

Our ref: SW/CH/BANES  
Your ref:

Community Infrastructure Levy  
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Dear Sir/Madam

## **BANES COMMUNITY INFRASTRUCTURE LEVY AND DRAFT PLANNING OBLIGATIONS SPD CONSULTATION**

Thank you for providing the Highways Agency with the opportunity to be involved in the consultation for the above documents, for which you will be the charging authority. The Highways Agency welcomes the opportunity to make representations relating to the CIL Consultation Paper and the Draft Planning Obligations SPD.

The Agency is responsible for operating, maintaining and improving the Strategic Road Network (SRN). In the BANES area the SRN comprises the A46, the A36 and a short section of the A4 to the east of Bath. It is therefore on the basis of these responsibilities that our consultation response is based.

The comments made in this letter reflect guidance contained in DfT's "*Guidance on Transport Assessment*" the NPPF and the Highways Agency Circular 02/2013 - "*The Strategic Road Network and the Delivery of Sustainable Development*."

### **BANES CIL CONSULTATION PAPER**

#### **Timetable**

The Agency acknowledges the timetable for the adoption of the CIL charging schedule by April 2015. We would ask that we are kept informed of developments and welcome opportunities to assist where necessary and relevant with the process.

#### **General Principles of CIL**

The Agency welcomes the provision of the CIL to raise funds from developers undertaking new building projects in their area to provide key infrastructure needed as a result of development. It is imperative that new development is supported by the necessary infrastructure to support it. In terms of the legislative background and the development that is liable for CIL we acknowledge the inclusion of this for information.

The Agency welcomes the introduction of an instalment policy in order to make CIL payments more affordable, this is preferable to requiring lump sums upfront in cases which may jeopardise affordability for developers. The Agency does however have some concerns about the intervals between instalments, particularly the final instalment being 18 months after the commencement of development. At this stage development could legitimately be occupied and generating trips. It is quite possible that for a large development the final 34% could be a large sum and would be needed before mitigating infrastructure could be built, leaving a situation whereby traffic is generated causing detrimental impacts on the SRN which should have been mitigated against before development is occupied or fully occupied. In this scenario the Agency will need to ensure that conditions are imposed on planning consents to ensure that this situation does not occur.

The Agency welcomes the implementation of the CIL as it will make things more transparent, but note that Section 106s will continue to operate in some circumstances as there are still obligations that will need to be fulfilled by way of legal agreement, such as affordable housing provision.

### **Evidence Base**

The CIL rate should be informed by an appropriate evidence base, based on an assessment of infrastructure necessary to support new development and the economic viability of development. It appears that this evidence base is in place.

One of the main sources of evidence is the Infrastructure Delivery Plan. Going forward the Agency would wish to continue to be involved in the IDP process and any subsequent updates to it which we note will take place on a regular basis.

It is important that whilst financial viability for development needs to be taken into account, that development does not come forward without being able to provide the infrastructure necessary to service the development.

### **CIL Draft Charging Schedule**

The Agency notes the suggested BANES CIL rates and that there are several land uses/locations that would not attract a CIL charge. Whilst not wishing to comment on specific levels of contribution, BANES needs to ensure that they are sufficient in order to fund necessary infrastructure to support development. Regular review will allow the latest market conditions to inform calculations and ensure that the CIL rates remain appropriate.

### **Draft Infrastructure List (Regulation 123 List)**

We note the BANES Regulation 123 list in section 6. The Agency welcomes the inclusion of Strategic Transport Infrastructure as a requirement. This is essential, and

the ongoing review of the requirement for this is something that the Agency would be keen to assist with.

## **DRAFT PLANNING OBLIGATIONS SPD**

### **Introduction**

The SPD is in compliance with the Core Strategy, expanding on Policy CP13 which requires that new development must be supported by the timely delivery of the required infrastructure to provide balanced and more self-contained communities.

### **Part 1**

The Agency acknowledges that CIL will replace some functions of the current Section 106 arrangements and that it will not be possible for LPAs to seek planning obligations for strategic infrastructure using the existing Section 106 mechanism. The NPPF tests that must be satisfied in order for obligations to be required in respect of development proposals are equally applicable when providing application advice on requirements and the Agency will endeavour to bear them in mind when providing such advice.

In line with local policy the Agency supports the vision for BANES and will strive to assist in achieving this where possible in line with the Core Strategy. The Agency is keen to emphasise, that the delivery of growth set out in the Core Strategy will need to be supported by the provision of necessary infrastructure, the key requirements for which should be identified in the IDP. We support policy CP13 as set out in the Core Strategy which requires this.

We agree that it is essential for developers to enter into early discussions with the Planning Officers at the LPA relating to planning obligations and requirements. Where appropriate the Agency would wish to be a part of this important process.

The Agency foresees most of our involvement in the planning application process to be in the direction of appropriate conditions in order to address unacceptable impacts on the SRN rather than through planning obligations as generally strategic infrastructure requirements will be included in the IDP.

The Agency welcomes the requirement for full disclosure of details from developers when assessing the viability of a development. The Agency is keen to ensure that in line with CP13, development provides the necessary infrastructure to mitigate its impact on the SRN and would identify the infrastructure level required to satisfy this. However, it maybe that where a developer has viability issues that planning obligations are reduced; in these circumstances they may have to wait to fully complete their project until the infrastructure necessary is provided through other available means.

The publication of a Regulation 123 list of infrastructure that the Council intends will be or may be wholly or partly funded by CIL will provide transparency for developers, as

this will mean that these types of infrastructure cannot therefore be funded through new Section 106 planning obligations. Hopefully this will provide some clarity to developers and speed the process up. It is important that this list is regularly reviewed and kept up to date and we are reassured that the document makes mention of this intention.

### **Transport Infrastructure Works**

In line with the Agency's role, we support the requirement for transport infrastructure to ensure that developments can be accessed in a safe and appropriate manner and consider its provision as integral to the delivery of sustainable development. This is in line with national and local planning policy.

We are encouraged by the transparency that is proposed between CIL schemes and works that require the use of a Section 106 agreement. As previously iterated we would envisage that this will assist with the timely delivery of development and appropriate infrastructure.

As set out in the document, there is no trigger for the requirement for transport infrastructure, each development needs to be assessed on an individual basis. That said all applications should include the required transport evidence base, the thresholds for which are set out in DfT's '*Guidance on Transport Assessment*'.

The Agency welcomes the identification of Access and Local Works and onsite works, services and incentives as being two categories of required transport infrastructure which can be delivered by way of planning obligation. We would envisage that the majority of infrastructure, due to the nature of the Agency's network will be strategic, and therefore will be delivered through CIL payments.

I trust that this information is helpful to you. Please feel free to contact me if you wish to discuss any issues.

Yours faithfully

A black rectangular redaction box covering the signature of Sean Walsh.

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