

# Supporting housing delivery through developer contributions

POS response to consultation

If you are responding by email or in writing, please reply using this questionnaire pro-forma, which should be read alongside the consultation document. You are able to expand the comments box should you need more space. Required fields are indicated with an asterisk (\*)

This form should be returned to  
[developercontributionsconsultation@communities.gsi.gov.uk](mailto:developercontributionsconsultation@communities.gsi.gov.uk)

Or posted to:

Planning and Infrastructure Division  
 Ministry of Housing, Communities and Local Government  
 2nd floor, South East  
 Fry Building  
 2 Marsham Street  
 LONDON  
 SW1P 4DF

**By 10 May 2018**

### Your details

First name*	Sara
Family name (surname)*	Whelan
Title	Policy Manager
Address	
City/Town*	
Postal Code*	
Telephone Number	
Email Address*	<a href="mailto:policy@planningofficers.org.uk">policy@planningofficers.org.uk</a>

Are the views expressed on this consultation your own personal views or an official response from an organisation you represent?\*

**Organisational response**

If you are responding on behalf of an organisation, please select the option which best describes your organisation.\*

**Other (please specify)**

Planning Officers Society representing public sector planners across England

If you selected other, please state the type of organisation

Please provide the name of the organisation (if applicable)

Planning Officers Society (POS)

## 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**

- 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 pragmatic approach to updating needs to be clearly set out in guidance to ensure that there are not protracted arguments at examination about the validity of the evidence.

## 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?

Consultation should be consistent with the authority's policies and code of practice on consultation. CIL reviews should only require consultation with those likely to be impacted.

## 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?

While new house prices give some comparative measure of values they do not necessarily indicate viability or profitability. Where there are low land values and costs development can be viable.

### 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

This will inevitably be an arbitrary figure. A strict mathematical formula will not reflect local circumstances which will differ significantly across the country and could result in 'massaging' numbers to fit which would not be in the interests of good planning or housing delivery

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

This sounds a sensible way forward but needs close examination from a legal perspective to establish whether it would be lawful.

### Question 8

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

Establishing a national definition will be difficult as here again local circumstances differ so much. Options involving just a threshold number of houses would not be appropriate for all authorities where plan numbers vary so significantly. Site capacity as a proportion of the overall delivery target can also be misleading depending on the site profile across the authority and the actual numbers involved. A relatively small site can be 'strategic' where it opens up further development or is the location for key infrastructure.

### Question 9

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

The answers to questions 5-8 above demonstrate that setting criteria for lifting pooling restrictions present many difficulties which will add complexity and not necessarily achieve the desired results. The impact of imposing such criteria on the original purpose of the restrictions (encouraging the take up of CIL) is likely to be marginal at best. Lifting the pooling restrictions completely would be a straightforward solution which would enable LPAs, both with CIL in place and without, to plan for infrastructure needs without the impositions they are currently faced with.



## 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**

### 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?

Introducing a grace period would in effect just extend the deadline for submitting a commencement notice. If the government intends to introduce a more flexible regime for exempt development it should either set a new deadline for submitting a commencement notice of 2 months after actual commencement or give Charging Authorities some degree of discretion in dealing with individual cases.

### Question 12

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

Exemptions have placed a disproportionate burden on Charging Authorities who are required to deal with their administration without any income to assist them. We have knowledge of authorities where 65% of CIL liable applications qualify for exemptions. The whole issue of exemptions should be re-examined to review whether they have achieved their objectives and the burden they place on CAs. If eg self build exemptions are to be maintained (and the equity and benefits are questionable) they should be taken out of the CIL system which would avoid the burden on both developer and CA.

### 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?

Click here to enter text.

### 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?

**No**

### 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?

**Yes**

- 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/No

**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**

- iv. 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?

Setting differential rates according to use introduces an additional layer of complexity which the subsequent proposals for calculating liabilities then seek to reduce. While the intention to introduce an element of land value capture has potential benefit, this would be best left to more radical reform. For charging authorities and developers it would potentially introduce more complex charging schedules and calculations rather than simplifying the system.

**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?

See response to Q17 above

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

**No**

- b) The change in local authority-level house price indexation on an annual basis

**Yes**

**Question 20**

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

**Yes**

**Question 21**

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

- i. the Consumer Price Index? OR

**Please select an answer from this drop down menu**

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

**Please select an answer from this drop down menu**

**Question 22**

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

POS has no clear view as to what would be an appropriate. A national figure would not allow for regional and local circumstances. For both residential and commercial uses the appropriate figures should be freely available at a set date each year.

**Question 23**

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

no

## Improving transparency and increasing accountability

**Question 24**

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**

**Question 25**

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

CIL and S106 income and expenditure, projects in progress and completed, programmed expenditure on infrastructure for next 3 years by project, with funding where identified.

**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.

Monitoring the implementation of planning obligations is important for the LPA, the community and developers to ensure that infrastructure considered necessary when granting permission is being provided. This has not always been the case in the past. To provide this transparency LPAs need the resources to properly monitor. It is appropriate that this is included as a cost to the planning obligation that created the requirement. Monitoring costs could be included in the annual statement to ensure accountability and transparency.

## 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?

no

**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?

Setting a fixed proportion would limit the flexibility available to the combined authorities, particularly if this is set as an annual figure. Combined authorities working together to meet strategic objectives should have the ability to make their own spending decisions.

**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