

Consultation on Community Infrastructure Levy

Detailed proposals and draft regulations for the introduction of the Community Infrastructure Levy

Response from Planning Aid England

General comments

Planning Aid provides free, independent and professional advice and support on planning matters to individuals and community groups who cannot afford to pay professional fees. It has been at the forefront of engaging and giving an equal voice to all affected by the planning process. It specifically helps people whose household income is low and those who are socially excluded. It also provides planning advice to small charities, voluntary and community groups, and tenants' organisations with limited funds or free reserves; social enterprises and other not-for-profit businesses.

Planning Aid has overall aims to empower individuals, groups and communities from disadvantaged and socially excluded backgrounds to participate in the planning process. Planning Aid also has an important remit to make the planning system more open, accessible, inclusive, and democratic to everyone, thereby helping to raise and maintain strong public confidence in the system.

Planning Aid believes that it is important that CIL not only improves predictability for developers as to what they will be asked to contribute, but also will enable local communities, in a transparent way, to understand what they may expect to see in terms of developer contributions towards important sub-regional infrastructure provision.

As noted in para 1.40, a key criticism of the current system has been "the lack of transparency as to how much is being paid by developers and where the money goes". The transparency, fairness and the ability of local communities to engage in the planning system "including the use to which developer contributions may be put" which underpin the CIL are welcomed by Planning Aid. However it is important to ensure that engagement includes those from disadvantaged or 'hard to reach' groups, and that sub regional infrastructure included within a CIL supports the development of their areas.

Planning Aid would recommend that CLG consider the preparation of a Good Practice Guide (similar to that on pre-application consultation under the Planning Act 2008) on the involvement of communities in the preparation of CIL, and the negotiation of s 106, would be beneficial to all involved in the process.

Response to Specific Questions

Chapter 2

Q 1. Do you agree with the proposal that that the draft CIL regulations do not define 'infrastructure' further?

Planning Aid would support the proposed flexibility for communities to choose what infrastructure they need to deliver their development plan, provided that full and effective community engagement takes place and that the views expressed by the community are properly considered by the decision makers. In particular, as noted above, there is a need for effective engagement to include the 'hard to reach' and disadvantaged communities.

Where a draft development strategy (para 3.22 and 3.23) is used as the basis for a proposed CIL, and a charging authority will be submitting its draft charging schedule alongside its proposed core strategy or LDP for integrated examination, it is important that public consultation on the draft development strategy included information relating to the proposed CIL.

Q 2. Is any further reporting required for CIL?

Communities and individuals often express concerns about the lack of transparency regarding section 106 payments and suspicions that receipts are not being spent in line with agreements (many of which relate to the mitigation of impacts on a local community). We would therefore support the need for accountability and transparency of CIL receipts, so that local communities are able to satisfy themselves that the money raised is being properly spent and would support the requirement for local authority accounts to readily distinguish CIL monies. We believe that information should be made available to communities, as a minimum, on an annual basis. Planning Aid also considers, that in the interests of transparency and openness, local authorities should be required to report on the numbers of reliefs given.

Q 3. Format of reports

(a) is the October deadline for reporting on the previous year's activity sufficient for local authorities?

(b) Will this timescale enable developers and local communities to understand how CIL revenue has been applied?

Planning Aid believes that with the right systems in place, there should be no reason why local authorities cannot make this information available within a shorter space of time, and would suggest the date is amended to 31 July.

Chapter 3 – Setting the CIL Charge

Q 5. Are there any circumstances where a CIL Charging authority would not be able to fulfil its charging authority functions effectively?

Whilst the majority of applications to the Infrastructure Planning Commission will not relate to buildings used by people, a number of the associated developments (which will form part of an application to the IPC) will. These developments include, for example, airside operational buildings, freight distribution centres and accommodation for freight forwarding, storage and industrial use at airports, the creation or enhancement of a logistics or distribution centre is associated development for harbours, and new railway stations for railways and warehousing for rail freight interchanges. These developments would, if not part of an IPC application, attract CIL. Consideration should be made for provisions to allow the local authority (charging authority) to capture the CIL which would normally be payable in such instances.

Q 7 Do you agree that differential rates should be based only upon the economic viability of development?

Although Planning Aid does not have a view on this, we would stress the need for transparency and the opportunity for the community to express their views on any proposals for differential rates.

Procedure for setting the charge

Planning Aid believe that it is essential for full and effective public consultation to be undertaken on the charging schedule. This should include consultation with the hard to reach and disadvantaged communities. However we believe that the minimum time period of 6 weeks is too short for communities to properly consider and debate the issues, and put together an informed response. We would suggest that this is extended.

Chapter 4 – Paying CIL

Q 22 Do you agree with the chosen definitions of building, planning permission and 'first permits'. If not, what changes would you wish to see strike the right balance between simplicity, fairness and minimising distortions?

CIL is about providing funding for infrastructure to support new development in an area (para 4.18) and as such Planning Aid is concerned that the proposal to exclude from CIL those "buildings into which people go only intermittently and then only for the purpose of inspecting or maintaining fixed plant or machinery" will exclude many Nationally Significant Infrastructure Developments (NSIPs) covered under the Planning Act 2008, from the payment of CIL. However it is these developments which by nature of their size, are likely to have a significant impact on local areas and communities. The funding of

community 'benefits' or the mitigation of wider impacts which would otherwise be funded through CIL, would not attract contributions from many such projects. The associated proposals to restrict the scope of s106 contributions would limit the opportunities for local authorities to capture funding for these benefits / mitigation through this alternative route.

For communities affected by NSIPs, the impacts will often be significant. Changes are therefore required, either through a clear statement that CIL can be applied to all NSIPs or by not limiting the offer of s106 to the five policy tests for NSIPs.

Planning Aid believes that CIL should be payable in relation to NSIPs where there are implications for local infrastructure provision and mitigation of impacts. Similarly in the case of NSIPs, the exclusion of temporary buildings from the payment of CIL represents a significant omission. For many of these projects the construction period may extend to a decade or more, during which time the impacts on local communities and the surrounding infrastructure will be significant.

Q 30 Do you agree that it is best not to have a special procedure for developments that have difficulty in paying the advertised rate of CIL? If not, how could it be done in a way that is fair, non-distortionary and not open to abuse?

Planning Aid believes that fairness and transparency are fundamental requirements for any procedure by which developments that have difficulty in paying the advertised rate CIL are handled. Failure to ensure that this is the case will inevitably lead to allegations of abuse and a failure to overcome one of the key criticisms of the current system (para 1.40).