

# Community Infrastructure Levy



George E. Hall

Response to Preliminary Draft of  
Community Infrastructure Tariff

17 February 2013

## Request for Community Infrastructure Levy Call in

### **Representation by George Edward Hall**

Co-opted member of Scrutiny Board Housing and Regeneration, and previously Scrutiny Board (Regeneration); L.C.C SHLAA Partnership - community elected representative; Emeritus Parish Councillor; Member of N.E. Outer Area Neighbourhood Development Plan Project Board; Member of the Wetherby Town and Harwood Ward Parish Council Forum; Lead Member - Neighbourhood Development Plan for Scholes; Member of N.E. Outer Quadrant Consultative Forum.

### **1.0 Background**

- 1.1 The background to this representation lies primarily with the Localism Act, Neighbourhood Development Plans and the Community Infrastructure Levy.
- 1.2 Officers have described the reasons for setting the proposed levy in the report which was submitted to the Executive Board on 15 February 2013.
- 1.3 The writer has no issue with the estimated housing requirement for the Metropolitan area or the Strategic Market Housing Assessment justification which forms the evidence base to justify the emerging Local Development Framework, albeit that achievability may be questioned in the current economic climate.
- 1.4 The issue of setting the CIL was discussed by the former Scrutiny Board (Regeneration) as part of the cross party Housing Growth Inquiry, the results of which were published on 11 October 2011.
- 1.5 Recommendation 10 (page 56) is noteworthy as this states "Agree that 80% of the income to be raised through CIL be ring fenced for the benefit of local communities with the balance being directed into a general fund to support city and city regional projects."
- 1.6 This recommendation was not accepted by officers or the Executive Board, but on its return to the Scrutiny Board was re-submitted to the Executive at the unanimous request of Scrutiny Board members.
- 1.7 Sometime in 2012 external consultants were appointed to develop recommendations for setting the CIL tariff.
- 1.8 In September 2012 consultants GVA made a presentation to the Scrutiny Board (Housing and Regeneration). Members were not advised of their terms of reference. The presentation raised more questions than it answered.
- 1.9 At the October meeting of the Scrutiny Board (Housing and Regeneration), members were advised that the Executive member considered that the GVA report was not "fit for purpose" and would fail the tests of soundness required by the examiner at the Statutory Independent Inquiry.

- 1.10 No reason for the Executive member's view referred to above was provided, therefore it is unclear what changes may have been made to the GVA report, that have led to the now conclusion that it is satisfactory.
- 1.11 In November 2012, in the light of the foregoing, the Scrutiny Board (Housing and Regeneration) resolved that a working group should be established, comprised of its members. The group should be constituted to take evidence from **ALL** stakeholders and gather evidence to help and inform the decision making process. The request was approved by the Chair and all members of the cross party Scrutiny Board.
- 1.12 The working group has never formally met nor taken any evidence, for whatever reason. The valuable information and guidance that should have been available to the decision takers is therefore not available.

## **2.0 The Community Infrastructure Levy**

- 2.1 Government guidance in preparing the charge is assisted by the publication "Community Infrastructure Levy - An Overview" which was published in 2011 and is referred to below.
- 2.2 Officers note that some minor amendments to the initial guidance have been made.
- 2.3 Further guidance seeking to ensure that the CIL and S106 planning gain obligations do not overlap, is clarified in Standard Note SN/SN/1298 dated 8 May 2012.

## **3.0 The Localism Act Received Royal Assent in November 2011**

- 3.1 The key elements, highlighted in the publication "Decentralisation and the Localism Bill - an Essential Guide" are to reverse the "top down approach" (blue notation indicated below is my emphasis):
- Lift the burden of bureaucracy
  - Empower Communities to do things their way
  - Increase local control of Public Finance
  - Diversify the supply of public services
  - Open up government to public scrutiny
  - Strengthen accountability to local people

## **4.0 National Planning Policy Framework**

- 4.1 The NPPF policy guidance replaces all previous Planning Policy Guidance (PPG's) and Planning Policy Statements (PPS).
- 4.2 The key government policy is to encourage **SUSTAINABLE** development consistent with UN resolution 24/187.
- 4.3 Paragraph 7 of the NPPF states "there are three dimensions which apply sustainable development; these being the economic, social and environmental roles."
- 4.4 Paragraph 173 of guidance suggests that the viability and deliverability of sustainable development should not be hindered by constraints, not least planning gains and obligations.

- 4.5 Such obligations would include:
- Section 106 or charges arising from the Community Infrastructure Levy, notably regulation 123 infrastructure requirements associated with the proposed development.
  - The “Meaningful” proportion of CIL that Town, Parish Councils or Neighbourhood forums may justify should ensure development in their area is sustainable, is referred to in paragraph 175.
- 4.6 In many instances a conflict arises between what may be deemed as proving sustainable development when developers argue that sites are unviable.
- 4.7 Leeds City Council has already experienced this issue in relation to the agreed “Affordable Housing” provisions which are being challenged on a regular basis.
- 4.8 The City Council needs to recognise that, even in setting variable tariffs across the area, “one size does not fit all,” even within the charging zones identified in Appendix 2 of their report.
- 4.9 The opportunity to “fine grain” the charging areas, in accordance with the suggestion set out in CIL guidance paragraph 26, has been missed.
- 4.10 The Officer’s report argues the reason as being the additional administration requirement for such a system, but has provided no factual analysis to justify such a statement.
- 4.11 There has been a failure to recognise the “overarching” core planning principles identified in paragraph 17 of the NPPF and specifically the “different roles and characters of different areas.”
- 5.0 Community Infrastructure Levy (Overview)**
- 5.1 It is acknowledged that the intention is to provide public consultation in accordance with procedures identified within paragraph 30 of CIL guidance. However the Authority has already held a **selective** stakeholder consultation event which excluded community representatives.
- 5.2 The report to Executive Board confirms that discussions have also been held with developers. No minutes or a summary providing a briefing of any representations have been made available.
- 5.3 Contrary to the adopted Town & Parish Council Charter, no “front loading” engagement has occurred with local Councils or those preparing Neighbourhood Development Plans.
- 5.4 **In the light of paragraphs 5.1 and 5.2 above, it is perceived and strongly suggested that inequality has been promoted. The preliminary CIL tariff prepared for approval by the Executive Board is believed to be biased and liable to face challenge at examination.**

## 6.0 The Methodology

- 6.1 The author of this submission contends that the methodology for calculating the potential levy is flawed for the following reasons:
- LDF site allocations are yet to be announced.
  - Extant housing allocations approved and yet to be approved, notably East of Leeds where funding for the vast highway infrastructure the ELOR is being challenged by developers.
  - The justification for the charge and 1.3 billion shortfalls is not wholly compatible with the emerging LDF Spatial Policies 11 and 12, and the yet-to-be “worked up” regulation 123 infrastructures associated with yet-to-be allocated SHLAA sites.
  - Neither Ward members, elected local Town and Parish Councillors, nor communities have been requested to indicate the anticipated infrastructure necessary to accommodate potential development in their areas.
  - Flood alleviation, schools and medical facilities required for emerging development remain unquantified, and it is not clear if adequate funding will be derivable from the CIL.
- 6.2 For the reasons identified above, concern must be expressed that the Principal Authority is not currently best informed to set the provisional CIL charge tariff. Were the Council to do so, the Council may be brought into disrepute.
- 6.3 There appear to be failures and a lack of any calculation of costs which are to be met from the Levy - such costs include:
- The cost of administering the collection of and spending of the levy, not to exceed 5%, consistent with paragraph 11 of guidance (note the Appendix on page 6).
  - Drawdown in advance of CIL payments being received, to meet the costs of vital infrastructure, consistent with paragraphs 17 & 18 having regard to interest accrued on loan funds.
  - The management of funds held on behalf of Town, Parish or Neighbourhood forums which will not have manpower or expertise to administer CIL funds.
  - How will this be charged to the Approved Body? Should the charge be made known for the City Council’s services? How would any charges be calculated? Would this lead to a further deduction from the “meaningful amount” which communities could expect from the levy?
  - Where development is phased over a period exceeding 7 years, and progressive infrastructure arises in direct relationship to development, how will Leeds City Council address claims for “Claw Back” or the associated costs which Town, Parish or Neighbourhood forums incur?
- 6.4 The report of the Director of City Development to the Executive Board suggests, with little evidence to support this assertion, that setting the tariff high may discourage landowners from bringing land in their ownership forward for development.
- 6.5 The report makes no mention of “Land Banking” by developers, or the evidence previously provided by them to the Scrutiny Board that they are “house builders” and do not hold land back from development.

- 6.6 No reference is made to land that it is known to have “options to purchase” within a fixed time period. Such land may be subject to allocation or the granting of planning permission. If approved, such land it is unlikely to be withheld as any undeveloped land banked sites undoubtedly impact on the developer’s balance sheet. In many instances recently, land values have been written down.
- 6.7 The author of the City Council’s CIL report also states that the setting of a lower charging tariff “may” be supported by funding from other sources to meet the needs of essential infrastructure, but no example or quantification has been provided to demonstrate authority for this assertion.
- 6.8 The report makes clear at paragraph 1.3 that the CIL will replace the Section 106 obligations, other than for affordable housing and site specific requirements acceptable in planning terms. However experience recognises that Section 106 agreements are tightly bound in what can be claimed and agreed legally prior to an application being granted.
- 6.9 It is important to note that the following tests have to be satisfied, or those consistent with circular 05/05 apply:
- The planning obligation must be directly related to the development
  - Fairly and reasonably related to the scale and kind of development
  - Necessary to make the development acceptable in planning terms
- 6.10 Limited pooling of Section 106 contributions, after April 2014, will restrict up to five obligations to provide for infrastructure that is not intended to be funded by the Community Infrastructure Levy.

Appendix

Type of Development	CIL Charge per m <sup>2</sup>	Total CIL Levy based on 88m <sup>2*</sup>	Notes	Total after Deductions	NDP Prepared 25%	Non-NDP 10%
Residential Outer North	£90	£7,920	LESS 5% collection fee	£7,524	£1881 / dwelling	£752 / dwelling
Residential Outer South	£48	£4,224	LESS 5% collection fee	£4,012	£1004 / dwelling	£401 / dwelling
Residential Outer Central	£24	£2,112	LESS 5% collection fee	£2,006	£501 / dwelling	£206 / dwelling
Residential Inner Central	£5	£440	LESS 5% collection fee	£418	£104 / dwelling	£41 / dwelling
Residential City Centre	£5	£440	LESS 5% collection fee	£418	£104 / dwelling	£41 / dwelling
Retail < 500m <sup>2</sup>	£6			£5.70 / m <sup>2</sup>	£1.45 / m <sup>2</sup>	£0.57 / m <sup>2</sup>
Retail City Centre > 500m <sup>2</sup>	£158			£150.10 / m <sup>2</sup>	£37.50 / m <sup>2</sup>	£15.00 / m <sup>2</sup>
Retail Outside Centre > 500m <sup>2</sup>	£248			£235.60 / m <sup>2</sup>	£59.40 / m <sup>2</sup>	£23.50 / m <sup>2</sup>
Offices City Centre	£90			£85.50 / m <sup>2</sup>	£21.60 / m <sup>2</sup>	£8.55 / m <sup>2</sup>
Other uses	£5			£4.75 / m <sup>2</sup>	£1.19 / m <sup>2</sup>	£0.47 / m <sup>2</sup>

\* 88m<sup>2</sup> is projected as being the standard size of a 3 bedroom dwelling.