

# Developer Contributions Consultation response form

If you are responding by email or in writing, please reply using this questionnaire proforma, 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*	
Family name (surname)*	
Title	
Address	
City/Town*	
Postal Code*	
Telephone Number	
Email Address*	

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

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

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

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

If you selected other, please state the type of organisation

Click here to enter text.

Please provide the name of the organisation (if applicable)

Click here to enter text.

## 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?

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

### 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?

Click here to enter text.

## 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?

Click here to enter text.

## 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?

Please select an answer from this drop down menu

- 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?

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### 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

Click here to enter text.

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

Why not both?

### Question 8

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

The size and scale of the development proposal. Sites that impact across local authority areas.

### Question 9

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

Pooling restrictions should be lifted for everybody if the intention is to make the system simpler. The regulation 122 tests should be sufficient to ensure that obligations sought are appropriate.

## 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?

Yes

### 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?

The introduction of a small penalty risks penalising some developers who, under the existing system of surcharges, would not currently have to pay. If introducing a 'grace period' perhaps the period should be shorter, say 28 days, and the charge should kick in after the grace period has expired.

### Question 12

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

There doesn't appear to be an easy way of administering exemptions while the clawback period exists, but removing that risks people gaming the system.

### 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?

Where a development was granted planning permission before CIL came into force, developer contributions should be secured through S106. CIL should only apply to new development resulting from a revised permission. If the proposal is only to move some aspects of the development between different phases there should be no overall increase in the amount of development and there should be no need to take account of CIL as the impact should have already been mitigated by the existing planning obligations.

**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?

**Yes**

**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?

This seems like a sensible approach that avoids unnecessary time spent working out the proportion of each use on the site as long as the guidance is clear on how the existing use is calculated. Otherwise, where the majority use is close to 80% there could be delays caused by arguments over whether the 80% threshold has been exceeded.

**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?

The existing use should be worked out on the most recent actual or permitted use. Where there is a disagreement over the existing use of the site, the applicant should be required to provide evidence to support their case like when applying for a certificate of lawful use.

**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

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

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

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

**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?

**Yes**

### Question 22

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

Click here to enter text.

### Question 23

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

Click here to enter text.

## 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?

**No**

### **Question 25**

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

Any statement should reinforce the information contained in an authority's Infrastructure Delivery Plan in terms of what projects the authority plans to contribute funding to from what sources (CIL/S106). Prioritising the projects to be funded by CIL would be helpful in providing clarity to communities, especially where CIL pots are likely to be built up slowly. However, to provide a projection for income from CIL/S106 over anything other than the short term would be difficult for authorities where a large proportion of their housing delivery comes from small windfall sites. In such circumstances, the accuracy of projections would be questionable and would undermine the objective of providing clarity to developers and communities. Details of where CIL monies have been spent would help with transparency. There is a further complication in the case of two tier authorities where the collection and payment of contributions are not managed centrally.

### **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.

This used to be common practice until the Oxfordshire County Council High Court decision in 2015. To more closely align with the CIL process, it should be set out in legislation that an additional sum should be required to cover monitoring of the obligations. For simplicity, it would be best for this to be a percentage of the total cost of obligations, but with a cap to prevent sites with large contributions from having a significant additional burden. These contributions should be allowed to be pooled towards monitoring of all obligations and shouldn't be restricted to monitoring only those obligations they are collected from to avoid an unnecessary burden on the authority of demonstrating where the monies have been spent.

## **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?

No

**Question 29**

Do you have any further comments on the definition of strategic infrastructure?

The proposed definition suggests that it would need to be demonstrated that a piece of infrastructure would impact on all the local areas across which the SIT is charged. This would risk making the definition too restrictive as there may be some areas which would not be directly impacted even though a piece of infrastructure may benefit a significant number of areas within a Combined Authority area for example.

**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?

The exact proportion would need to be considered as part of the evidence work for the SIT in order to determine what strategic benefits could be gained from delivering the local infrastructure. The greater the benefit, the higher the proportion that should be allowed to be spent on local infrastructure.

**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?

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