

NEW FOREST NATIONAL PARK AUTHORITY

PLANNING DEVELOPMENT CONTROL COMMITTEE – 21 JUNE 2016

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. It remains discretionary whether planning authorities implement CIL. 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 published a detailed CIL Charging Schedule for public consultation.
- 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. CIL funds can also 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 local circumstances.
- 1.3 Unlike the existing Section 106 funding, 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 local neighbourhood where development takes place. This ensures that 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 and February 2014, 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 social 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 Following consideration of the previous Planning Committee paper on CIL (PDCC 152/14, February 2014) members resolved that, at the time, it was not viable for the Authority to implement CIL. This was based primarily on the significant resources that would be required to implement CIL with little relative gain compared to retaining the existing approach of Section 106 agreements. Members agreed that if there was a change in circumstances, the Authority would reassess the implementation of CIL.

2. Recent changes to Section 106 agreements

- 2.1 In 2014 it was clear that seeking contributions through the Section 106 agreement route remained a viable alternative to CIL. The Section 106 agreement approach is well understood by local communities and developers and the Authority has successfully negotiated a range of contributions to support local infrastructure.
- 2.2 However, since the Authority resolved not to implement CIL in the short term in 2014 (but to keep the situation under review), there have been a series of changes which mean this decision needs to be revisited. These include:

- Since 2014 all of the planning authorities surrounding the National Park – New Forest District, Test Valley, Christchurch & East Dorset, and Wiltshire – have either implemented CIL or are in the process of doing so.
- In April 2015 the Government introduced further restrictions on the use of Section 106 agreements. From this date, planning authorities were 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 in the future this pooling limit is increasingly likely to be reached.
- 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 recent legal decision enabled to the Government to reinstate its wording in the National Planning Practice Guidance (NPPG) resource stating:

“There are specific circumstances where contributions for affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development. In designated rural areas [including National Parks], local planning authorities may choose to apply a lower threshold of 5-units or less. No affordable housing or tariff-style contributions should then be sought from these developments.” – NPPG, 19 May 2016

- 2.3 These changes over the last two 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 and the costs of the CIL examination.

- 3.2 The proposed Charging Schedule and related infrastructure list must also go through statutory public consultation and be submitted for independent examination. The National Planning Policy Framework (NPPF) confirms that, *“Where practical, Community Infrastructure Levy charges should be worked up and tested alongside the Local Plan. The Community Infrastructure Levy should support and incentivise new development, particularly by placing control over a meaningful proportion of the funds raised with the neighbourhoods where development takes place.”* (para. 175).
- 3.3 As set out in the updated Local Development Scheme (LDS) which was approved by members in March 2016, the Authority is looking to prepare its revised Local Plan over the next 18 months ready for submission to the Secretary of State for independent examination in winter 2017/18. This timetable – which includes a statutory period of public consultation on the Submission draft Local Plan in summer 2017 – potentially fits well with the likely timeline for the preparation of a CIL Charging Schedule for the National Park. It is therefore recommended that work on the Local Plan Review and the CIL Charging Schedule are progressed in tandem.

4. Conclusions

- 4.1 As set out in the previous CIL papers considered in 2013 and 2014, 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 been consistent with this.
- 4.2 In February 2014 members resolved not to implement CIL in the short term, but to keep the situation under review should circumstances change. It is felt that the significant restrictions recently introduced on the use of Section 106 agreements constitute such a change in circumstances and that the Authority now has no realistic alternative to the introduction of CIL. New development will continue to take place within the National Park, and without CIL the vast majority 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). The Government encourages local planning authorities to progress their draft CIL Charging Schedules at the same time as they review their Local Plans and the National Park Authority has the opportunity to do this over the next 12 – 18 months.

Recommendations:

- 1. To endorse the principle of developing a Community Infrastructure Levy (CIL) Charging Schedule for the New Forest National Park.**
- 2. To agree the principle of this CIL work being progressed in tandem with the timetable for the review of the Local Plan for the New Forest National Park.**