Arun District Council Community Infrastructure Levy Frequently Asked Questions

June 2015

What is the Community Infrastructure Levy (CIL)?

The CIL is a new charge that local authorities in England can place on new development in their area. Detailed information regarding the national guidance on CIL can be found using this link. The money generated through the levy will contribute to the funding of infrastructure to support growth. Arun's CIL will apply to the parts of the district that are not in the South Downs National Park. (The South Downs National Park Authority is preparing its own CIL).

Who can charge and collect the levy?

Most Councils can charge the levy - these bodies are known as the 'Community Infrastructure Levy collecting authority' or charging authority. The levy will normally be collected by the authority that grants planning permission. These bodies all prepare development plans for their areas, which are informed by assessments of the infrastructure needs for which the levy may be collected.

Why has Arun District decided to implement the levy?

The Government, through legislation, has restricted the ability of local authorities to pool funding for off-site infrastructure through Section 106 and the pooling of contributions will only possible through the implementation of CIL. The government believes that this tariff-based approach offers the best way to contribute to funding infrastructure in a fair and transparent manner. The CIL will provide 'up front' certainty about how much money developers will be expected to contribute.

How will the levy affect planning obligations?

Developer contributions are currently collected through Section 106 planning obligations. Planning regulations state that there should be no 'double charging' for infrastructure through CIL and Section 106. After April 2015 the government intends that the pooling of Section 106 contributions will be restricted to no more than 5 applications (with the exception of affordable housing contributions and S278 agreements entered into with the Highways Agency, where the pooling restrictions do not apply). Planning obligations (despite being scaled back) will continue to play a key role in relation to affordable housing and certain site specific requirements.

An infrastructure list, referred to a Reg 123 list (which relates to Regulation 123 "Further limitations on use of planning obligations" of the CIL Regulations 2010 (as amended)) must be prepared to list the items of infrastructure which will be funded by CIL. This list ensures that there is no double counting of payments towards a specific piece of infrastructure by the developer from CIL and S106.

When won't the levy be charged?

The levy will not be charged if there is no extension of floor space as a result of the development (e.g. change of use). Nor will it be charged on structures or buildings that people only enter for the purpose of inspecting or maintaining fixed plant or machinery.

Who is liable to pay the levy?

The responsibility to pay the levy runs with the ownership of land on which the liable development will be situated. Although liability rests with the landowner, the regulations recognise that others involved in a development may wish to pay. To allow this, anyone can come forward and assume liability for the development.

How is the levy paid?

The charge must be levied in £ / m² on the net additional increase in floorspace. It will be collected as a cash contribution although in some cases it may be more appropriate to transfer land ('in-kind') to the charging authority as payment. In such cases the land must be used to provide, or facilitate the provision of, infrastructure to support development in the area.

How is the levy collected?

The levy's charges will become due from the date that a chargeable development is commenced. When planning permission is granted, the Council will issue a liability notice setting out the amount of the levy, the payment procedure and the possible consequences of not following this. Unlike contributions collected through S106 agreements there is no time constraint for the spending of monies collected through CIL.

How will payment of the levy be enforced?

The levy's charges are intended to be easily understood and easy to comply with.
Most of those liable to pay the levy are expected to pay their liabilities without problem or delay. However, where there are problems in collecting the levy charging authorities will have the means to penalise late payment. In cases of persistent noncompliance the regulations also enable collecting authorities to take more direct action such as the issuing of a CIL Stop Notice.

What exemptions are there from paying the levy?

There are four main types of relief from the levy:

- Charitable relief – a charity landowner will be exempt from paying CIL where the chargeable development will be used wholly, or mainly, for charitable purposes. Discretionary relief can be offered in other instances.
- Social housing relief – the regulations provide 100% relief from the levy on those parts of a chargeable development which are intended to be used as social housing.
- Exceptional circumstances – charging authorities have the option to offer relief in cases where the levy would have an unacceptable impact upon the economic viability of a desirable development.
- Self build – The exemption will apply to anybody who is building their own home or has commissioned a home from a contractor, house builder or sub-conractor. Individuals claiming the exemption must own the property and occupy it as their principal residence for a minimum of three years after the work is completed.

Infrastructure spending outside a charging area

Charging authorities may pass money to bodies outside their area to deliver infrastructure which will benefit the development of their area, such as the Environment Agency for flood defence or, in two tier areas, the county council, for education infrastructure. Charging authorities will also be able to collaborate and pool their revenue from their respective levies to support the delivery of 'sub-regional infrastructure'.

How will a charging authority set a rate for their levy?

Charging authorities must produce a document called a charging schedule which sets out the rate for their levy.

The Council will need to draw on the infrastructure planning that underpins the development strategy for the area to help identify the total infrastructure funding gap. Rates set should be supported by evidence, such as the economic viability of new development and the area's infrastructure needs. One standard rate can be set or, if justified, specific rates for different areas and types of development can be established.

The ability to set differential rates gives charging authorities more flexibility to deal with the varying circumstances. In calculating individual charges for the levy, charging authorities will be required to apply an annually updated index of inflation to keep the levy responsive to market conditions.

Preparing the charging schedule

A charging schedule can be produced by a charging authority or a group of charging authorities. The process for preparing the schedule is similar to that which applies to a Development Plan Document. Consultation with the local community must be undertaken on a preliminary draft schedule and then a draft schedule. These consultation stages allow for the consideration of the proposed levy rates. A public examination by an independent person is then required before the charging authority can formally approve it.

Monitoring and reporting spending of the levy

To ensure that the levy is open and transparent, charging authorities must prepare short reports on the levy for the previous financial year which must be placed on their websites by 31st December each year. These reports will set out how much revenue from the levy has been received, what it has been spent on and how much is left.

How will the levy be spent?

Charging authorities are required to spend the levy's revenue on what they see as the infrastructure needed to support the development of their area. The assessment of 'need' will largely by informed by the Infrastructure Delivery Plans (IDPs) published by each authority alongside their Core Strategies. Further prioritisation of infrastructure schemes and the spending of CIL receipts will be agreed through a CIL governance system to be agreed as part of the CIL implementation process.

The levy is intended to focus on the provision of new or improved infrastructure and should not be used to remedy pre-existing deficiencies unless those deficiencies will be made more severe by new development. Charging authorities are required to pass on a proportion of CIL receipts to the neighbourhoods in which development takes place. Fifteen per cent of levy receipts are passed directly to those areas without a Neighbourhood Development Plan in place and twenty five per cent to neighbourhoods, which have a 'made' Neighbourhood Development Plan in place. This will ensure that where a neighbourhood bears the brunt of a new development, it receives sufficient money to help it manage those impacts. However, the mechanism by which funds will be passed down to neighbourhoods is as yet very unclear and more guidance in this regards is expected (but this may not be until the revised CIL regulations are released).

Charging authorities will be able to use revenue from the levy to recover the costs of administering the levy (up to 5% of total revenue). This cost is not insignificant. A Government impact assessment of CIL (January 2011) estimated that the average cost for a local authority to set up CIL in year 1 would be £107,700 with on-going annual costs to follow of £75,500.

Questions and clarification arising from PDCS consultation - March 2015:

Are infrastructure costs justified by the need that arises from development?

All infrastructure costs identified by service providers as part of the preparation of the Infrastructure Delivery Plan (IDP) are directly related to, and justified by, needs arising from proposed development. It should be noted that the IDP is a living document, therefore further infrastructure requirements may be identified as further details regarding site allocations become available.

It would be helpful to publish a summary of the main reasons for a CIL and what it means in simple terms.

CIL is a set charge applied to new development on a per square metre basis. The rates are set out by charging authorities (in this case, Arun District Council), within a document called a charging schedule.

The government introduced CIL to streamline and simplify the planning contributions process. The intention was for CIL to allow the implementation of a set rate for development to pay for infrastructure requirements as a result of planned growth.

Unclear why the coastal belt CIL is set at £100/m² when the Inland figure is £250/m²? It is very obvious that infrastructure funding is required for improved sea defences along the entire Littlehampton to Pagham stretch so why is the opportunity not taken to include that?

The CIL rate is determined by the viability of development and not by the type of infrastructure required in an area. However, CIL receipts will be collected and can be spent on those items of infrastructure, required as a result of development, which are prioritised by the charging authority. This means that receipts collected from development in one part of the district could be spent in another area.

S106 funds may reduce the need for CIL funding in some places, but unfortunately these funds do not always get delivered by developers. Is it not better to wrap it all up in one fund so that the local authorities can ensure that all the required new infrastructure is actually delivered where and when it is required?

It is possible to undertake the viability assessment and remove the on-site infrastructure requirements for strategic sites from the calculations. If this approach was taken, there would be no variation in CIL rates between Zones 1 and 2 and the strategic sites at BEW and Angmering. However, this approach means that on site infrastructure would need to be funded by a centralised funding pot of CIL receipts, which is subject to prioritisation processes and may not come forward in time to achieve phasing requirements on strategic sites. Certainty over delivering required infrastructure would be diluted compared to requiring infrastructure through S106 agreements.

Climping has no housing allocation within the draft ADC Local Plan. As I understand it this means that despite having a Neighbourhood Plan (now out for public

consultation) this Parish would not qualify for 25% of its share of the CIL funds (or the 15% allocation).

Your understanding is correct. However, any windfall[1] sites in Climping, which may come forward over the plan period, would result in 25% of the total CIL payments.

CIL funding cannot be used to solve existing problems, only new ones. Whilst this sounds fair in theory the truth is that new demands on a road network can turn an already poor situation into a much worse one.

Paragraph 071 of the CIL Guidance states:
"Local authorities must spend the levy on infrastructure needed to support the development of their area, and they will decide what infrastructure is needed. The levy is intended to focus on the provision of new infrastructure and should not be used to remedy pre-existing deficiencies in infrastructure provision unless those deficiencies will be made more severe by new development."

The Town Council questions the assumption made by the District Council's consultants that town centre development cannot attract CIL. It is current Government policy to encourage the regeneration of town centres and this stance takes no account of the change of use from retail to residential that is becoming a feature of the evolution of the town centre environment in Littlehampton (e.g. the conversion of public houses into small residential developments at The Britannia, The Locomotive and The Gratwicke Arms and upcoming proposals to convert The Globe in to 5 residential apartments). It is the view of the Town Council that re-development of these areas should be subject to CIL in the same way as non-town centre areas.

The CIL Guidance states that Levy rates are applied to the gross internal floorspace of the net additional development liable for the levy. Therefore the conversion of existing public houses, as provided in the example above, to residential development will be liable for CIL but will only raise CIL receipts on the net additional floorspace developed.

Town centre retail uses are zero rated because viability assessment has shown that it would not be viable to charge CIL on new town centre retail developments. If a CIL charge was set which could make town centre development unviable, this would have a detrimental effect on the regeneration of the town centre.

Where the IDP states that infrastructure would be required to support development, clarification is required regarding the details of this. For example, the NHS have indicated that re-provision of Littlehampton Health Centre would be essential if a development of 1,000 new homes were planned and developed within the Littlehampton Economic Growth Area over the Plan period.

The IDP is a living document, therefore further details will be sought from the NHS regarding healthcare provision as the Area Action Plan for LEGA is further developed and the IDP is updated.

[1] A windfall site is a development (one residential unit or more) which is not planned for/allocated through the Local Plan but is put forward by an applicant; considered on its own merits against the policies in the Plan and is approved.