



## PLANNING BULLETIN

### **The Community Infrastructure Levy:**

### **The Latest Government Consultation Issued This Month (August 2008)**

This is the second policy statement to be issued by Government covering the CIL. It is an important document that adds greater detail to the proposals in the Planning Bill 2007, which are making their way through Parliament at the moment.

There are still a lot of unknowns, and Government is still looking for further input from both the private and public sector as the CIL Regulations are drawn-up and the Planning Bill continues its progress.

### **CIL: Taxing Development in an Economic Downturn?**

The Community Infrastructure Levy or CIL as it is now being referred is set to replace the system of negotiated planning obligations sometime after Spring 2009, when (and if) it successfully passes Government scrutiny and forms part of the Planning Act 2008 sometime during Autumn this year.

Whilst it is not a compulsory initiative, the Government expects all charging authorities (i.e. local planning authorities – Unitary and Local Councils with approved Core Strategies or up to date Development Plans) to implement a CIL in their individual or sub-regional areas through the LDF process.

### **What is included?**

The CIL will cover social infrastructure – hospitals, schools, roads, waste facilities, flood defence, community centres, policing and other items that have yet to be finalised – but will be finalised (but subject to regular review) when the CIL Regulations are finalised.

### **How Much?!!!**

No one as yet knows how much CIL rates are likely to be, the Government is keen that charging authorities capture as much potential income as possible without stifling development. Like the original Planning Gain Supplement (PGS) proposals last year – there is still a link between setting CIL and uplift in land values although it continues to be played down.

However, it is clear that charging authority areas with disparate land values will struggle to implement a CIL rate across the board and Government have suggested that a ‘flexible’ approach could be acceptable.

CIL will be based on planned infrastructure costs, which will be included within the LDF. There are some challenges presented infrastructure that is difficult to plan for in the long term – for instance schools and Government is struggling with how to treat windfall development. It is hoped that these issues will be bottomed out in the next 6 months.

### **Who has to pay it?**

Developers, Landowners and Third parties are mentioned – depending on the nature of the planning application.

It could be a charge based on the number of bed spaces or habitable rooms (for residential development) and a price per square metre of floorspace for commercial development.

### **Do I have to pay it?**

More than likely, yes! It is proposed that CIL will be levied on all forms of development, with only the exception of householder development and some permitted development.

Government are keen to see it imposed even at low levels, where there are financial constraints on a development site, in order to capture revenue across the board. Exemptions are to be limited to only very exceptional circumstances.

### **When will I have to pay it?**

Upon the commencement of development, following planning consent.

### **What about Affordable Housing?**

Affordable housing is not likely to be included within the CIL as yet, although there is potential for this to become the case in the future.

The fact that affordable housing will need be a negotiable element could mean that Section 106 Agreement negotiations will still cause delay. It is also understood that CIL will be effectively delivered through the Section 106 legal 'vehicle' in order to ensure smooth implementation.

Payment is likely to be enforced upon the commencement of development, although the Government is looking into all potential loopholes that could allow CIL payment avoidance – for instance, by making CIL a land charge that would be transferrable upon the sale of a site with an extant planning consent and unpaid CIL sum. The transfer of liabilities would therefore be clear following a land search undertaken by potential purchasers.

### **What can I do now?**

You can still voice your concern to Government; make representations to the charging authority as the CIL is proposed through each of the LDFs you are interested in; ensure that existing section 106 agreements obligations fall away if CIL requirements duplicate requirements on successors in title; ensure you are in a position to offer more financial information on your schemes to demonstrate viability issues.

### **Speak to us about how we can help:**

**Siân Griffiths**

**Senior Associate Director**

**0121 616 4857**

[www.cgms.co.uk](http://www.cgms.co.uk)

---

#### LONDON OFFICE

Morley House  
26 Holborn Viaduct  
London  
EC1A 2AT

Tel: 020 7583 6767  
Fax: 020 7583 2231

#### CHELTENHAM OFFICE

Burlington House  
Lypiatt Road  
Cheltenham  
GL50 2SY

Tel: 01242 259290  
Fax: 01242 259299

#### NEWARK OFFICE

Newark Beacon  
Beacon Hill Office Park  
Cafferata Way, Newark  
Notts NG24 2TN

Tel: 01636 653 060  
Fax: 01636 653 065

#### KETTERING OFFICE

Ragsdale  
1 Church Lane  
Great Cransley  
Northants NN14 1PX

Tel: 01536 790447  
Fax: 01536 799378

#### BIRMINGHAM OFFICE

Bank House  
8 Cherry Street  
Birmingham  
B2 5AL

Tel: 0121 616 4850  
Fax: 0121 616 4860