

## APPENDIX 1

### Leeds City Council Completed Questionnaire Response to 'Community Infrastructure Levy; Detailed proposals and draft regulations for reform'

#### About you

##### i) Your details:

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

Organisational response

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

Metropolitan District Council

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

Planning policy/implementation

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

Yorkshire & Humberside

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

Yes  No

# 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

**The proposal to only pass on the contribution to elected and accountable bodies seems sensible. Authorities such as Leeds already have area management arrangements in place that could become the vehicle for engagement and spending in non-parished areas.**

Only half of the Leeds District is covered by existing parish or town councils (31 in total), and these are mostly the freestanding towns and rural areas. The majority of the urban area does not have such elected bodies in place. Whilst under the Localism Act Neighbourhood Forums may be designated in non-parished areas this may not provide universal coverage and may happen over many years. Even where such bodies are established they will not be elected and accountable in the same way as town and parish councils. Furthermore under the Localism Act these bodies would only be designated for 5 years at a time, whereas income and spending decisions will occur over much longer timescales. It would therefore seem sensible in non-parished areas to rely on existing area management arrangements where elected members are ultimately accountable.

**The meaningful proportion should relate to the total received across the district as a whole rather than the amount received in any locality. This should then be distributed to all communities where growth is occurring in proportion to the scale of growth in any given year. Otherwise communities where growth is to take place but where a zero CIL rate is applied would receive no funding. The ability to distribute funds in this way should be clarified in the regulations.**

A matter not covered in the consultation is how to reward communities where growth will occur (e.g. through housing development) but where for viability reasons a zero or very low rate of CIL is charged. If this "community incentive" is to operate in an equitable way then the meaningful proportion needs to relate to the funding pool as a whole and should then be distributed at the same rate across the district in proportion to the scale of growth in that locality irrespective of the CIL rate applying in that area. Otherwise communities with modest growth but a high CIL rate would be well rewarded but communities with significant growth could receive nothing towards the cost of community infrastructure projects. It is not clear that this is the Government's intention and whether the Regulations as currently drafted allow for such arrangements.

## 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

**Statutory guidance on community engagement would be too onerous. Local authorities should be left free to engage as they see fit, with a duty to ensure that funds are spent on the community's behalf.**

The method of the Council determining spending through community engagement to a certain extent reflects how existing S106 contributions and other neighbourhood funding is currently considered for spending. This is considered to work well, although there would need to be a greater level of involvement and consultation relating to setting local infrastructure priorities than at present. It is likely that this could be undertaken through existing Area Management mechanisms or similar. National statutory guidance on consultation would therefore be unnecessary and in addition would not take into account the range of processes and consultation mechanisms which are already in place across different authorities nationwide.

### Question 3:

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

**A low proportion should be set, for example 5-10% as it would be open to councils to increase this if local circumstances and priorities made this appropriate. This would take into account the overriding need for the CIL to fund strategic infrastructure, that councils should have flexibility over their spending decisions, and that they could still choose to spend the CIL in locally affected areas as necessary. This would provide local authorities with greater flexibility and align with the localism agenda. Marginal areas may be at risk of insufficient funding for strategic infrastructure if it is at a higher level.**

The key aim of the CIL is to help pay for strategic infrastructure necessary as a result of cumulative development, which does not get funded under the current S106 system as it is not directly attributable to specific developments. There are major infrastructure projects in Leeds to which CIL will need to make a significant contribution. Allocating a high % to be passed to local areas would be at odds with these intentions and could frustrate the Council's ability to bring forward these major initiatives. It would be perverse if the great majority of the funding received did not go to deliver the projects that the Council has identified as essential through its infrastructure evidence supporting the Charging Schedule and Core Strategy.

The demands on the CIL fund in Leeds and in the Leeds City Region are likely to far outstrip the amount generated. As well as strategic infrastructure and the needs of communities there is also the potential for some of the CIL to be used to fund City Region or sub-regional infrastructure. Early work to achieve a £1 billion West Yorkshire Transport Fund identifies CIL as a potential source of funding. It is also likely that a range of other services will see CIL as a means of dealing with the pressures created by growth. Setting a high % as the meaningful proportion for communities would not provide local authorities with much flexibility to direct spending.

In addition, and unless the Regulations are changed as suggested in the response on Q1, some areas which are zero rated for the CIL would not generate any direct funding, meaning there would be no funding for local projects. Setting a high % meaningful proportion means there would again be much less in remaining funds for the Council to spend in such areas.

It must be noted that this % is not the total amount of Levy which would be spent by the Council in local areas, for instance, to provide funding towards schools and greenspace which will clearly need to be spent, as now, in locations where growth has put pressure on existing facilities. Another factor is the existence of a number of other funding streams in Leeds under which local ward members and localities have access to funds for use within their local areas.

#### Question 4:

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

**Support the setting of a cap per council tax dwelling as a method to ensure equal provision of the CIL. To determine the level the Government should consider costs of providing local infrastructure items and assess these against housing figures. The cap will need to be low if it is to have any effect, particularly given the potential for phased CIL payments.**

**Of note, the Government's CIL consultation document states that the receipt cap is per year but the Regulations themselves do not, and so this reference should be added.**

At the present time in Leeds it is very premature to assess the locations where the majority of the CIL will be generated and the level of expected CIL receipts in each parish. This makes setting a specific cap figure difficult, with any such figure not based on evidence. A good method for the Government to consider is therefore to investigate the generic costs of creating a range of local level infrastructure items, e.g. play facilities, road junction improvements or pedestrian crossings etc. Costs could then be correlated against the average numbers of council tax properties in parished areas to determine a reasonable figure. Council tax properties per parish in Leeds range from 76 in Ledsham and 99 in Walton, to 4203 in Kippax. Properties in the four town council areas range from 4913 in Wetherby to 14,112 in Morley.

The cap would also need to correlate with the meaningful proportion itself, as there would be no point in setting e.g. a 10% proportion if the cap means that in reality the amount which could be provided within many areas would be 5%.

The Draft Regulations state clearly that the cap shall not be exceeded. However, Councils could still spend their own proportion of the CIL in such areas, even if the cap had been reached. This indicates that setting a low cap should not harm local infrastructure provision.

#### 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

**Support reporting financial details in AMR and Parish Council reports, which will demonstrate progress with both LDF proposals and associated infrastructure priorities.**

#### 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.

**Two thirds of Parish Councils in Leeds have their own website, and reports of the others including non-parished areas could be hosted on the Leeds City Council website.**

### 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

**Agree it is important for the meaningful proportion to spent on infrastructure chosen by the community, rather than be set by the local authority.**

As long as reporting requirements are up to date and there are good working relationships between the Council and parish councils/representatives in non-parished areas, then it is unlikely that S106 Agreements would be sought for items which have already been provided, and double counting would be rare.

However, it is unclear what sanctions, if any, might apply if Parish Councils do spend the money on infrastructure which does not support the growth of the area, i.e. to remedy existing deficiencies, or on items which are not considered to be infrastructure. This greater flexibility is another reason why a relatively low level for the meaningful proportion is appropriate.

### 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

**Agree the 5% administrative expenses cap should be removed as the authority should be able to recover all costs concerning the CIL's set up and maintenance. This does need to be balanced against the need to use the receipts effectively in order to provide the necessary infrastructure, but the reporting requirements should ensure this is transparent and efficient.**

## 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

See Question 10.

### 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

**Local authorities should be given the choice to use CIL receipts for affordable housing if they so wish. However, the CIL should not be the sole mechanism for providing affordable housing.**

Affordable housing commuted sums at present are subject to very strict clauses as to their spending and timescales, and spending of the monies is necessarily reactive. Increasing the choice in provision and payments for affordable housing is highly beneficial and therefore it would be valuable to gain increased flexibility in spending through also using the CIL. It would be helpful to have a funding source to call on as opportunities arise.

Affordable housing (and other S106 requirements) are often subject to negotiation at the planning application stage on grounds of viability, and the introduction of the fixed CIL rate will mean that affordable housing remains one of the few factors which will still be open to negotiation. Following the introduction of the CIL it is likely that in some instances developers will seek a reduction in affordable housing due to CIL requirements on viability grounds, even though across the District the CIL would have been set to take affordable housing targets into account. It is therefore reasonable to be able to use some of the CIL receipts to spend on affordable housing provision, especially where only low levels of provision are otherwise achieved.

However, it is not agreed that CIL should be the sole mechanism. On site provision of affordable housing through S106 is still the preferred approach and likely to produce more affordable housing and with greater certainty over delivery. The ability to use CIL would provide a useful addition.

### Question 11:

If local authorities are to be permitted to use both instruments, what should they be required to do to ensure that the choices being made are transparent and fair??

**Strongly oppose requiring the proportions and anticipated delivery of affordable housing to be set out in the local plan, as it would not give the necessary flexibility to best promote the provision of affordable housing in Leeds, and contradicts the purpose of allowing the CIL to be spent on affordable housing. It would not support the affordable housing policy in Leeds. It would also slow progress on the Local Development Framework.**

The choice to use CIL to pay for affordable housing (alongside S106s) should be for the authority to decide, and to prioritise against other infrastructure projects.

The CIL could not be set in a simple and equitable manner across the District if some sites were planned in advance to provide on-site affordable housing but others to provide affordable housing solely through the CIL. On-site delivery of affordable housing is essential, and S106 already allows councils to take a commuted sum for off-site provision where this is the most appropriate solution.

Requiring spending mechanisms to be set out in local plans would delay the Local Development Framework timetable, and no consideration has been given as to how authorities with adopted local plans would meet this requirement.

The CIL in Leeds will be set at a rate(s) which takes into account the need to also provide affordable housing on site. CIL would be most helpful as a means to top up provision levels given the likely level of delivery compared to the scale of need.

### 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

**Affordable housing should be excluded from the pooling limits which apply to the rest of S106 contributions.**

The provision of affordable housing in relation to developer contributions from a private scheme is normally on-site, undertaken through individual S106s for each site. Pooling considerations would therefore not apply in the majority of cases. However, in the instances where a commuted sum is provided instead of on-site delivery, it would not be reasonable for there to be a cap on the pooling as the current S106 pooling mechanism should continue.

### Other Comments

**Adding new Development Orders to the list of developments that may be liable to a charge is reasonable, and would align with existing similar proposals for CIL charging on permitted development where it meets the criteria.**