

<b>Committee(s)</b>	<b>Dated:</b>
Planning & Transportation Committee – For decision	08/05/2018
<b>Subject:</b> City Corporation response to Government consultation on supporting housing delivery through developer contributions	<b>Public</b>
<b>Report of:</b> Carolyn Dwyer, Director of the Built Environment	<b>For Decision</b>
<b>Report author:</b> Peter Shadbolt, Assistant Director (Planning Policy)	

### Summary

Contributions from development towards local infrastructure and affordable housing are collected principally through s106 planning obligations and the Community Infrastructure Levy (CIL). Detailed national regulations and planning guidance set out how these mechanisms should operate. Nationally, concerns have been raised about how developer contributions are assessed, collected and spent. In the 2017 Budget, the Chancellor outlined the Government's intention to bring forward changes in the way that both CIL and s106 operate. These proposals have now been published for public consultation.

The key proposals include measures to: reduce complexity and increase certainty in the setting of CIL and use of s106, increasing the responsiveness of CIL to market changes, and improving transparency and increasing accountability of CIL and s106 through improved monitoring and reporting. Proposed changes to the way that viability assessments are used are set out in detail in draft changes to the National Planning Policy Framework and considered in a separate report on this Committee agenda.

The overall package of proposed reform to the developer contributions process can be welcomed. Changes to the way in which CIL charging schedules are set, the relationship between CIL and local planning, changes to the s106 pooling regulations and improvements to monitoring and reporting to increase transparency, will all help to deliver benefits within the City in the way that CIL is set, collected and used to support infrastructure delivery. Changes are suggested to several of the proposed reforms to ensure that CIL continues to have the support of local communities and the development industry and can be administered efficiently, specifically the need to retain a period of formal public consultation in CIL setting and the need for a single and simple method of indexation based on the Consumer Price Index.

### Recommendation(s)

Members are recommended to:

- Agree the comments set out in paragraphs 7 to 20 of this report, and the detailed comments in Appendix 1, as the City Corporation's response to the

Government's consultation 'supporting housing delivery through developer contributions'.

## **Main Report**

### **Background**

1. Contributions from development towards local infrastructure and affordable housing are collected principally through s106 planning obligations and the Community Infrastructure Levy (CIL). Detailed national regulations and planning guidance set out how local planning authorities should operate both CIL and s106 and the relationship between the two mechanisms. The Government's intention is that CIL should be the principal source of developer contributions towards new infrastructure, with s106 limited to the delivery of site specific mitigation and affordable housing.
2. Nationally, a number of concerns have been raised about the process for collecting developer contributions, including concerns at the slow and partial take up of CIL, continued delays in agreeing s106 planning obligations, increased use of viability appraisals to reduce required obligations, and lack of responsiveness of CIL to changes in the market and lack of transparency in how CIL and s106 monies are spent.
3. To address these concerns, the Government appointed a CIL Review Panel to advise on potential changes to the CIL and s106 systems and, although the Government has not taken forward all the Review Panel recommendations, the Chancellor committed in Budget 2017 to consultation on a package of reforms. These were published in March 2018 alongside wider reforms to the National Planning Policy Framework.
4. This report considers proposed reforms to CIL and s106 set out in 'supporting housing delivery through developer contributions'. Closely related reforms, including changes to the way that viability assessments are undertaken and published, are considered in the proposed response to changes to the National Planning Policy Framework, which is also on this Committee agenda.
5. The City Corporation adopted its CIL in June 2014 and at the same time adopted a Planning Obligations Supplementary Planning Document, setting out how both CIL and s106 will be used to help fund necessary infrastructure and affordable housing provision.

### **Current Position**

6. The consultation paper proposes a number of reforms to CIL and s106, including proposals to:
  - Reduce complexity and increase certainty, though changes to the process for setting CIL, lifting the restrictions on the pooling of s106 and improving the operation of CIL.

- Increasing market responsiveness, through allowing CIL rates to capture more of the uplift in land value from planning permission and changing indexation of CIL.
- Improve transparency and increase accountability, through removing requirements for Regulation 123 lists of the infrastructure to be funded through CIL and introducing a new reporting mechanism – the Infrastructure Funding Statement.

## Proposals

7. The following paragraphs set out comments on key elements of the proposed changes to development contributions and suggested responses in italics. Appendix 1 contains more detailed comments in response to the 34 questions raised in the consultation document and it is recommended that this Appendix, together with the comments below, be forwarded to the Ministry of Housing, Communities and Local Government as the City Corporation's formal response to the consultation.

### **Reducing complexity in CIL setting**

8. The Government is seeking greater integration between CIL setting and local plan preparation by aligning the evidence required. Viability evidence required to support local plan preparation will be sufficient for setting CIL without a need to commission a separate viability appraisal. Evidence of infrastructure needs prepared for local plans will be sufficient to inform CIL setting and current requirements to demonstrate an infrastructure funding gap to justify the need for CIL will be relaxed.
9. **Comment:** *The principle of greater alignment between local plan preparation and CIL charging schedule preparation is strongly supported. This will ensure consistency between local plans, the identification and delivery of local infrastructure needs and CIL, s106 and s278 funding. Alignment will enhance the visibility of infrastructure planning and delivery for local communities and the development industry. Further guidance which requires CIL setting to take account of emerging local plan policy would be helpful. This would ensure that any additional costs imposed on developers through new policy requirements can be factored into the consideration of the appropriate level of CIL.*

### **Ensuring consultation is proportionate**

10. The Government proposes to simplify requirements for consultation on CIL, removing the current statutory requirement for two rounds of public consultation (at preliminary and draft charging schedule stages) with a requirement to publish a statement on how the local authority has sought an appropriate level of engagement. This would then be considered by the inspector at the CIL public examination. The Government considers that this would allow local authorities to tailor consultation to that which is considered to be most appropriate, saving time and resources.
11. **Comment:** *The principle of simplifying and potentially shortening CIL consultation is supported, but there should remain a statutory requirement for full public consultation at the draft CIL stage to ensure that there is sufficient and*

*effective consultation with local communities, developers and others as CIL charges are set. National guidance should encourage local authorities to coordinate consultation on CIL with consultation on local plans, where feasible, to ensure close coordination between the planning of new infrastructure and potential funding sources for that infrastructure.*

### **Removing s106 pooling requirements**

12. CIL Regulations prevent a local authority from pooling 5 or more s106 planning obligations to fund a specific item of infrastructure. The Government has recognised that this limitation may be holding back development, making the delivery of infrastructure longer, slower and more difficult, particularly for larger strategic development sites. The Government therefore proposes to remove the current pooling restriction for all areas that have adopted a CIL, those where development is planned for strategic sites and in those areas where CIL cannot be viably charged.
13. **Comment:** *This change would remove the s106 pooling restriction for the City Corporation, which has an adopted CIL, and is supported in principle. Deleting pooling restrictions should remove unnecessary uncertainty and complexity in the development and implementation of public realm, transportation and other infrastructure schemes in the City. Elsewhere the Government is proposing new reporting requirements for CIL charging authorities in the form of Infrastructure Funding Statements, which will provide greater transparency on the collection and spending of CIL and s106 and which will be essential to avoid potential issues of double charging developers for the provision of the same infrastructure.*
14. *Although not relevant to the City as an existing CIL Charging Authority, the proposals to relax pooling mechanisms in defined circumstances rather than across the board will result in a complex pattern of authorities where pooling is, or is not, allowed. To avoid this complexity and potential uncertainty for developers, the Government should consider removing the pooling restriction in its entirety.*

### **Setting CIL by reference to existing land use**

15. CIL rates are set by reference to future land uses, with charge rates determined by infrastructure needs generated by the development and viability considerations. The Government considers that local authorities should also be given the option of setting CIL in relation to existing land uses as this would allow them to better capture the increase in land value generated by planning permission and thereby more effectively fund the infrastructure needed to support development.
16. **Comment:** *Land values in the City are high and almost all City development takes place on previously developed land. City land values do not change as dramatically due to development as happens elsewhere when greenfield sites are developed. Therefore, setting CIL rates based on existing land use is unlikely to be a significant benefit to the City Corporation. The emphasis in policy and guidance should remain that CIL should be set according to the proposed land use, as it is this new development which will generate new infrastructure needs. However, in areas with low existing land use values and planned strategic development sites, land value uplift on planning permission could be significant*

*and allowing CIL rates to be set in relation to existing land use may help capture a greater proportion of this uplift to invest in necessary infrastructure.*

### **Indexation of CIL**

17. CIL charges rates are indexed from the date a CIL is adopted by a local authority to the date that planning permission is granted for a development, using the Building Cost Information Service All-in Tender Price Index. The Government proposes to make indexation more market responsive by indexing CIL residential rates to house price inflation, and for other development to the Consumer Price Index.
18. **Comment:** *The existing BCIS index is subject to constant adjustment and revision making it difficult to identify the correct level of uplift. The index is available only on subscription, so it is not visible to all, particularly local communities. Moving away from BCIS will make indexation more publicly visible and less subject to ongoing revision and is therefore supported in principle. However, setting different indices for residential and other development adds further complexity, for example where there is a mix of uses on a site, or even within a building, different indices could be applied. Indexation should be simple and easily understood. CPI is widely understood metric which relates to general inflation and it is suggested that this should be adopted as the single indexation measure for CIL.*

### **Increased Transparency – Regulation 123 Statements and Infrastructure Funding Statement**

19. CIL Regulations require local authorities to publish a public statement, the Regulation 123 List, identifying what types of infrastructure, or specific infrastructure projects, will be funded through CIL. Regulations require local authorities to report annually on CIL receipts and spend, but developers and others have expressed concern about how much money has been raised by CIL and what it is being spent on. The Government considers that greater transparency would increase confidence in the CIL system and address community concerns about the impacts of new development. The Government proposes to remove the requirement for a Regulation 123 List and to require the provision of more information about the collection and use of CIL through a new Infrastructure Funding Statement. This Statement would set out how much CIL and s106 has been received, how much has been spent and what it has been spent on, and the local authority's plans for spending CIL and s106 over the next 5 years.
20. **Comment:** *The proposal to remove Regulation 123 lists and strengthen reporting on CIL and s106 receipts, expenditure and future spending plans is welcome. The new Statement will increase transparency over the collection and spending of CIL and s106 for local communities and developers and provide greater certainty over future local authority investment plans.*

### **Corporate & Strategic Implications**

21. The Government's proposed changes should deliver greater transparency in the collection and spending of CIL and s106 and reduce uncertainty and complexity

in the CIL setting and charging process for the City Corporation, local communities and developers. It should better enable the delivery of necessary infrastructure to support development in the City and deliver the Vision and Objectives of the 2018-23 Corporate Plan, contributing to a flourishing society, supporting a thriving economy and shaping outstanding environments.

## **Implications**

22. Implementation of the proposed changes should ensure better alignment of CIL setting with the City of London Local Plan and simplify consultation and CIL administration, potentially delivering efficiency savings.

## **Conclusion**

23. The Government has published proposals for a review of developer contributions to support new housing and other development. The proposed changes relate principally to the process for setting a Community Infrastructure Levy, collecting CIL receipts and how these receipts should be used to fund new infrastructure. A separate consultation on changes to the National Planning Policy Framework considers changes in the way that viability assessments are undertaken and used to support new development.
24. The overall package of reforms to the developer contributions process can be welcomed. Changes to the way in which CIL charging schedules are set, the relationship between CIL and local planning, changes to the s106 pooling regulations and improvements to monitoring and reporting to increase transparency, will all help to deliver benefits within the City in the way that CIL is set, collected and used to support infrastructure delivery. However, amendments need to be made to several of the proposed reforms to ensure that CIL continues to have the support of local communities and the development industry and can be administered efficiently. Specifically, there is a need to retain a period of formal public consultation in CIL setting and the need for a single and simple method of indexation based on the Consumer Price Index.

## **Appendices**

- Appendix 1 – City of London Corporation detailed comments on the Developer Contributions Consultation.

## **Peter Shadbolt**

Assistant Director (Planning Policy)

T: 020 7332 1038

E: [peter.shadbolt@cityoflondon.gov.uk](mailto:peter.shadbolt@cityoflondon.gov.uk)