

Planning Committee Report

London Thames Gateway Development Corporation

Community Infrastructure Levy: Detailed proposals and draft regulations for reform consultation

Report of the Director of Planning

1 Purpose

- 1.1 The purpose of this report is to update and seek the planning committee's views on the proposals and implications for the LTGDC in the *Community Infrastructure Levy: Detailed proposals and draft regulations for reform* consultation currently being carried out by the government.

2 Decision Required

- 2.1 That planning committee agree the proposed LTGDC response to the consultation set out at appendix 1, as well as considering any comments made by the LTGDC Board at their meeting on 5th December, which will be reported verbally at the committee meeting by the Director of Planning.

3 Background

- 3.1 The Planning Act 2008 established powers to create a Community Infrastructure Levy in England and Wales. The Community Infrastructure Levy regulations 2010 made the first use of these powers and came into effect in April 2010. The regulations allow a charging authority to levy a charge on the owners or developers of land that is developed so that they contribute to the costs of providing the infrastructure needed to support the development of the area. The Government set out proposals to reform the Community Infrastructure Levy in the Localism Bill. The changes would require local authorities to pass a meaningful proportion of receipts to the neighbourhoods where the development that gave rise to them took place, clarifies that receipts may be spent on the ongoing costs of providing infrastructure to support the development of the area and provides more local choice over how to implement a charge.
- 3.2 The government is consulting on the detailed implementation of the Government's proposals, and on the draft regulations. A questionnaire has been issued as part of the consultation, which has been completed by officers and is attached at appendix 1. The consultation document itself can be viewed at <http://www.communities.gov.uk/publications/planningandbuilding/cilreformconsultation> . Comments are requested by 30 December 2011.
- 3.3 The consultation seeks views on the Government's proposals to

- 3.3.1 implement neighbourhood funds (to meet the requirement for charging authorities to pass a meaningful proportion of receipts arising from development to other persons (clause 103 of Localism Bill))
 - 3.3.2 allow receipts to be used to provide affordable housing
 - 3.3.3 provide transitional provisions to allow fair operation of the levy in Mayoral Development Corporation areas
 - 3.3.4 require charging authorities to report more openly and regularly on receipts and expenditure to improve transparency and understanding of the contribution that developers are making and how those funds are used
 - 3.3.5 add new Development Orders to the list of developments that may be liable to a charge
- 3.4 Following consultation and the passage of the Localism Bill through parliament, updated draft regulations will be prepared and laid before parliament.

4 Considerations

- 4.1 For the purposes of the CIL regulations, LTGDC is not a charging authority. LTGDC's Planning Obligations Community Benefits Strategy can continue to operate until April 2014, or until a borough within our area adopts a CIL Charging Schedule. At present, boroughs in the Lower Lea Valley (LLV) area have not reached a statutory point in the preparation of their charging schedules. Therefore, it is unlikely that CIL will be introduced in the LLV area before planning powers are passed to the MDC and boroughs (anticipated to be October 2012). However, given that the changes proposed to the regulations in this consultation will impact on how an MDC will operate and how the CIL / section 106 regime will operate in the future, it is necessary for LTGDC to respond to the consultation.
- 4.2 The changes proposed that will affect Mayoral Development Corporations are to:
- 4.2.1 allow the Mayor, in advance of a Mayoral Development Corporation being set up, to carry out the necessary preparation work for a levy charge to enable the Mayoral Development Corporation to function properly as a charging authority as soon as practical after it takes those powers
 - 4.2.2 ensure that London boroughs who have granted planning permission for a development are still able to collect any levy liability due if the actual work starts after the Mayoral Development Corporation has taken on plan making powers in that area; and
 - 4.2.3 require a Mayoral Development Corporation, where it is winding down or giving up its plan making powers, to be clear about the arrangements for the collection of outstanding levy liabilities.
- 4.3 As the proposed response to question 13 in the questionnaire sets out, officers agree with 4.2.1 and 4.2.3, but think that 4.2.2 is impractical. The effect of the proposal would be that an MDC may not receive any income

from CIL for a considerable time after establishment. It could take a year for planning applications for large schemes to be determined, and up to 3 years for schemes to be implemented after planning permission was granted. This would hamper an MDC's ability to achieve its statutory objectives within a short timeframe.

- 4.4 The other changes proposed (as set out at 3.3 above) although important are less controversial from LTGDC's point of view. A response to the questions is attached to this report at Appendix 1.

Date: 22 November 2011

Questionnaire

About you

i) Your details:

Name:	John Allen
Position:	Director of Planning
Name of organisation (if applicable):	London Thames Gateway Development Corporation
Address:	LTGDC, 10 th Floor, 2 Exchange Tower, Harbour Exchange Square, London, E14 4GE
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Telephone number:	020 7517 3747

ii) Are the views expressed on this consultation an official response from the organisation you represent or your own personal views?

- Organisational response #####
- Personal views

iii) Please tick the box which best describes you or your organisation:

- District Council
- Metropolitan district council
- London borough council
- Unitary authority/county council/county borough council
- National Park Authority
- The Broads Authority
- The Mayor of London
- Parish council
- Community council
- Welsh Authority

APPENDIX 1

Non-Departmental Public Body (NDPB)

Planner

Professional trade association

Land owner

Housing association/RSL

Private developer/house builder

Developer association

Voluntary sector/charity

Community Land Trust

Rural housing enabler

Other

(please comment):	
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**iv) What is your main area of expertise or interest in this work
(please tick one box)?**

Chief Executive #####

Planner

Developer

Surveyor

Member of professional or trade association

Councillor

Housing provision

Planning policy/implementation

Environmental protection

Other

(please comment):	
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APPENDIX 1

v) Do your views/experiences mainly relate to one or more specific regions within England and Wales, to one or both countries?

- South West
- South East
- East
- East Midlands
- West Midlands
- North West
- Yorkshire & Humberside
- North East
- London
- All of England
- Wales
- Other

(please comment):	
Specific local area (please comment):	

Would you be happy for us to contact you again in relation to this questionnaire?

Yes## # No#

Please refer to the relevant parts of the consultation document for narrative relating to each question.

Chapter 1: Neighbourhood funds

Question 1:

Should the duty to pass on a meaningful proportion of levy receipts only apply where there is a parish or community council for the area where those receipts were raised?

Yes## # No#

Comments

LTGDC agree with this suggestion, on the basis that in areas without parish councils, it would be difficult to ensure that the funds that were passed on were passed on to a democratically elected organisation that is representative of the local community.

Question 2:

Do you agree that, for areas not covered by a parish or community council, statutory guidance should set out that charging authorities should engage with their residents and businesses in determining how to spend a meaningful proportion of the funds?

Yes## # No#

Comments

No further comment.

Question 3:

What proportion of receipts should be passed to parish or community councils?

Comments

LTGDC consider that a rate of 10% would be appropriate.

Question 4:

At what level should the cap be set, per council tax dwelling?

Comments

It is difficult to suggest a cap per council tax dwelling, without knowing how much the CIL charge will be, or the likely population of a local council area. LTGDC understand that local council areas vary considerably in size and population, with between 0 and 70,000 inhabitants across England and Wales. In areas where substantial new housing is proposed, and there is very little housing already, it would make some sense that the meaningful proportion of funds is spent in the future, when the new community has moved in and can help decide how it can be used, rather than restricting the proportion that can be spent by the existing residents before the new development has been built. If a significant CIL contribution is required from a development, it is highly likely that there will be significant infrastructure needs to be financed by CIL also arising from the development. ,

Question 5:

Do you agree that the proposed reporting requirements on parish or community councils strike the right balance between transparency and administrative burden?

Yes## # No#

Comments

There needs to be a requirement for parish or community councils to report on how the money has been spent, in the interests of probity and in the public interest. In LTGDC's view, draft regulation 62A which requires a local council to prepare a report for any financial year it receives CIL receipts strikes the right balance.

Question 6:

Draft regulation 19 (new regulation 62A(3)(a)) requires that the report is to be published on the councils website, however we recognise that not all parish or community councils will have a website and we would welcome views on appropriate alternatives.

Comments

Reports should be tabled as part of the parish or community council committee papers. LTGDC assume that there are already mechanisms in place for committee papers to be publicly available. Parish or community councils could also be required to send copies of the report to the local planning authority, who could publish the reports on their website, or incorporate them into their Authority Monitoring Reports.

Question 7:

Do you agree with our proposals to exclude parish or community councils' expenditure from limiting the matters that may be funded through planning obligations?

Yes## # No#

Comments

Although contrary to the spirit and the intention of the legislation and guidance, LTGDC consider that this would be a practical approach to be followed for parish and community councils.

Question 8:

Do you agree with our proposals to remove the cap on the amount of levy funding that charging authorities may apply to administrative expenses?

Yes## # No#

Comments

LTGDC do not have a strong view on this matter. However, in circumstances where a local authority collects a substantial amount of revenue through CIL, the existing 5% cap would be more than adequate, and may be far too high. Authorities that collect less money, may need to spend a larger proportion of their funding on administrative expenses and may need to take advantage of increasing the cap.

Chapter 2: Affordable housing

Question 9:

Do you consider that local authorities should be given the choice to be able if they wish to use levy receipts for affordable housing?

Yes## # No#

Comments

LTGDC recognise that it could be useful for local authorities to have the ability to use levy receipts for affordable housing, so that they can bring forward new affordable housing using a combination of section 106 agreements, CIL funding and New Homes Bonus.

Generally, LTGDC consider it should be for local authorities to make their own decision regarding the best use of CIL funding and whether to use it for affordable housing. However, the prime function of CIL should remain the provision of infrastructure to support development, not financing affordable housing. If affordable housing is to be included, it would be likely to take up a very large proportion of the available CIL funding, reducing the amount available for infrastructure. Therefore in order to ensure that the emphasis of CIL remains the provision of infrastructure, it could make sense to set an overall cap on the proportion of CIL to go towards affordable housing, perhaps at 35%.

Question 10:

Do you consider that local authorities should be given the choice to be able if they wish to use both the levy and planning obligations to deliver local affordable housing priorities?

Yes## # No#

APPENDIX 1

Comments

Yes, it would make sense for local authorities to be given the choice as to how they wish to use CIL and Planning Obligations to deliver affordable housing, so they can set up a system which best meets the need of their local area.

Question 11:

Do you consider that local authorities should be given the choice to be able if they wish to use both the levy and planning obligations to deliver local affordable housing priorities?

Yes## # No#

Comments

This is a repeat of the question above.

Question 12:

If the levy can be used for affordable housing, should affordable housing be excluded from the regulation that limits pooling of planning obligations, or should the same limits apply?

Yes## # No#####(NB this question cannot be answered with a yes or a no)

Comments

If the government does introduce this ability, affordable housing should be excluded from the regulation that limits pooling of planning obligations. This would be a more practical approach as there would be likely to be more than 5 obligations in a local authority area that contribute financially to affordable housing.

Chapter 3: Mayoral Development Corporations

Question 13:

Do the proposed changes represent fair operation of the levy in Mayoral Development Corporation areas?

Yes# # # No#

Comments

LTGDC agree with the proposed changes, apart from the second proposal to enable local planning authorities that have granted permission for the development, to still collect the levy if development starts after a Mayoral Development Corporation (MDC) takes on plan making powers. As the MDC will take on plan making powers in the area, it will also be taking on responsibility for ensuring that infrastructure is delivered as part of its statutory responsibility for ensuring the regeneration of the area. It would therefore make more sense for levy contributions from developments in the area to be collected and spent by an MDC rather than the local planning authority which granted the planning permissions. It is likely that the MDC would consult with other local planning authorities regarding expenditure of the monies in any case.

The danger of the suggested proposal would be that an MDC would not receive any income from CIL for a considerable time after establishment. It could take a year for large schemes to be determined, and up to 3 years for schemes to be implemented after planning permission was granted. This would hamper an MDC's ability to achieve its statutory objectives within a short timeframe.

How to respond:

The closing date for responses is 30 December 2011

Responses should be sent by email or by post please:

Email responses to: cil@communities.gsi.gov.uk

Written responses to:

Franciane Genouillé
Department for Communities and Local Government
CIL Team
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