

## NEW FOREST NATIONAL PARK AUTHORITY

### AUTHORITY MEETING – 11 JULY 2019

#### COMMUNITY INFRASTRUCTURE LEVY (CIL)

**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 authorities implement CIL, it remains the Government's preferred mechanism to secure funding from new development for 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 fund a range of infrastructure, including transport improvements, education provision, local greenspace and habitat mitigation measures. Charging Authorities have flexibility to choose what infrastructure they prioritise. Differential charging rates can be set for geographical areas; particular types of development; and different scales of development. Certain developments - including affordable housing, self-build properties, mezzanine floors, annexes & extensions below 100m<sup>2</sup> and buildings into which people do not normally go - are exempt from CIL.
- 1.3 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 Having previously chosen not to implement CIL within the National Park but to keep the situation under review, the Authority's Work Programme 2019 – 2020 includes an objective under 'Protect Priority 2' to, "*re-examine the merits of introducing a Community Infrastructure Levy (CIL) for new development in the National Park.*" The implementation of CIL was considered by the Authority's Planning Committee on 18 June 2019, where the principle of introducing CIL in the National Park was endorsed.

#### 2. Recent changes to Section 106 agreements

- 2.1 Since 2006 the Authority has negotiated financial contributions towards local infrastructure from new development and these have typically been secured through either Unilateral Undertakings or Section 106 legal agreements. However, in recent years there have been a series of changes which mean the Authority's position on the implementation of CIL should be reconsidered. 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 National Park boundary.
- The introduction of further restrictions on the use of Section 106 agreements. For example, national policy currently restricts authorities from seeking Section 106 contributions from developments of less than 6 dwellings (net). In the National Park – where development is characterised by small sites – this has had a significant impact by limiting the funding available for local infrastructure projects.

2.2 With the alternative approach of seeking contributions through the Section 106 agreement route being significantly curtailed, CIL appears to be the only viable option for ensuring new development contributes towards necessary infrastructure.

### **3. Implementing CIL in the New Forest National Park**

3.1 The introduction of CIL requires significant resources and set out below are a number of the key areas of work. Charging 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 preparing evidence on viability, consultation on the proposed CIL Charging Schedule, the costs of the independent CIL examination and ongoing costs for CIL-specific software.

#### *(i) Viability Evidence*

3.2 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 an area. Levy rates are expressed as pounds per square metre on new development and Charging 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 impacts upon the economic viability of development.

3.3 The Authority had some initial CIL viability work undertaken as part of the Whole-Plan Viability Assessment by Three Dragons in 2017 and therefore there is baseline information available. This assessment by Three Dragons indicated there was 'viability headroom' for new development to support CIL and that a charge of circa £200 per square metre could be achievable across the National Park. A CIL charge around this level would generate a meaningful source of funding for local infrastructure in the National Park and capture the uplift value generated by the granting of planning permission. A key part of implementing CIL in the National Park will be to commission updated viability evidence to inform the charging level set.

#### *(ii) Infrastructure List / Funding Statement*

3.4 Regulation 123 of the CIL Regulations currently requires Charging Authorities to set out a list of projects and/or types of infrastructure that are intended to be funded through the levy. In June 2019 the Government announced changes to the CIL

Regulations that come into effect in September 2019 and will replace Regulation 123 lists with annual 'Infrastructure Funding Statements'. These will set out the infrastructure projects or types of infrastructure which the Charging Authority intends to be funded by CIL; as well as the funding received and what it has been spent on.

- 3.5 In implementing CIL within the National Park it will be necessary to establish a list of infrastructure projects appropriate to the needs of our local communities and the planned level of new development. Officers from the Policy team have discussed with the South Downs National Park Authority the use of CIL funding to support infrastructure projects appropriate for a National Park. In the South Downs the use of CIL funds is split between infrastructure delivered by the relevant county councils and community projects that benefit the National Park and the two purposes. This meeting also highlighted the importance of liaising with the respective county (Hampshire) and unitary (Wiltshire) authorities with responsibility for important areas of infrastructure provision such as highways and education for example.

*(iii) Spending Protocol*

- 3.6 The levy must be spent on the provision, improvement, replacement, operation or maintenance of infrastructure needed to support development, although there is more freedom regarding the use of the parish and neighbourhood portion of CIL (see below). Charging Authorities have the final decision on the allocation of CIL funding and the Regulations do not prescribe how infrastructure projects are to be prioritised.
- 3.7 In some neighbouring authority areas the funding priorities are agreed by the relevant Portfolio Holder; while in other areas funding decisions are made through full Council / Committee meetings, typically on an annual basis. In implementing CIL the Authority will need to establish a CIL spending protocol to ensure that the decision-making process is transparent. Through this spending protocol the Authority will agree priorities for the use of CIL funding and the allocation of funds.

*(iv) Liaison with Town & Parish Councils with the National Park*

- 3.8 The CIL Regulations require 15% of CIL receipts to be passed directly to town and parish councils where development has taken place to be spent on local priorities. Where communities have a Neighbourhood Plan or Neighbourhood Development Order in place the town and parish councils will receive 25% of the CIL receipts.
- 3.9 This neighbourhood portion of CIL can be spent on a wide range of things provided it meets the requirement to "*support the development of the area*" as set out in the Regulations. This wide definition means the neighbourhood portion can be spent on things other than infrastructure and the Government's NPPG states, "...*Parish, town and community councils should discuss their priorities with the charging authority during the process of setting the Levy rate(s)... Once the levy is in place, parish, town and community councils should work closely with their neighbouring councils and the charging authority to agree on infrastructure spending priorities.*"<sup>1</sup> It will therefore be important that the Authority liaises with the town and parish councils in the National Park to agree infrastructure priorities to support new development.

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<sup>1</sup> NPPG online resource – 'Community Infrastructure Levy', Paragraph 078; Reference ID: 25-078-20140612

## 4. Conclusions

- 4.1 The Authority's Planning Committee has previously resolved to keep the situation regarding the implementation of CIL under review. It is felt 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 would make no contribution to the infrastructure necessary to support it.
- 4.2 The Government remains supportive of CIL as a fairer and more transparent means of seeking contributions and the further reforms to the Regulations that come into effect in September 2019 aim to make the introduction of CIL into an area for the first time easier. CIL gives 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.
- 4.3 Experience from neighbouring authorities indicates the completion of the required viability evidence, preparation of an infrastructure project list, consultation on the draft Charging Schedule and independent examination takes at least a year. Authority members will be involved in the preparation of a CIL Charging Schedule and (as outlined in paragraph 3.7) agreeing an appropriate spending protocol.
- 4.4 In conclusion, the Authority's Planning Committee considered the principle of implementing CIL at its meeting in June 2019 and unanimously supported it. The Government has recently announced further reforms to the CIL Regulations to make the introduction of CIL easier and it is therefore recommended that work on preparing a CIL Charging Schedule for the National Park commences.

### Recommendation:

**Members endorse the principle of developing a Community Infrastructure Levy (CIL) Charging Schedule for the New Forest National Park and authorise officers to take this work forward.**