

**Community  
Infrastructure  
Levy to Remain**

**DLP BRIEFING NOTE 36**

Prepared by  
**DLP Planning Ltd**

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## Community Infrastructure Levy to Remain

The Planning Minister, Greg Clark, announced on the 18<sup>th</sup> November, the Government's intention to retain the Community Infrastructure Levy (CIL) system, subject to some minor amendments, which will aim to ensure that *neighbourhoods* share the advantages of development by receiving a proportion of the funds councils may raise from developers. This is in line with the direction to be outlined in the soon to be published Localism Bill; the details of the amendments and the basis for the system will appear in that Bill.

It is now proposed that the new CIL Regulations will come into force in April 2011 and this will establish the framework for contributions going forward.

### What is CIL?

*"The Community Infrastructure Levy is a new levy that local authorities in England and Wales can choose to charge on new developments in their area.*

*The money can be used to support development by funding infrastructure that the council, local community and neighbourhoods want – for example, new or safer road schemes, park improvements or a new health centre.*

*The system is very simple. It applies to most new buildings and charges are based on the size and type of the new development".*

As envisaged, under CIL, developers will negotiate and pay councils a flat rate fee according to the type, scale and nature of the development, to support public improvements in their local area. This is different to the *systems* used under section 106 payments, where developers negotiate with councils on an individual basis about the amount they will invest to support local improvements.

### Changes to the April 2010 Regulations

The CIL was introduced by the previous Government in April 2010. The Conservatives had previously announced, in their election manifesto, their intention to scrap CIL and introduce a single unified local tariff. However, taking into account the direction of the localism agenda, the Government now feels that CIL provides a fairer system to fund new local infrastructure.

The new system is intended by the Government to be "more transparent", with levy rates to be established in consultation with local communities and developers - unlike planning obligations which the Government comments "are negotiated behind closed doors".

The charging schedule, in line with Regulation 122, will be subject to public consultation, and then must undergo a public examination to establish fairness, viability and validity. However, it is also proposed that the report of the *Examiner* of the CIL schedule (i.e. an Inspector) will, contrary to the previous intention, not be binding on the charging authority. If it takes a different view however, the authority will have to demonstrate how it has addressed the concerns of the Examiner before adopting the schedule. Whether this is open to further challenge is not at this stage clear, and possibly such challenges would have to be through the courts.

Other key changes proposed include:

- More control for councils over the levy – whilst independent examiners will ensure councils do not set unreasonably high levies, councils will control the detail of what type of levy rate is charged, including what rates are set for specific areas and types of development;
- Charging authorities will be required to allocate a meaningful proportion of their levy revenues raised in each neighbourhood back to that neighbourhood, to spend on the infrastructure that local people consider is most needed – how this is arrived at is not at this stage made clear but on the basis of the approaches to other matters is likely to be linked to local petitions and the like.
- Allowing councils to set their own flexible payment deadlines, and offer the developers the option to pay by instalments. A proposed £50,000 minimum threshold for *payments in kind* will also be scrapped, so councils can accept a *payment in kind* for any level of contribution.

Some changes to the levy will require amendments to legislation and regulations. The Government, as outlined above, will include provisions in the *Localism Bill* to affect the proposed amendments to the Community Infrastructure Levy Regulations 2010, and provide a framework for the new CIL system, this being seen to give local communities more control over the levy, and make it more responsive to local needs.

It is proposed that there will be no significant changes to the current rules on planning obligations, which will continue to fund affordable housing, and will remain scaled back so they directly relate to the proposed development.

The timetable for the introduction of CIL systems through supplementary planning documents will vary, as will the content of those, from council to council. Some councils have already published proposals for CIL based systems, albeit a number are not compliant with the existing or emerging regulations and queries as to their lawfulness have arisen.

DLP Planning is in the process of establishing a monitoring system for CIL introduction and the Councils who are moving to implement this. If you are interested in learning more about these changes, and what they could mean for your future developments, please do not hesitate to contact us.

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