

The Community Infrastructure Levy 2012 Update

Juliet Heap, Cundall's London Planning consultant talks us through the potential implications of the Community Infrastructure Levy (CIL) which will allow local authorities to charge a levy on most types of new developments.

Overview

The Community Infrastructure Levy is a new charge which local authorities in England and Wales will be empowered to charge on most types of new development. The government set out proposals to reform the Community Infrastructure Levy in the Localism Bill, which received Royal Assent in November 2011 becoming the Localism Act.

The money can be used to fund a wide range of infrastructure that is needed as a result of development. This includes new or safer road schemes, flood defences, schools, hospitals and other health and social care facilities, park improvements, green spaces and leisure centres.

The CIL Regulations were out for consultation until 30th December 2011. Cundall is keeping a close eye on the government's response and any updates or changes to the CIL regulations.

Key Elements:

- Payment of CIL will be non-negotiable.
- Planning obligations will continue to be used to secure affordable housing.
- The legislation allows relief for "exceptional circumstances" for payment of CIL, but very few developments are likely to meet the criteria.

Emerging Issues

- If a development incorporating a given level of CIL generates a higher value than the current use value (plus appropriate landowner's margin), then it can be judged

that the proposed level of CIL will be viable. There is still some uncertainty on how to quantify the appropriate margin above existing land value.

- Each local authority will set its own charging rate, leading to differential rates.
- At present, revisions to current consents will be required to pay CIL contributions (s73 applications, detailed applications following grant of outline consent).

London Nuances

- The Examination in Public into the proposed GLA CIL, including the draft charging schedule was held at the end of 2011 and the independent inspector's report has just been published, backing the GLA's plans.
- The examiner's report states that the mayoral CIL charging schedule "provides an appropriate basis for the collection of the levy in Greater London".
- Whilst the report warned that it may put some marginal schemes at risk, it concluded that the available evidence indicates that the charge proposed by the Mayor would represent a very small part of the overall cost of development and hence would not seriously threaten the economic viability of development across London.
- The mayoral CIL is payable in addition to London Borough's CIL.
- Uncertainties remain over what the proportionate impact of GLA CIL, Local Authority CIL and S106 contributions on schemes.



What Next?

- The regulations scale back the way planning obligations operate. Limitations are placed on the use of planning obligations in three respects: Putting the Government's policy tests on the use of planning obligations set out in Circular 5/05 Planning obligations on a statutory basis for developments which are capable of being charged the levy. Ensuring the local use of the levy and planning obligations does not overlap. Limiting pooled contributions from planning obligations towards infrastructure which may be funded by the levy.
- Developers and landowners should be engaging with the CIL tariff setting process in the areas they have interests in - exemptions are going to be significantly more difficult to make a case against CIL on viability after the tariff is set.

How can Cundall help

- Cundall can engage with the local authorities in setting tariffs.
- Cundall can assist you in negotiating s106 and CIL contributions on new schemes and reviewing S106 obligations on existing permissions to assist with making schemes viable in the current climate.

For further information on Cundall's Planning services please visit our Planning web page or contact Juliet Heap.