

APPG on Housing and Planning's inquiry into England's developer contributions systems

Response from the District Councils' Network



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1. What is your aspiration for England's developer contribution system? (100 words)

The District Councils' Network represents 168 district and unitary councils covering 60% of England. All DCN councils are Local Planning Authorities (LPAs) and have deep expertise in operating the planning system.

Councils need a developer contribution system that is more transparent, efficient, effective and where there is less scope for disagreement, negotiation and revision after the fact. It must enable infrastructure to be delivered when it is needed for the development, rather than at a later point in time, to avoid overburdening infrastructure elsewhere.

We need a system that delivers sufficient contributions to cover the infrastructure requirements from all developments.

2. What has been your experience of Section 106 and CIL? Please provide any evidence you can to demonstrate why improvements are necessary. (200 words)

The combined contributions from both Section 106 and CIL frequently fail to deliver sufficient infrastructure needed to sustain developments.

S106 agreements can take significant time and resource to formulate, particularly for councils' legal and planning teams, due to the need to negotiate sites individually, having regard to constantly shifting market conditions and developer economics. Limited council resources, the need to employ viability consultants and to negotiate with developers can all have implications for the pace of these agreements.

There are widespread concerns among DCN councils about viability arguments being used by developers to avoid meeting local plan policy requirements. The inability to meet local affordable housing requirements while responding sufficiently strongly to environmental sustainability and local design priorities is the cause of significant frustration to councillors, residents and local communities.

DCN would encourage the Government to explore reforming the viability system, for example by removing the requirement to factor in an assumed developer or landowner return or by removing viability assessments as a material planning consideration entirely.

While CIL is more straightforward for smaller developments, the need to agree elements such as exemptions up front can slow down the implementation.

3. How would you recommend that government improve Section 106? Please provide any evidence you can to demonstrate why these changes would be effective. (350 words)

DCN would improve Section 106 by:

- **Ensuring a much greater portion of the increased land value that goes with planning permission is shared with local planning authorities and, in turn, local communities** to help us build attractive places in which to live, with all the infrastructure and services new developments require to thrive.
- **Reforming the viability system**, for example by removing the requirement to factor in an assumed developer or landowner return or removing viability assessments as a material planning consideration entirely.
- **Giving councils greater local discretion over the application of exemptions and moving away from the system of national exemptions.**
- **Introducing standardised agreements and forms** to reduce the time and resources deployed by legal and planning teams negotiating with developers / landowners. This would minimise council staff resources, provide greater certainty and predictability for developers and accelerate the s106 process. DCN would encourage central government to work closely with DCN member councils to develop a standardised template, which has the flexibility to also be tailored locally. Many developments have a set of fairly common infrastructure asks – affordable housing, on-site infrastructure provision such as play areas and education contributions. The creation of a formal ‘infrastructure funding list’ that is formally agreed (such as at the Local Plan or CIL examination) could lead to greater standardisation. Standardisation could also include agreed formulae such as how much infrastructure funding should be captured on a per-dwelling or square metre basis. The system used in New Zealand provides a good example of a more transparent and standardised process, where there is a national policy on developer contributions, and each region tailors this depending on local land values. This system enables anyone to input the figures into [an online estimator tool](#), which will advise what the developer contribution should be.
- **Giving LPAs the power to set planning fees locally** in order to ensure that all associated costs are fully funded.

4. How would you recommend that government improve the Community Infrastructure Levy? Please provide any evidence you can to demonstrate why these changes would be effective. (350 words)

The biggest issue with CIL is the that not all eligible councils choose to charge it. This is typically in areas with low land values where charging CIL would risk making schemes unviable. Some local planning departments also lack the resources to implement and monitor a CIL. We would encourage the Government to work with councils to understand better why CIL is not always charged and to co-design solutions or incentives to remove the barriers.

We also have some more technical points to make:

- We encourage the Government to review the regime of exemptions for CIL. In general our view is that compulsory national exemptions reduce local discretion and increase the chances that councils will choose not to charge CIL or that contributions will be lower than necessary.
- There are two specific exemptions DCN believes should be reviewed. The first is the exemption for minor developments, which is insufficiently clearcut, especially for

enlargements to domestic properties. It creates unhelpful burdens and distracts planning teams from focusing on developments which have a genuine infrastructure impact. The second is the exemption for self-build homes. As this part of the industry grows, it is harder to sustain that this type of development does not create a material infrastructure impact and hence should receive beneficial treatment. We believe councils should have greater discretion on this exemption.

- There is a lack of consistency in the application of the RICS Code of Measuring Practice and the way it is interpreted by the Valuation Office Agency. This could be resolved by creating a clear and consistently applied “CIL code of measuring practice” in the same way issues with indexation were resolved by creating a CIL index.
- Local authorities could be given a new obligation to issue an “initial liability notice” to developers when a planning application is registered, notifying them that their development is potentially going to give rise to a CIL charge. The amount would not be stated in this initial notice, and it would serve to simply make a developer aware that they will be due to pay something toward CIL.