

## **Community Infrastructure Levy – Detailed proposals and draft regulations for the introduction of the Community Infrastructure Levy**

### **Consultation response by English Heritage**

English Heritage is the Government's statutory adviser on all matters relating to the historic environment in England. We are a non-departmental public body established under the National Heritage Act 1983 to help protect England's historic environment and promote awareness, understanding and enjoyment of it.

English Heritage is broadly supportive of the introduction of the Community Infrastructure Levy (CIL) and believes that, in the main, it offers a logical and flexible method of providing contributions from developers towards necessary local infrastructure. However, we also believe that the proposals for the detailed operation of CIL offer an opportunity to provide some very welcome funding for the historic environment, reflecting its importance as an element of existing community infrastructure and local distinctiveness.

Constructive conservation is the broad term adopted by English Heritage for a positive and collaborative approach to conservation that focuses on actively managing change – recognising and reinforcing historic significance, while accommodating the adaptation and change necessary to ensure the continued use of buildings and places. Our key concern is that the setting of CIL rates should not impede such an approach or ultimately make investment in the historic environment less likely. We also strongly support the retention of S106 agreements in order to address site-related matters and mitigation strategies.

Our response below therefore contains some suggestions for amendments to the proposals to better reflect modern approaches to the management of change in the historic environment, and the contribution it can make to wider government strategies such as local authority place making and housing supply.

#### **Question 1**

*Do you agree with the proposal that the draft CIL regulations do not define 'infrastructure' further?*

English Heritage proposes that the historic environment be explicitly identified on the illustrative list of infrastructure types.

We note the reference in the consultation document to the responsibility of the local government sector in delivering sustainable development and in providing and retaining those environmental qualities that define both quality of life and quality of place. English Heritage firmly believes that historic buildings, spaces and areas are key components in the quality of the local environment and as such represent *community infrastructure*. The reuse of such buildings and areas represents an inherently sustainable way of using finite resources and often reflects the way they are valued by their local community. While the existing system of planning obligations under Section 106 has proved to be a mixed success in terms of the historic environment, we believe that CIL proceeds present an opportunity for a much more straightforward and systematic way for local authorities to investing in sustaining the local historic environment.

Development has implications for the historic environment – housing, commercial and retail development and their associated impacts such as traffic all have effects on historic buildings

and places. We believe that it therefore follows that CIL proceeds should be made available for investment in the historic environment to address these issues and propose that it be included in the illustrative list of infrastructure types listed in the Regulations. There are a number of other reasons:

- A strategic view – CIL will remove the direct link between developments and specific projects based on the historic environment (although this has been patchy under Section 106 arrangements). It is important that local authorities are given the opportunity to reinvest CIL proceeds in projects that reflect the importance of the historic environment across their area.
- Place shaping – the historic environment is the platform upon which place shaping and regeneration projects are built. Enabling local authorities to invest in the historic environment will create an opportunity to connect with wider place shaping objectives.
- Sustainability – over recent years there has been a trend of rising awareness of the need to make the best use of the finite resources that our existing built environment offers. Including the historic environment in the list of infrastructure types will provide further encouragement to local authorities and developers to focus on the repair, refurbishment and continued use of historic buildings and areas.
- Sense and quality of place – the historic environment is clearly a key component in local distinctiveness and environmental quality. New development is counter productive if it negatively impacts on existing character.
- Planning policy – the Government’s commitment to the protection and enhancement of the historic environment is reflected in the current consultation draft of Planning Policy Statement 15 *Planning and the Historic Environment*.

The proposals as set out are somewhat vague as to what will be regarded as infrastructure (other than those types explicitly identified in the consultation document) and in the early stages there is likely to be some uncertainty as to what is fundable. At the very least, local authorities should be given clear encouragement to adopt a broad interpretation as to the type of local infrastructure that is required in their area.

English Heritage also believes that local authorities should be given guidance and encouragement to look for further opportunities that CIL proceeds and the projects that will be funded can bring. For example, major transport projects can often provide opportunities for investment in the historic environment through archaeological investigations, or through public realm upgrades in affected areas. In this respect, CIL funding could provide a multiplier effect, with funding for specific infrastructure projects also creating spin-off benefits for the historic environment.

English Heritage funded research has identified that there are specific funding issues relating to the long term preservation of and provision of access to the archives of archaeological investigations which can not be satisfactorily dealt with through existing funding mechanisms such as Section 106 agreements or planning conditions. These arrangements have developed to meet the one-off costs of archaeological investigation of specific development sites, along with reporting and the preparation of an archive for storage, but do not adequately address the need for infrastructure to maintain and provide access to the archive in the long term. Without such infrastructure not only are the archives themselves at risk, but opportunities are lost to engage communities with the physical evidence of their own past. English

Heritage, along with partners in the sector is developing policy and guidance for the establishment or enhancement of such archaeological resource centres to maintain these archives at authority or sub-regional level. The need for archaeological investigation, and therefore the need for archive storage and access facilities will relate directly to the level of development in each authority area. We therefore believe that the need for such infrastructure should be considered in setting the level of CIL in each authority area.

### **Question 7**

*Do you agree that differential rates should be based only upon the economic viability of development?*

English Heritage supports the proposal for differential rates of CIL. Development projects involving designated heritage assets such as listed buildings can involve greater degrees of planning, uncertainty and often cost. We would wish to be reassured that the method of setting differential rates by identifying geographic zones would allow for such zones to be as local as possible, for example down to potentially a single building (where it meets the minimum size threshold). Clearly, it will need to be demonstrated that there is an economic case for a differential rate, but without the potential for such a move there is a clear risk that in certain situations charging the full rate for CIL will mean projects will not go ahead.

### **Question 24**

*Exemptions*

English Heritage supports the basic principle behind the introduction of CIL i.e. that development should contribute towards infrastructure within the local authority area. Clearly, development involving designated heritage assets will usually have an impact on infrastructure requirements. We would not therefore argue for an exemption from CIL for development involving heritage assets, although we believe that this strengthens the need for a system of differential rates – see our response to Question 7.

### **Question 30**

*Procedure for difficulty in paying*

English Heritage supports the proposal that there should be a mechanism to allow for exceptional circumstances and for developments that have difficulty in paying CIL. This will clearly enable a significant number of developments to proceed where circumstances have changed over the period where plans have been in preparation. We believe that given the huge variety of circumstances that are likely to be encountered there is little practical value in developing a fixed procedure.

### **Question 43**

*What do you think about the Government's proposal as set out in draft regulation 94 to scale back the use of planning obligations?*

English Heritage has no formal view on the proposals as set out, although we are clear that Section 106 agreements should be retained in order to address site-related matters. We consider it crucial that this kind of link is retained in order that mitigation work can be enabled where heritage assets have been affected by development. We would oppose any future proposal to restrict the ability of local planning authorities to attach these kind of planning obligations to development proposals.

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