



Japan Local Government Centre, London

Monthly Report for March 2010 (England) – Community Infrastructure Levy

Background

Section 106 (s.106) of the Town and Country Planning Act 1990 allows a local planning authority (LPA)¹ to enter into a legally-binding agreement or planning obligation with a landowner in association with the granting of planning permission. The obligation is termed a Section 106 Agreement. These agreements are a means of delivering or addressing matters that are necessary to make a new development acceptable in planning terms (i.e. viable and sustainable). They are increasingly used to support the provision of services and infrastructure, such as highways, recreational facilities, education, health and affordable housing.

The scope of such agreements is laid out in the Government's *Circular 05/2005*. Matters agreed as part of a s.106 must be:

- relevant to planning
- necessary to make the proposed development acceptable in planning terms
- directly related to the proposed development
- fairly and reasonably related in scale and kind to the proposed development
- reasonable in all other respects.

The *Barker Report on Housing Supply* by the Bank of England's Kate Barker, jointly commissioned by HM Treasury and the then Office of the Deputy Prime Minister in March 2004, recommended the introduction of an explicit tax on development gains, instead of extending s.106 agreements in that direction. The tax – the Planning-gain Supplement (PGS) - was to be levied on the increase in land value resulting from the grant of planning permission. After consultation, the Government introduced legislation – the Planning-gain Supplement (Preparation) Act 2007 – to enable up to £50m to be spent in preparation for PGS, should the Government decide to go ahead. Further consultation followed but the proposal did not gain wider support. In the Pre-Budget Report of October 2007, the Government announced the replacement of PGS by a planning charge. The Planning Act 2008, when brought into force, will grant the Secretary of State enabling powers to introduce a scheme for the planning charge which was called the Community Infrastructure Levy (CIL) in the Act.

¹ Any local authority with a planning function, as well as National Parks Authorities and the Olympic Delivery Authority

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Community Infrastructure Levy

The Community Infrastructure Levy is a new power that allows councils to raise funds from developers alongside new building projects to help build infrastructure, such as new schools, hospitals, roads and transport schemes as well as libraries parks and leisure centres.

The new system is intended to give developers certainty over the contributions they have to make to support local communities when they plan projects, ensuring that developers pay a fair share towards new local services that are needed. The regulations, published in Parliament in February 2010, allow councils to potentially raise an extra £700m a year, where councils choose to use the new power. From April 2010, s.106 agreements will only be permitted if they are directly related to the new developments. By 2014 s.106 agreements will be scaled back further to ensure they operate effectively alongside the CIL. Key improvements to the final regulations include:

- allowing up to 100 per cent CIL relief in exceptional circumstances for developments that would otherwise not proceed
- allowing payments of CIL to be made in-kind in the form of land provided that land is transferred with the intention of providing infrastructure
- doubling the standard payment period to 60 days to ease cash flow for developers; and allowing payment by instalments in many cases
- introducing the potential for local authorities to borrow against future CIL receipts to allow infrastructure provision to be unlocked earlier in development, subject to the overall fiscal position of the country
- providing additional reliefs for developing charities in line with the Government's commitment to the voluntary and community sector
- providing 100 per cent exemption from CIL for most types of affordable housing
- enabling authorities to draw the administrative costs of CIL from CIL receipts, subject to a 5 per cent cap to maximise revenue for infrastructure.

The Government will now move to the next phase of delivery, this will include:

- a new policy on planning obligations to reflect the introduction of CIL and deliver the Government's commitment to streamline planning policy;
- new guidance to support local authorities considering introducing CIL
- discussions with the Local Government Association and other stakeholders already underway to establish what other support and tools are needed by local authorities to introduce CIL

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