

# Ministry of Housing, Communities and Local Government

## Supporting housing delivery through developer contributions

**ACE response**

**May 2018**

## Contents

<b>Response and recommendations</b> .....	<b>3</b>
Aligning the evidence for CIL charging schedules and plan making.....	3
Ensuring that consultation is proportionate .....	4
Removing unnecessary barriers: the pooling restriction.....	4
Improvements to the operation of CIL.....	6
Setting charging schedules with reference to the existing use of land .....	6
Indexing CIL rates to house prices .....	7
Improving transparency and increasing accountability.....	8
Who will be able to charge a Strategic Infrastructure Tariff (SIT)? .....	8
How would a SIT work in practice?.....	9
<b>About ACE</b> .....	<b>10</b>
Further information .....	10

## Response and recommendations

This section includes our response and recommendations to relevant questions included in the Ministry of Housing, Communities and Local Government's (MHCLG) consultation report on supporting housing delivery through developer contributions. Our response is structured under the sub-headings of this document.

### **Aligning the evidence for CIL charging schedules and plan making**

**Q1) Do you agree with the Government's proposals 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

- 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

**Q2) 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 Government should ensure Community Infrastructure Levy (CIL) charging schedules and plan making arrangements are designed in a way that encourages local authorities to spend CIL funding over a reasonable timeframe on infrastructure projects. Initial research by the Association for Consultancy and Engineering (ACE) suggests many local authorities have spent very little of their CIL revenue over the past few years and we encourage the Government to investigate why this is the case.

In relation to our response to Part III of Q1, we believe any approach to assessing market conditions must have a fixed timeframe to provide consistency across the country and to help ensure market changes, both up and down, are being factored into setting CIL. We recommend this timeframe is fixed either annually or every three years.

## **Ensuring that consultation is proportionate**

**Q3) 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

**Q4) Do you have views on how guidance can ensure that consultation is proportionate to the scale of any charge being introduced or amended?**

Consultations regarding CIL charges should be part of an integrated approach to engaging with communities on developments in local areas. To this end, we believe the local plan process should also include a strategy outlining how the community should be engaged based on the type of consultation (i.e. for a development proposal, CIL charging schedules or other planning documents) and what a sufficient level of community engagement looks like. Our view is that this approach will help provide informed guidance for statements on the level of engagement and help turn box-ticking and untargeted consultations into true engagement with communities.

The onus for sufficient community engagement should be on the 'agent of change'. The delivery of changes to a local planning framework should result in a change for the community that is hopefully for the better. The stakeholders behind the change should be responsible for ensuring their proposal is well supported and viewed, on the whole, as a change for the better, as opposed to a proposal that is not opposed in the limited input from the community.

## **Removing unnecessary barriers: the pooling restriction**

**Q5) 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

**Q6i) 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?**

Yes

**Q6ii) What comments, if any, do you have on how the restriction is lifted in areas where CIL is not feasible, or in national parks?**

We support the lifting of restrictions in areas where CIL is not feasible, however this should not be a blanket rule and should only be applied after careful consideration. Regarding national parks, any lifting of restrictions should be determined through the national park's development plan.

**Q7) 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. **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?**

In straightforward circumstances, Part II is the better option. However, the problem for this option is if there are multiple local planning authorities in a strategic area. We therefore recommend the decision between Part I and Part II be based on a case-by-case basis by the local authorities; the CIL framework should provide the tools for Part II but not restrict the use of Part I if preferred by local authorities.

**Q8) What factors should the Government take into account when defining 'strategic sites' for the purposes of lifting the pooling restriction?**

The definition of strategic sites should consider what existing infrastructure is in place and what infrastructure is needed to unlock an area. We believe it's about the infrastructure around the development and the ability to unlock productivity through related investments that determines if the site is strategic or not, as opposed to the development type.

## **Improvements to the operation of CIL**

**Q10) Do you agree with the Government's proposal to introduce a two-month grace period for developers to submit a Commencement Notice in relation to exempted development?**

Yes

**Q11) 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?**

There should always be a presumption that CIL payments should be required and it will only be in extremely unique circumstances that CIL payments will not be necessary. Any breach of CIL rules regarding commencement notices during the grace period should result in a fine that sufficiently deters breaches.

**Q13) 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 (if tied to an annual review process)

**Q15) 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

## **Setting charging schedules with reference to the existing use of land**

**Q16) Do you agree with the Government's proposal to allow local authorities to set differential CIL rates based on the existing use of land?**

No

**Q17) If implementing this proposal do you agree that the Government should:**

**i. encourage authorities to set a single CIL rate for strategic sites?**

No. It should be a local development plan in an area that determines cost and infrastructure needs. Given that, this plan will have costs factored in and there is no need for an additional rate.

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?**

No

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?**

No

### **Indexing CIL rates to house prices**

**Q19) Do you have a preference between CIL rates for residential development being indexed to either:**

- i. **The change in seasonally adjusted regional house price indexation on a monthly or quarterly basis; or**
- ii. **The change in local authority-level house price indexation on an annual basis.**

Part I will result in extra administration for local authorities and potentially provide opportunities for developers to game the system. We therefore support Part II.

**Q20) Do you agree with the Government's proposal to index CIL to a different metric for non-residential development?**

Yes

**Q21) If yes, do you believe that indexation for non-residential development should be based on:**

- i. **the Consumer Price Index?**
- ii. **a combined proportion of the House Price Index and Consumer Price Index?**

ACE supports an indexation for non-residential development based on a combined proportion of the House Price Index and Consumer Prices Index.

**Q22) What alternative regularly updated, robust, nationally applied and publicly available data could be used to index CIL for non-residential development?**

The Government could also consider using business rates or a combination of business rates, the House Price Index and Consumer Price Index.

## **Improving transparency and increasing accountability**

**Q24) Do you agree with the Government's proposal to:**

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

Yes

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

Yes

**Q25) What details should the Government require or encourage Infrastructure Funding Statements to include?**

We believe the current practice by Bristol City Council is a good example of what could be required in Infrastructure Funding Statements. In these statements, there is a clear and transparent outline on how much revenue from CIL has been received, where this money is being invested and how much money is being held by Neighbourhood Partnerships. The Bristol City Council funding statements are available here: <https://www.bristol.gov.uk/planning-and-building-regulations/community-infrastructure-levy-money>.

**Q26) 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.**

ACE supports local authorities seeking a small sum from section 106 planning obligations, however this should be ringfenced for planning departments. It is our view that well-funded planning departments will deliver better results, even with slightly less funding for infrastructure from section 106 revenue.

However, ACE notes there must be transparent and legal processes in place when turning capital from section 106 funding agreements into ongoing revenue for planning departments.

**Who will be able to charge a Strategic Infrastructure Tariff (SIT)?**

**Q27) Do you agree that combined authorities and joint committees with strategic planning powers should be given the ability to charge a SIT?**

Yes

**Q28) Do you agree with the proposed definition of strategic infrastructure?**



Yes

**Q30) 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

**Q31) If so, what proportion of the funding raised through SIT do you think should be spent on local infrastructure priorities?**

15% based on what is currently allocated to strategic infrastructure.

**How would a SIT work in practice?**

**Q32) Do you agree that the SIT should be collected by local authorities on behalf of the SIT charging authority?**

No

**Q33) 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?**

No

## About ACE

As the leading business association in the sector, ACE represents the interests of professional consultancy and engineering companies large and small in the UK. Many of our member companies have gained international recognition and acclaim and employ over 250,000 staff worldwide.

ACE members are at the heart of delivering, maintaining and upgrading our buildings, structures and infrastructure. They provide specialist services to a diverse range of sectors including water, transportation, housing and energy.

The ACE membership acts as the bridge between consultants, engineers and the wider construction sector who make an estimated contribution of £15bn to the nation's economy with the wider construction market contributing a further £90bn.

ACE's powerful representation and lobbying to governments, major clients, the media and other key stakeholders, enables it to promote the critical contribution that engineers and consultants make to the nation's developing infrastructure.

Through our publications, market intelligence, events and networking, business guidance and personal contact, we provide a cohesive approach and direction for our members and the wider industry. In recognising the dynamics of our industry, we support and encourage our members in all aspects of their business, helping them to optimise performance and embrace opportunity.

Our fundamental purposes are to promote the worth of our industry and to give voice to our members. We do so with passion and vision, support and commitment, integrity and professionalism.

### Further information

For further details about this consultation response, please contact:

James Robertson  
Policy Manager  
ACE Policy and External Affairs Group  
[jrobertson@acenet.co.uk](mailto:jrobertson@acenet.co.uk)  
[www.acenet.co.uk](http://www.acenet.co.uk)