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Consultation on the Community Infrastructure Levy

We are writing in response to the above consultation. Environmental Protection UK has considered the consultation document and welcomes the opportunity to comment on the proposals.

1. About Environmental Protection UK

Environmental Protection UK brings together organisations from across the public, private and voluntary sectors to promote a balanced and innovative approach to understanding and solving environmental problems, through policy development and education. We are a registered charity with 110 years experience of environmental campaigning, public information provision, producing educational resources and policy formulation.

2. Summary of Our Views

Please note that as our views are confined to certain areas of the consultation document we have not structured this response around the consultation questions.

Our comments centre on two main points of the proposals. Firstly we are concerned that developer funded Low Emission Strategies may fall between the gaps of the new CIL scheme and the revised framework for planning obligations/ agreements. Low emission strategies provide a package of measures to help mitigate the transport impacts of development, both for emissions of CO₂ and local air pollutants. Many local authorities have been implementing these using a combination of developer obligations and pooled contributions based on a similar tariff concept as CIL. Guidance on Low Emission Strategies will, we understand, soon be incorporated into Government (DEFRA) guidance on Local Air Quality Management. At present it is not clear whether typical measures taken under Low Emission Strategies would be covered under the definition of infrastructure in Section 216(2) of the Planning Act (2008). If this were not the case, these measures could become excluded from both CIL and the revised planning obligations/ agreements regime, and much of this important work to improve air quality and reduce CO₂ emissions would potentially cease.

Secondly, we would like to support the concept of CIL as an allowable solution where it supports infrastructure which abates carbon emissions in a local area, or more specifically,

as a means of discharging on-site renewable energy conditions. For many urban sites space is at a premium and it is a struggle to incorporate on-site renewable generation without causing noise nuisance (wind turbines) or air quality (biomass) issues. In the case of biomass, Government guidance is encouraging local authorities to target deployment towards areas off the gas grid and to encourage larger, rather than small, biomass boilers and combined heat and power systems. Presently, however, local authorities have ineffective tools for implementing this guidance; CIL as an allowable solution in this case would provide a powerful means of directing renewable generation for optimal environmental and social outcomes.

3. Detailed Comments

We have comments to make in two areas – the use of CIL or planning obligations/ agreements to fund Low Emission Strategies that mitigate the effects of new developments on emissions to air, and the feasibility of using CIL as a mechanism to discharge renewable energy responsibilities for new developments.

3.1 CIL and Low Emission Strategies

Many local authorities are now requiring developers to fund Low Emission Strategies, using an innovative combination of planning obligations and agreements. Low emission strategies provide a package of measures to help mitigate the transport impacts of development, both for emissions of CO₂ and local air pollutants. Draft guidance on the development of Low Emissions Strategies¹ has been produced by the Beacons Low Emission Strategies Working Group, a grouping of local authorities with Beacon Council status for air quality. A revised version of the guidance document is expected to shortly become official Government (DEFRA) guidance under the Local Air Quality Management Process.

The Low Emission Strategy concept is an important one for many local authorities as, whilst increasingly stringent building standards are helping to reduce the impact of new buildings themselves, there are often significant transport impacts as a result of new developments. Individually these impacts may be relatively small, however, taken together the cumulative effect of development over time is significant for both air quality and climate change.

In many parts of the UK we are failing to meet our European, legally binding, health based air quality standards. Emissions from transport are by far the most significant source of local air pollutants to tackle, however, despite increasingly strict emissions standards for new vehicles, the concentration of pollutants in the air in many parts of the UK is not falling as fast as expected, and in some cases are in fact increasing. New development and intensification of existing sites are one reason behind this, and Low Emission Strategies provide a powerful tool to address these impacts where the choices may otherwise be stringent curbs on new development in polluted areas, or sacrificing air quality.

Low Emissions Strategies are funded either directly via the developer (for measures related directly to the development itself), or via developer contributions to a general pool, usually using a variation on the 'Greenwich Formula', which is:

- 'Contributions will be sought for all residential schemes of 10 dwellings and above, and mixed use and commercial schemes of 500 m² and above
- A standard contribution will be sought of £100 per dwelling for residential development and £10 per m² for town centre and commercial developments'

Typical measures funded by a Low Emission Strategy are shown in section 4 of this response.

¹ http://www.lowemissionstrategies.org/downloads/LES_Consultation_Draft.pdf

Clearly there are strong parallels between CIL and the approach taken with Low Emission Strategies, and we would welcome the ability for local authorities to fund the pooled elements of Low Emission Strategies through CIL. This would be particularly useful for funding Low Emission Strategies that covered more than one local authority, for example in large metropolitan areas where air quality problems range across local authority boundaries. However, at present it is not clear whether the typical measures used in Low Emission Strategies (see section 4 of this response) fall into the definition of infrastructure under CIL. Section 216(2) of the Planning Act includes the category of 'roads and other transport facilities', but clarification is needed as to whether typical low emission strategy measures fall under this category.

Section 5 of the consultation document discusses making the Circular 5/05 tests statutory by incorporating them into law. Scaling back planning obligations in this way would restrict obligations to mitigating the direct impacts of the development in question and directly affect the ability of local authorities to implement Low Emission Strategies, unless the pooled elements of the strategies can be funded under CIL.

Recommendation 1: Clarification is needed as to whether the typical measures implemented as part of a low emission strategy are included under the definition of infrastructure for CIL contained within section 216(2) of the Planning Act (2008). If they are not, we strongly disagree with the Government's proposal, as set out in draft regulation 94, to scale back the use of planning obligations, as these would place significant restrictions on the ability of local authorities to use Low Emission Strategies to mitigate the transport emissions associated with new developments.

3.2 CIL as a Mechanism to Discharge Renewable Energy Responsibilities

Many local authorities now have renewable energy requirements for new developments (Merton Rules), as required by PPS 1. Box 2.2 of the consultation document mentions that a previous consultation on the definition of zero carbon homes floated the idea of using CIL as an allowable solution, where this supports infrastructure that abates carbon emissions in a local area, a solution which we support in certain circumstances.

Government targets for brownfield developments and development density is leading to a number of problems for deploying on-site renewable energy generation. Space is often at a premium on many sites, making many renewable technologies impractical and introducing problems such as potential noise nuisance for neighbouring properties (wind turbines), and air pollution in polluted urban centres (biomass).

The large-scale deployment of biomass boilers and combined heat and power in urban centres, driven by development related renewable energy obligations, has been a cause of concern for air quality professionals in recent years. Guidance on biomass and air quality was provided by DECC Minister, Lord Hunt of Kings Heath, via a letter to all local authority Chief Executives, sent on the 30th April 2009. This recommended that local authorities target biomass deployment to areas off the gas grid where alternative fuels are 'dirtier', and encourage the deployment of larger biomass boilers/ CHP, as cleaning the emissions on larger plant is far more cost effective than with smaller units. However, as biomass deployment is currently driven by planning conditions, there are no effective mechanisms for implementing this guidance.

Using CIL to discharge on site renewable energy responsibilities would allow local authorities to target technologies, such as biomass, towards suburban and rural areas where air quality effects would be minimal and carbon reduction substantial. Local authorities could also use CIL funded renewable energy deployment as a means to alleviate rural fuel poverty – this can often be a significant problem due to the lack of cheap mains gas, and the size of rural properties - renewable energy offers a permanent 'fix' for problem

areas. An additional benefit would also be seen in terms of vehicle movements – biomass boilers need significant number of extra vehicle movements (over gas and electricity) in order to deliver fuel and remove ash. These vehicles can add to traffic congestion and pollution in urban areas, but are less problematic in suburban and rural area

Recommendation 2: CIL be confirmed as an allowable solution for discharging renewable energy obligations in urban development.

4. Typical Measures That Can Be Included in a Low Emission Strategy

(Taken from the draft guidance on Low Emissions Strategies, produced by the Beacons Low Emission Strategies Working Group)

Measure	Operational Phase Measures
Construction phase	Refer to the London Code ²¹ and TGB case study ²²
On-site parking	Graduated price parking permit schemes (e.g. graduation based on VED emission bands/Euro Standards)
	Residential parking space set aside (e.g. for car clubs and/or low emission vehicles)
	Customer parking allocation for low emission vehicles (e.g. supermarket)
Low emission infrastructure	Provision of electric charging bays or low emission fuelling points
	Car clubs - development and promotion (including provision of low emission vehicles or electric charging bays)
	Public transport fleet improvements (e.g. bus technology demonstration)
Fleet emission improvement	Fleet improvement agreements
Emission-based differential tolling	Toll rates based upon emission performance of vehicles
Innovative ideas	Creative and opportunistic measures. For example: <ul style="list-style-type: none"> ● Low emission travel incentives via store loyalty card ● Local ESCO addressing transport issues ● Inter-authority partnership (see paragraph 30)
Procurement and supply chains	Forward commitment procurement
	Use of procurement potential to help accelerate market entry for low emission technologies
Contributions to local plans/projects	See paragraph 32

5. Contact Us

If you require any further information on the views expressed in this response please contact:

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