

**THE PLANNING  
ACT 2008**

**DLP BRIEFING NOTE 3**

Prepared by  
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The Planning Act 2008 received Royal Assent on 26th November, 2008. The purpose of the Act is to provide the statutory basis for the efficient delivery of key national and local infrastructure developments, and ensure that the Government's housing targets are met.

The Act provides for two new planning vehicles:-

- *Infrastructure Planning Commission.*
- *Community Infrastructure Levy.*

### **The Infrastructure Planning Commission**

The Infrastructure Planning Commission (IPC) is proposed to be established and operational by Spring 2010, and will determine proposals involving nationally significant infrastructure projects, relating to:-

- Energy Production;
- Storage and Distribution;
- Highways;
- Airports;
- Railways;
- Harbours;
- Water Supply/Treatment; and
- Hazardous Waste.

Projects falling within this category will be dealt with via *applications for development consent orders* (DCO's) which are required to be submitted to the IPC.

In making an application for a DCO, applicants will be required, prior to making a formal submission, to consult all affected parties, including local communities.

Applications for a DCO will be determined in accordance with *national planning statements* (NPS's). NPS's will establish both the need for, and the requirements of, the relevant type of infrastructure, and will prescribe appropriate locations for it.

The three departments responsible for drafting NPS's will be:

- Department for Transport
- Department for Energy and Climate Change
- Department for Environment, Food and Rural Affairs.

### **The Community Infrastructure Levy**

The Community Infrastructure Levy (CIL), when it comes into force in April 2010, will be the Government's alternative to the long proposed *planning gain supplement*.

Funds provided under CIL will be used to deliver a broad range of community infrastructure projects, including - transport, education, public open space, libraries etc. They cannot however be used for the provision of affordable housing which will LPA's will continue to be delivered by normal S.106 mechanisms.

The draft *CIL Regulations*, which are required to commence implementation of CIL, are expected to be published at the beginning of 2010.

The CIL Regulations will create an "exception from liability" where a landowner or developer is a registered charity, or where building(s) that may comprise the development site are to be used for charitable purposes. Equally, in domestic developments, homeowners will be exempted

The CIL will be payable on the commencement of development and will be imposed on both residential and commercial developments. Payments under CIL may be subject to phasing, subject to agreement being reached with the local planning authority.

The use of CIL's by LPA's will be contingent upon the LPA having in place an up to date development plan. Charging rates and/or charging formulae are to be set by LPA's in development plan subject documents (LDD's), which should follow on from an assessment of local infrastructure needs, and will be subject to public consultation and examination in public.

CIL proceeds are to be spent on local and/or regional infrastructure which supports development. Importantly however, unlike S.106 monies, funds collected via CIL's are not required to be spent on specific infrastructure provision, nor will LPA's be required to spend monies collected within a specific time period. This will in effect break the historic legal link between obligation and development.

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