



Community Infrastructure Levy Review

Questionnaire Response

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Planning Strategy

Community Infrastructure Levy Review Questionnaire Response

Brief description of your interest and involvement in CIL.

Cornwall Council is the only planning authority in Cornwall and is in the process of developing a CIL, with a view to being the Charging and Collecting Authority.

If a local authority, the precise stage you have reached in the CIL process.

Work towards developing a CIL in Cornwall began in 2011, with viability studies being conducted in 2012, and a Preliminary Draft Charging Schedule being consulted on in March 2013. Progress since this time has been put on hold due to focus being on development of the Local Plan. However, with the Local Plan being submitted for examination in January 2015, development of the CIL is now progressing again. Viability studies and infrastructure needs assessments are currently being refreshed to ensure evidence is up to date, with a view to a Draft Charging Schedule being ready for consultation during the first half of 2016.

Questionnaire Response

Infrastructure	
Consultation Question	Response
i. To what extent is CIL contributing, or will it contribute, to infrastructure to support development and is that infrastructure being delivered?	<p>Cornwall Council is currently in the process of developing its CIL Charging Schedule. Initial viability work undertaken to inform the draft Preliminary Charging Schedule identified the potential to generate approximately £62m from new development across Cornwall up to 2030; a relatively small number when set against the identified funding requirement to meet Cornwall's infrastructure needs of approximately £4bn.</p> <p>The Council currently collects approximately £4.4m per year from s.106 planning obligation contributions, including approximately £0.9m for affordable housing financial contributions. This compares favourably to the projected CIL income of £3.1m per year, based on a flat development trajectory.</p> <p>Restrictions on pooling infrastructure contributions from more than 5 s.106 agreements are acting as a constraint to the Council's ability to collect funding for development by reducing flexibility. These restrictions are likely to continue to prevent the Council from making best use of the available infrastructure funding mechanisms, despite the intention to introduce a CIL to sit alongside s.106.</p> <p>Financially the CIL will bring in less money than s.106, but there will be greater flexibility to spend the CIL income. In particular, the CIL has the potential to be an important element of funding local infrastructure through the successful implementation of neighbourhood plans. However, in an area</p>

	such as Cornwall, where there are many competing demands over a wide area and a keen interest in providing neighbourhood plans, the competition for the CIL represents a potential weakness and places the emphasis on a strong political steer.
ii. Has the role of the Planning Authority changed with the introduction of CIL and if so where has this worked most effectively?	Not applicable as CIL not implemented within Cornwall Council yet.
iii. How are large items of essential infrastructure critical for key sites or growth locations being secured in the CIL and s.106 system?	Cornwall Council is currently considering its approach to this matter and is likely to seek the critical infrastructure that is needed to open up and support large sites through s.106 or s.278 contributions rather than CIL. The Council anticipates that this approach will result in a greater level of certainty over the provision of critical infrastructure. However the Council recognises that funding for major infrastructure is still largely dependent upon other sources and bids to funds such as Growth Deal.
iv. What role are CIL and s.106 playing alongside other sources of infrastructure funding and could changes to CIL (e.g. the ability to borrow against it or in kind contributions) allow it to be more effective?	The Council has a well-established mechanism for securing contributions from development (via s.106) towards transport infrastructure. These contributions have been utilised to help unlock match funding from other funding streams, such as Growth Deal funding through the Local Enterprise Partnership. This approach has secured £48m of Growth Deal towards a programme of strategic transport measures designed to accelerate housing and employment development. The Council understands that the funding collected via s.106 contributions won't always be available within the timescales of other funding streams and is prepared to forward fund where appropriate to ensure the opportunity to deliver critical infrastructure is secured. Securing contributions through s.106 agreements that reflect the cumulative and proportional effects of development on the strategic network is key to the success of this approach. Given the low income anticipated with the introduction of the CIL, the greater competition for that funding from local sources and restrictions around forward funding, the Council has concerns that transport infrastructure will become more difficult to fund in

	<p>this way under the CIL.</p> <p>In the case of education infrastructure provision the Council has a clear approach to s.106 contributions that is working well with an accepted process for payments and school schemes being approved. The Education Funding Agency is clear that we must use s.106 as a funding mechanism to top up the Council's basic need allocation and to some degree, meet the shortfalls in other government bidding programmes such as Targeted Basic Need, which has been significantly underfunded. As the Council moves towards the implementation of the CIL in Cornwall it is critical that the clarity and transparency that this process provides is retained.</p> <p>Open space is another priority for the Council – one which is difficult to fund via offsite contributions where pooling of s.106 agreements is limited. The introduction of the CIL in Cornwall (or the removal of s.106 pooling restrictions) would alleviate this issue. However, open space in Cornwall remains dependent on achieving funding from multiple sources. The ability of an open space project to attract match funding is often used to determine its priority, as it can indicate the value of the scheme to local partners and the community. The Council's <i>S.106 Contribution (Open Space) Allocation Protocol</i> places an obligation on schemes costing more than £25,000 to demonstrate some form of match funding. However, current high levels of competition for grant funding is making the identification of suitable match funding more challenging.</p> <p>The Council faces significant challenges in funding infrastructure in Cornwall (currently via s.106) and that match funding is playing a key role across our infrastructure priority areas. The Council is in the process of moving towards the introduction of a CIL for Cornwall and is conscious of the fact that flexibility must be retained to ensure the most effective use of funding can be applied. In reviewing the CIL, the following provisions should be carefully</p>
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	<p>considered.</p> <ol style="list-style-type: none"> 1. The process should be designed to expedite the use of match funding where it is or can be made available to fund infrastructure. 2. Local authorities should be able to forward fund infrastructure and recover those costs from future CIL receipts. 3. Local planning authorities should be able to contract with party providers to delivery infrastructure with the costs recovered from future CIL receipts. 4. Sufficient flexibility should be built into the process to enable the most effective mechanism to be used in each case (this includes the use of s.106 where appropriate and clarity over the role of forward funding). 5. Clarity is needed over the rule of the Regulation 123 list, in particular, the extent to which flexibility can be designed in to allow the Council to respond to both opportunity (onsite delivery or the availability of specific funding streams) and the varying requirements of infrastructure providers.
<p>v. What has been the impact of pooling restrictions? Is there a difference between authorities which have adopted CIL and authorities which have not adopted CIL?</p>	<p>Ahead of the introduction of a CIL in Cornwall the Council has faced significant challenges in both funding and delivering infrastructure projects following the restriction on our ability to pool more than five s.106 contributions for infrastructure funding. Delivery rates have slowed significantly while innovative ways of providing the necessary infrastructure are considered prior to releasing planning consents. The restriction has made it more difficult to demonstrate the benefits that can be obtained from development and it has increased the likelihood of judicial challenge and of planning applications being refused where the necessary accompanying infrastructure cannot be provided.</p> <p>In terms of education infrastructure provision the Council has responded to the pooling restrictions by developing a more focused approach to allocating funding, concentrating s.106 agreements on specific schools and projects.</p>

	<p>This has implications for managing the process of upgrading and expanding Cornwall's schools, because it can force the Council to make a decision about which school expansion scheme to pursue in advance of the feasibility work and approval process required to determine the best solution to demand in an area. The s.106 pooling restrictions have also placed additional demand for resource on the Council with additional officer time being put towards case by case assessments in relation to development proposals which do not always come to fruition.</p> <p>In the case of open space provision the implications of the s.106 pooling restrictions, which require detailed monitoring and evidence gathering, are significant and wide ranging. Some of the key issues and challenges are identified below:</p> <ul style="list-style-type: none"> • The pooling restrictions place an increased emphasis on a detailed understanding of future needs, trends and impacts on the provision of open space in response to housing growth. In an areas the size of Cornwall, this information is difficult to establish with great certainty. • Where there is a good understanding of open space needs, these are subdivided into up to 7 different categories/types. This implies significant complexity in terms of identifying specific projects on in specific locations which can be funded (or part funded) through s.106. A detailed allocation strategy is therefore required, adding to the complexity of the funding process. • In some cases s.106 agreements are superseded (more than 1 permission and s.106 agreement per site) or amended ('section 73' agreement). This loss of funding sources in these cases is entirely unnecessary and unacceptable. • The monitoring, evidence gathering and strategy formulation implications place additional resource pressures on the Council. • The pooling restrictions make it necessary to identify specific sites or projects ahead of the decisions to issue planning consents for small scale
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	<p>development as well as large developments. The process of identifying sites and projects to provide suitable open space to meet the needs of small scale developments is particularly challenging with the implication that many small developments will not make a contribution to the provision of open space with the local area.</p> <ul style="list-style-type: none"> • New strategic facilities such as new sports fields, allotments or teenage facilities are likely to need new sites, which will require detailed investigation and planning approval. Naming a site ahead of this feasibility stage introduces additional risk to the process of delivering the infrastructure, but failure to identify specific sites or projects risks missing out on the s.106 funding that is required to take the project into the development stage. <p>The impact of the pooling restrictions has also been significant in relation to the provision of transport infrastructure in Cornwall. Prior to the introduction of these restrictions the Council operated a well-established process for developer contributions which was proportional and fair, being based on the trip rates generated by each development. The transport infrastructure schemes were identified as part of an overarching strategy for each town, based on growth allocations and more detail site allocation proposal. In each case a significant level of match funding was assumed/allocated. The introduction of pooling restrictions makes this strategic approach to transport solutions very challenging. The Council is now in a position of negotiating with individual developers to deliver strategic schemes (which is often an unviable position), or having to determine whether a minor infrastructure upgrade will be sufficient to make the development acceptable (regardless of the long term development strategy for the town).</p> <p>In summary, the Council does not believe that the introduction of restrictions on the ability to pool funding from more than five s.106 contributions has had a positive effect on the provision of infrastructure or housing in Cornwall. The</p>
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	<p>changes have not helped stimulate the housing market nor reduce costs associated with the administration of the development consenting and infrastructure delivery processes. There are also significant concerns that Cornwall's rural locations, where development is predominantly delivered across a range or smaller sites, will suffer from reduced funding for vital community infrastructure. Fundamentally, the restrictions restrict flexibility in terms of securing funding for infrastructure which is a particular challenge in areas where viability varies and small developments make up a significant proportion of the housing delivery.</p> <p>The Council anticipates that the introduction of the CIL will help to mitigate some of these concerns. However, the Council strongly recommends that the CIL Review carefully considers the extent to which the CIL can be used flexibly alongside s.106, including reviewing the restriction on pooling of s.106 contributions. If the Government is unwilling to consider reversing the decision to restrict s.106 pooling, there may be merit in removing the restriction for those authorities which implement the CIL as an incentive to do so.</p>
vi. What impact do exemptions and reliefs have on delivering infrastructure?	Not applicable as CIL not implemented within Cornwall Council yet.
vii. How are local authorities who have not adopted CIL making provision for infrastructure and how effective are these approaches?	Cornwall Council currently uses a combination of s.106 funding contributions and other sources of funding. In the case of strategic economic regeneration priorities, the Council seeks to access European Structural Funds to provide a significant proportion of the funding required, often matched alongside s.106 contributions. Locally significant infrastructure is funded primarily through s.106 alongside specific grants (smaller scale) where available. Prior to the introduction of restrictions to the number of s.106 contributions that can be pooled towards a specific infrastructure type of project the Cornwall's key infrastructure provides are largely in agreement this process has proven to be effective.

	<p>Following the introduction of the s.106 pooling restrictions this approach to infrastructure funding has become more challenging. It has introduced additional cost in terms of administration and strategy development. It has restricted the amount of funding flowing to infrastructure projects and, in some cases, resulted in lost opportunities. It has also added uncertainty at the infrastructure project development stage where the restrictions require investment decisions ahead of the desirable level of feasibility work.</p>
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Viability	
Consultation Question	Response
viii. Has a lack of viability resulted in a failure to develop a CIL?	Not applicable as CIL not implemented within Cornwall Council yet.
ix. Have viability concerns resulted in a low CIL level and has this had an adverse impact on the delivery of infrastructure to support development?	Not applicable as CIL not implemented within Cornwall Council yet.
x. Are there appropriate tools available for establishing viability? Would standardisation using just one methodology be helpful or feasible?	<p>Cornwall is a large and geographically diverse area with significant variations in the housing market across relatively short distances. Viability assessment undertaken to support the development of the CIL and determine Cornwall’s emerging affordable housing policies highlights some inconsistencies with recent delivery levels of both infrastructure and affordable housing in practice. This is particularly relevant in areas which are generally considered to be low value housing market areas.</p> <p>The Council would only support the adoption of a standard methodology where that methodology incorporates sufficient flexibility to allow for</p>

	variation in performance across the local economy and housing market, or where the overall approach to collection of funds for infrastructure (taking account of all the mechanisms available), makes provision for negotiation where viability varies across geographic areas. This flexibility could sit outside the CIL where the use of s.106 contributions is not restricted.
xi. Do you have specific examples where non-viability on account of CIL has prevented development?	Not applicable as CIL not implemented within Cornwall Council yet.
xii. Is CIL impacting on affordable housing provision?	<p>The impact of the CIL is a less flexible approach to affordable housing provision. This is a particular challenge for large local authorities or areas where there is significant variation in viability. In such areas, the ability to adopt a flexible policy towards affordable housing has been critical to meeting housing needs.</p> <p>The configuration of CIL gives a false impression of precision which does not exist in reality. The result is the worst case scenario in terms of securing funding both in terms of the CIL and in terms of setting an affordable housing target.</p>
xiii. In setting a CIL Charging Schedule has the development community played their part and been properly consulted on issues of local viability?	Cornwall Council is in the process of assessing viability as part of the preparation of Cornwall's draft CIL Charging Schedule. The development community have been involved in the process through their engagement in the Council's formal public consultation on its Preliminary Draft and via the Council's 'developer forum'. The Council has used the developer forum to discuss the CIL at various stages, receiving feedback on the viability assessments and charging rates in particular. A further developer forum is planned to explore the latest updates to the Council's viability assessments prior to finalising the Charging Schedule for submission. The Council believes that this approach of using targeted sessions with the development sector at various stages of development of the CIL, alongside wider public

	consultation, represents a reasonable way of facilitating ongoing engagement with developers.
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Charge-setting	
Consultation Question	Response
xiv. Is the EIP process suitably robust?	Not applicable as CIL not implemented within Cornwall Council yet.
xv. Should there be a requirement to review charging schedules at set times, if so when and why?	<p>At present CIL Charging Schedules must be developed to ensure that the rates levied do not harm the viability of development throughout the economic cycle. A requirement to review the CIL periodically would reduce the need to include the level of headroom in the Charging Schedule that is currently required to ensure it accounts for the whole economic cycle. However, if a review requirement is introduced consideration must be given to the need to provide certainty to the development sector and to ensure that local planning authorities can resource the reviews.</p> <p>The Council is therefore of the view that, while a periodic review requirement might be helpful in allowing local planning authorities to optimise charging rates, it should allow sufficient time to create certainty for all parties involved. It is therefore recommended that, should a review requirement be introduced, it should be set at five years, with an option for local planning authorities to undertake a full or partial review within that period should market conditions or policy considerations indicate that it is necessary.</p>
xvi. Should partial reviews (eg. types of use or location) be possible?	<p>The Council would welcome the introduction of partial reviews under the following circumstances:</p> <ol style="list-style-type: none"> 1. They are voluntary and at the discretion of the local planning authority. 2. The process is significantly simpler and shorter than the process for

	<p>preparing, assessing and adopting the Charging Schedule.</p> <p>3. There is sufficient flexibility to allow a review to be undertaken to take advantage of opportunity or support mechanisms for promoting economic development in certain locations (for example, aligned to enterprise zones).</p>
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CIL Regulations and Guidance	
Consultation Question	Response
xvii. Are the CIL regulations and guidance easy to use and understand?	<p>The Council is in the process of preparing its CIL Charging Schedule and the comment below is submitted in relation to the regulations and guidance that relates to the this process.</p> <p>The Council considers that both the regulations and guidance are relatively clear and unambiguous. However, further clarification around the Judicial Review period post approval of the Charging Schedule would be welcomed.</p>
xviii. Are there improvements that could be made to the arrangements for collecting and spending CIL?	Not applicable as CIL not implemented within Cornwall Council yet.

Neighbourhood issues	
Consultation Question	Response
xix. How have the requirements for the Neighbourhood proportion of CIL been	Not applicable as CIL not implemented within Cornwall Council yet.

implemented?	
xx. Is this encouraging communities' to support development?	Not applicable as CIL not implemented within Cornwall Council yet.

Overall system	
Consultation Question	Response
xxi. Has the introduction of CIL made the system for securing developer contributions and delivering infrastructure simpler, fairer, more predictable, transparent and efficient?	Not applicable as CIL not implemented within Cornwall Council yet.
xxii. Is the relationship between CIL and s.106 fit for purpose and how is this working in practice?	Not applicable as CIL not implemented within Cornwall Council yet.
xxiii. Is there a better way of funding the infrastructure needed to support development?	<p>There are a number of funding mechanisms the Council believes merit further exploration to compliment and augment the CIL. Developer contributions secured via s.106 agreements provide a flexible mechanism that can be used on its own or alongside the CIL and should not be demised or constrained by restrictions of the ability of the local authority to pool funding from more than five agreements.</p> <p>In addition to the retention of flexible arrangements for s.106, current infrastructure funding mechanisms could be improved or supplemented in the following ways:</p> <ol style="list-style-type: none"> 1. Strengthen local authorities' ability to borrow against future s.106 and CIL revenues in order to ensure timely delivery of infrastructure. The Council recognises the Treasury's desire to control local authority spending, but an exemption should be made to enable forward funding of significant infrastructure.

	<ol style="list-style-type: none">2. Introduce a land value tax or other land value capture mechanism that is capable of capturing the uplift in land value associated with the grant of planning permission for the purposes of providing and maintain the physical and social infrastructure required to create sustainable places for people to live.3. Encourage and enable further community-based ownership of infrastructure. This could have the benefit of strengthening the relationship between users and providers of infrastructure and help to secure improved long term stewardship of those assets.4. Introduce tax increment financing of infrastructure to sit alongside existing mechanisms. This approach would provide additional funding opportunities linked to the economic benefit of the infrastructure and recovered from the increase in tax revenues arising from the business rates generated by new development.5. Some infrastructure projects may be fundable using debt finance, such as public loans matched to CIL or s.106 contributions.
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