

NEW FOREST NATIONAL PARK AUTHORITY

PLANNING DEVELOPMENT CONTROL COMMITTEE – 18 JUNE 2019

COMMUNITY INFRASTRUCTURE LEVY (CIL) UPDATE

Report by: David Illsley, Policy Manager

1. Introduction

- 1.1 The Community Infrastructure Levy (CIL) is a levy introduced by the Government in 2010 that planning authorities can choose to charge on new developments in their area to raise funds for local infrastructure. While it remains discretionary whether planning authorities implement CIL, it is the Government's preferred mechanism to secure funding from new development for local infrastructure provision. The CIL Regulations confirm that national park authorities are 'Charging Authorities' and are therefore able to charge and spend the Levy. To date only the South Downs National Park Authority of the ten English national park authorities has adopted CIL.
- 1.2 CIL money can be used to support development by funding a wide range of infrastructure, including transport improvements, education provision, greenspace enhancements and habitat mitigation measures. Differential charging rates can be set for geographical areas; particular types of development; and different scales of development. CIL charges become due from the date that a chargeable development is commenced. As the Charging Authority, the Authority can decide how much of the Levy it wants to retain for its own project work and what proportion of CIL funds should be passed onto other bodies (such as the local highways and education authorities) to deliver infrastructure to support the development of the area. Planning authorities have flexibility to choose what infrastructure they prioritise based on consultation with infrastructure providers.
- 1.3 Unlike funding secured through Section 106 legal agreements, CIL money is not ring-fenced for specific forms of infrastructure or tied to the locality of the development. Local authorities are also required to allocate between 15% and 25% (where a Neighbourhood Plan is in place) of the CIL funding raised directly to the town or parish council where development takes place. This ensures the local communities that accommodate new development receive funding to support local infrastructure.
- 1.4 As outlined in the earlier CIL papers considered by the Planning Committee in April 2013, February 2014 and June 2016, the nature of development in national parks – where the quantum of development is generally low, with a higher proportion of affordable housing and self-build development (which are exempt from CIL) – means that park authorities need to carefully consider the practicalities of progressing CIL. It remains the case that certain developments - including affordable housing, self-build properties, mezzanine floors, annexes & extensions below 100 square metres and buildings into which people do not normally go - are exempt for paying CIL.

1.5 The Authority's adopted Work Programme 2019 – 2020 includes a specific objective under 'Protect Priority 2' to, "*re-examine the merits of introducing a Community Infrastructure Levy (CIL) for new development in the National Park.*" With the timetabled adoption of the revised Local Plan 2016 – 2036 in 2019 the Policy team now has resources available to progress the work.

2. Recent changes to Section 106 agreements

2.1 Since 2006 the National Park Authority has negotiated financial contributions towards local infrastructure from new development. These have typically been secured through either Unilateral Undertakings or Section 106 legal agreements with the developer. The previous Planning Committee decisions on CIL have recommended that the situation is kept under review, pending changes in national planning policy and the profile of development within the National Park. In recent years there have been a series of changes which mean the Authority's position on the implementation of CIL should be revisited. These include:

- All of the planning authorities surrounding the National Park – New Forest District, Test Valley, Bournemouth, Christchurch & Poole, and Wiltshire – have now implemented CIL. This means the National Park is something of an anomaly as development is not currently CIL-liable, but it is in all neighbouring planning authorities outside the Park boundary.
- In 2015 the Government introduced further restrictions on the use of Section 106 agreements. Planning authorities are currently limited to 'pooling' no more than 5 individual Section 106 contributions towards a single form of infrastructure. Development in the National Park is characterised by small development sites (often of single dwellings), and therefore this pooling limit potentially limits the funding available for local infrastructure projects.
- In May 2016 the Government was successful in an 18-month legal dispute with two local authorities centred on the Government's policy on the provision of affordable housing and other financial contributions on small development sites. The legal decision enabled to the Government to reinstate its wording in the National Planning Practice Guidance (NPPG) resource stating:

"Authorities can seek planning obligations to pooled funding 'pots' intended to provide common types of infrastructure for the wider area. No more than 5 obligations can be pooled towards a single piece of infrastructure. Community Infrastructure Levy can be used to fund a wide range of infrastructure, including mitigating the cumulative impacts of multiple developments across an area." – NPPG, 15 March 2019

2.3 These changes over the last few years have resulted in a re-assessment of the benefits of introducing CIL within the National Park. With the alternative approach of seeking contributions through the Section 106 agreement route being significantly curtailed through the restrictions on pooling and the introduction of a national minimum site size of 5 dwellings, CIL appears to be the only viable option for ensuring all new development contributes towards the necessary infrastructure.

3. Implementing CIL in the New Forest National Park

- 3.1 The introduction of CIL requires significant resources. For example, planning authorities must have detailed viability evidence available to allow an appropriate balance to be struck between the desirability of funding infrastructure from CIL and the potential impact upon the economic viability of development. Planning authorities are able to use up to 5% of CIL revenue to support its administration and this will make a useful contribution to the initial set up costs. Administrative expenses include consultation on the proposed CIL Charging Schedule, preparing evidence on viability, the costs of the CIL examination and ongoing costs for CIL-specific software.
- 3.2 The proposed Charging Schedule and related infrastructure list must also go through two statutory public consultations and be submitted for independent examination. The Authority then publishes and implements the examiner's recommendations and formally adopts the charging schedule. The Government's National Planning Practice Guidance (NPPG) resource includes extensive guidance on the implementation of CIL and confirms that CIL is expected to have a positive economic effect on development across a local plan area. When deciding the levy rates, Government guidance is clear that an appropriate balance must be struck between additional investment to support development and the potential effect on the viability of developments.
- 3.3 As part of early preparation work the Policy team have met with colleagues at the South Downs National Park Authority who have successfully been operating CIL for over two years. This has given a useful insight into the CIL process and SDNPA's lessons learned since adopting CIL. A further meeting has taken place with CIL officers at New Forest District Council and Hampshire County Council. The latter meeting focused on the County Council's their role as an infrastructure provider and potential CIL beneficiary. This is important as Government guidance confirms that charging authorities (including national park authorities) must consult and collaborate with County Councils in setting the Levy. The Authority also had some initial CIL viability work undertaken as part of the Whole-Plan Viability Assessment (2017) undertaken by Three Dragons and therefore there is some baseline information already available.

4. Conclusions

- 4.1 As set out in the previous CIL papers considered in 2013, 2014 and 2016, the decision on whether to implement CIL within the planning context of the New Forest National Park has always been finely balanced. Nine of the ten English national park authorities have to date not chosen to implement CIL due to a combination of factors and our position in the New Forest has to date been consistent with this.
- 4.2 Members have previously resolved to keep the situation under review should circumstances change. It is felt that the continuing restrictions on the use of Section 106 agreements makes CIL the most appropriate mechanism for ensuring new development contributes to the necessary local infrastructure. New development will continue to take place within the National Park under the Authority's revised Local

Plan 2016 - 2036 and without CIL in place a significant proportion of it would make no contribution to the infrastructure necessary to support it.

- 4.3 The Government remains supportive of CIL as a fairer and more transparent means of seeking contributions. CIL gives planning authorities greater flexibility to focus funding towards local infrastructure priorities and, unlike Section 106 agreements, once adopted the payment of CIL is mandatory (with only a few exceptions) and non-negotiable. It is therefore recommended that the Planning Committee endorses the principle of implementing CIL within the National Park; and that the decision of the Planning Committee is reported at the full Authority meeting in July 2019 for final approval. Finally, it should be noted that the National Park Authority can decide to stop charging the levy at any time by making a formal resolution to do so

Recommendation:

- 1. To endorse the principle of developing a Community Infrastructure Levy (CIL) Charging Schedule for the New Forest National Park. The decision of the Planning Committee will then be presented at the full Authority meeting in July 2019 for final approval.**