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Dear Sir/Madam

Supporting housing delivery through developer contributions

We are pleased to be able to support many of the proposals in this consultation, including a simplified process to prepare and review CIL charging schedules. It is important to have accountable procedures to impose the levy but the multiple stages of consultation are overlong at present

We also welcome the reintroduction of flexibility for Section 106 by removing unhelpful pooling restrictions and the Regulation 123 list. This proposal recognises that Section 106 and CIL might contribute towards similar infrastructure projects for different reasons i.e. to deal with the specific impacts of a development or to meet the strategic infrastructure needs of an area and support greater levels of development overall.

Some of the proposals would introduce additional complexity, in relation to CIL monitoring for instance, and will require the allocation of greater resources to administration by local authorities. It is important that administrative costs are funded.

Our response should be read alongside our comments on the revised NPPF. Measures to provide greater certainty around developer contributions and infrastructure delivery could be undermined by other changes to the planning system.

Yours faithfully



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Question 1

Do you agree with the Governments' proposals to set out that:

- i. Evidence of local infrastructure need for CIL-setting purposes can be the same infrastructure planning and viability evidence produced for plan making?

Yes

- ii. Evidence of a funding gap significantly greater than anticipated CIL income is likely to be sufficient as evidence of infrastructure need?

Yes

- iii. Where charging authorities consider there may have been significant changes in market conditions since evidence was produced, it may be appropriate for charging authorities to take a pragmatic approach to supplementing this information as part of setting CIL – for instance, assessing recent economic and development trends and working with developers (e.g. through local development forums), rather than procuring new and costly evidence?

Yes

Question 2

Are there any factors that the Government should take into account when implementing proposals to align the evidence for CIL charging schedules and plan making?

The Southwark CIL charging schedule has been prepared and revised alongside preparation of the New Southwark Plan and the Old Kent Road Area Action Plan. We have aligned our evidence between the separate processes and made use of focused updates to the infrastructure plan and viability evidence where possible.

Government's proposals will be helpful if they make examination of CIL simpler in not having to re-visit evidence that has already been examined. Government could extend this approach to the examination of Development Plan Documents where evidence has already been scrutinised through the review of CIL or in the preparation of another recent DPD.

Ensuring that consultation is proportionate

Question 3

Do you agree with the Government's proposal to replace the current statutory consultation requirements with a requirement on the charging authority to publish a statement on how it has sought an appropriate level of engagement?

Yes

Question 4

Do you have views on how guidance can ensure that consultation is proportionate to the scale of any charge being introduced or amended?

In Southwark we set high standards for consultation in our Statement of Community Involvement that go well beyond statutory minimums. While seeking a faster process for CIL review, we would also maintain our ambitions for full and broad engagement. We would require little guidance in this area.

Removing unnecessary barriers: the pooling restriction

Question 5

Do you agree with the Government's proposal to allow local authorities to pool section 106 planning obligations:

- i. Where it would not be feasible for the authority to adopt CIL in addition to securing the necessary developer contributions through section 106?

Yes

- ii. Where significant development is planned on several large strategic sites?

Yes

Question 6

- i. Do you agree that, if the pooling restriction is to be lifted where it would not be feasible for the authority to adopt CIL in addition to securing the necessary developer contributions through section 106, this should be measures based on the tenth percentile of average new build house prices?

No comment

- ii. What comments, if any, do you have on how the restriction is lifted in areas where CIL is not feasible, or in national parks?

No comment

Question 7

Do you believe that, if lifting the pooling restriction where significant development is planned on several large strategic sites, this should be based on either:

- i. a set percentage of homes, set out in a plan, are being delivered through a limited number of strategic sites; or

No comment

- ii. all planning obligations from a strategic site count as one planning obligation?

No comment

Question 8

What factors should the Government take into account when defining 'strategic sites' for the purposes of lifting the pooling restriction?

No comment

Question 9

What further comments, if any, do you have on how pooling restrictions should be lifted?

We welcome the lifting of pooling restrictions to fund essential infrastructure to create greater certainty for developers and communities. Within regeneration areas with variable and often complex patterns of land ownership, many more than 5 sites will rely on the same new piece of infrastructure to be acceptable such as a new school, health centre, open space or energy centre. With the restrictions lifted it will be easier to set out earlier in the planning process what developers can expect to fund and progress the design of infrastructure faster with providers.

Improvements to the operation of CIL

Question 10

Do you agree with the Government's proposal to introduce a 2 month grace period for developers to submit a Commencement Notice in relation to exempted development?

Yes

Question 11

If introducing a grace period, what other factors, such as a small penalty for submitting a Commencement Notice during the grace period, should the Government take into account?

Introducing a 2 month grace period will make it more difficult to monitor CIL liabilities. A small penalty therefore sounds sensible and must be sufficient to provide resources to meet the additional burden on local authorities.

Question 12

How else can the Government seek to take a more proportionate approach to administering exemptions?

No comment

Question 13

Do you agree that Government should amend regulations so that they allow a development originally permitted before CIL came into force, to balance CIL liabilities between different phases of the same development?

No comment

Question 14

Are there any particular factors the Government should take into account in allowing abatement for phased planning permissions secured before introduction of CIL?

No comment

Question 15

Do you agree that Government should amend regulations on how indexation applies to development that is both originally permitted and then amended while CIL is in force to align with the approach taken in the recently amended CIL regulations?

No comment

Increasing market responsiveness

Question 16

Do you agree with the Government's proposal to allow local authorities to set differential CIL rates based on the existing use of land?

Yes

Question 17

If implementing this proposal do you agree that the Government should:

- i. encourage authorities to set a single CIL rate for strategic sites?

Yes

- ii. for sites with multiple existing uses, set out that CIL liabilities should be calculated on the basis of the majority existing use for small sites?

Yes

- iii. set out that, for other sites, CIL liabilities should be calculated on the basis of the majority existing use where 80% or more of the site is in a single existing use?

Yes

- iv. What comments, if any, do you have on using a threshold of 80% or more of a site being in a single existing use, to determine where CIL liabilities should be calculated on the basis of the majority existing use?

No comment

Question 18

What further comments, if any, do you have on how CIL should operate on sites with multiple existing uses, including the avoidance of gaming?

A possible solution to avoid gaming would be to ignore any demolitions or changes of use in the previous two years and any permissions or permitted development rights that have yet to be implemented. That should provide a strong incentive to avoid gaming by implementing a change of use or demolition.

Indexing CIL rates to house prices

Question 19

Do you have a preference that CIL rates for residential development being indexed to either:

- a) The change in seasonally adjusted regional house price indexation on a monthly or quarterly basis; OR

No

- b) The change in local authority-level house price indexation on an annual basis

Yes

Question 20

Do you agree with the Government's proposal to index CIL to a different metric for non-residential development?

Yes

Question 21

If yes, do you believe that indexation for non-residential development should be based on:

- i. the Consumer Price Index? OR

No comment

- ii. a combined proportion of the House Price Index and Consumer Prices Index?

No comment

Question 22

What alternative regularly updated, robust, nationally applied and publicly available data could be used to index CIL for non-residential development?

We would support whichever of the options is best justified by the evidence. We have not carried out this analysis ourselves.

Question 23

Do you have any further comments on how the way in which CIL is indexed can be made more market responsive?

No comment

Improving transparency and increasing accountability

Question 24

Do you agree with the Government's proposal to?

- i. remove the restrictions in regulation 123, and regulation 123 lists?

Yes

- ii. introduce a requirement for local authorities to provide an annual Infrastructure Funding Statement?

Yes

Question 25

What details should the Government require or encourage Infrastructure Funding Statements to include?

Statements should clearly set out the separate sums for moneys received, spent, negotiated or liable from development and the potential sums that planned development in local plans could contribute. The figures for CIL liabilities and section 106 contributions not yet paid should be heavily caveated as in our experience there can be confusion over funds secured through permissions. There is no guarantee these funds will be received unless the permissions are implemented.

Question 26

What views do you have on whether local planning authorities may need to seek a sum as part of Section 106 planning obligations for monitoring planning obligations? Any views on potential impacts would also be welcomed.

The monitoring and administration of section 106 agreements is an impact of a development, and therefore we already apply a consistent and efficient approach to the monitoring and delivery of planning obligations. An administration charge of 2% is applied, which excludes all legal costs associated with the preparation of an actual section 106 agreement.

A Strategic Infrastructure Tariff (SIT)

Question 27

Do you agree that Combined Authorities and Joint Committees with strategic planning powers should be given the ability to charge a SIT?

Yes

Question 28

Do you agree with the proposed definition of strategic infrastructure?

Yes

Question 29

Do you have any further comments on the definition of strategic infrastructure?

As set out in the consultation, SITs similar to MCIL would be a fairly modest charge on development over multiple authorities. In London a large amount of planned growth is dependent on a small number of truly strategic projects, whereas MCIL has only been directed at Crossrail so far. MCIL could be better spent across a portfolio of projects including tube line extensions and we have made this case to the Mayor of London.

Question 30

Do you agree that a proportion of funding raised through SIT could be used to fund local infrastructure priorities that mitigate the impacts of strategic infrastructure?

No

Question 31

If so, what proportion of the funding raised through SIT do you think should be spent on local infrastructure priorities?

No comment

Question 32

Do you agree that the SIT should be collected by local authorities on behalf of the SIT charging authority?

Yes

Question 33

Do you agree that the local authority should be able to keep up to 4% of the SIT receipts to cover the administrative costs of collecting the SIT?

Yes

Technical clarifications

Question 34

Do you have any comments on the other technical clarifications to CIL?

No comment