housing. If an LPA has a high need for the latter that eats into any developer profits, it may mitigate against the use of CIL/require a zero charge.

The Forum considers that there needs to be evidence that the CIL works before there is any consideration of revising of the application of S106. Also the use of stop notices to prevent development before the collection of CIL may discourage LPAs from using it, given the potential lpa costs for stopping development are high. Clearly the fact that CIL can only be collected upon commencement may have unintended consequences such as holes being dug before the regulations come into effect.

The Forum considers, given the proposals for CIL, that the scope of S106 should not be reduced, as it can be more beneficial in certain circumstances. In-kind contributions, such as land, also need to have a mechanism; the CIL currently only deals with financial contributions. Any changes to S106 guidance could simplify current practice of using Highway Acts and other legislation for land transfers by including this within the scope of the planning legislation.

There needs to be clear detail on what infrastructure the CIL can include, there are currently questions as to whether it extends to energy. Given the current energy policy and climate change issues, this will be an important aspect.

There are also questions relating to the use of the 'Grampian Condition'<sup>1</sup>; will the CIL be able to provide up front provision before the development takes place?

National planning policy should reflect the use of both mechanisms as is most appropriate for the particular development and general guidance should be issued on this. However, the local circumstances should be made clear in advance via the LDP. The use of S106 should be further encouraged, and the fact that without S106 contributions means that the development would not be acceptable without it, should be enforced.

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<sup>1</sup> A planning condition attached to a decision notice that prevents the start of a development until off-site works have been completed on land not controlled by the applicant.