

Community infrastructure levy

The Community Infrastructure Levy (CIL) is a new charge that local planning authorities in England and Wales will be empowered, but not obliged, to charge on most types of new development in their area. The intention is that the levy will be based on simple formulae that relate the size of the charge to the size and character of the development. The proceeds of the levy will be spent on local and sub-regional infrastructure to supply the development of the area.

At present, section 106 planning agreements deal with issues of planning gain when land is developed. A major housing development, for example, will be expected to ensure that the consequences of the development are provided for through the provision of new schools, new roads, doctor's surgeries, libraries etc. It is expected that CIL will fund larger infrastructure projects leaving section 106 agreements to deal with the direct and specific consequences of site developments. Section 106 agreements will continue to deal with the provision of affordable housing.

CIL has been heavily criticised by stakeholders. In particular, it is seen as a development land tax by stealth. Much of the detail of the proposals is left to subsequent planning regulations which have yet to be drafted. It is therefore impossible to tell at this stage what the impact of CIL will be.

CIL forms part of the Planning Act that received the Royal Assent on 26 November. One specific late amendment that was proposed in the Lords was that charities should be excluded from payment of CIL. The government accepted that CIL regulations must provide an exemption to pay CIL where the development is undertaken by a registered charity and the development would be used wholly or mainly for charitable purposes but stopped short of providing a blanket exemption.

So a charity that provides accommodation for the homeless would not pay CIL on the construction of a new hostel for the homeless. However, it seems that CIL would apply where a charity sells a piece of land with planning permission for commercial development even where the proceeds are used wholly for the purposes of the charity.

Regulations may provide for an institution to be treated as one established for a charitable purpose to which an exemption or reduction in CIL may apply. So social housing providers who are not charities may still be helped and the government has said that the use of powers to impose differential rates to reduce CIL charges could extend to benefit all providers of social housing.

It is expected that local planning authorities will have to spend much time and resources in calculating the levy to be paid for various types of development. The government has recently announced that CIL regulations will not be made until October 2009, a postponement from Spring 2009. Local authorities will have to submit their charging schedules to independent public examination. Formal adoption procedures similar to that of the Local Development Framework (LDF) will apply. It is therefore highly unlikely that the levy will start to bite until late 2010 at the earliest. If timescales seen in the adoption of LDF's are any guide, many local authorities will not be charging CIL for some years to come.

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