

MHCLG Consultation on Support for housebuilding in London

Introduction

Question 1: What is your name? Charles Glover-Short

Question 2: What is your email address? charles.glover-short@southernhousing.org.uk

Question 3: Are you replying as an individual or submitting a response on behalf of an organisation?

- Individual / personal response
- Central government department / arm-length body
- Upper-tier local authority (e.g., County, Unitary, Metropolitan district or London borough)
- Lower-tier local authority (e.g., District or Borough)
- Town / parish council
- Developer / promotor / consultancy
- Lawyer / legal profession
- Professional body / organisation
- Interest group or voluntary organisation
- Other (housing association)

Please give your organisation: Southern Housing

Part I: A proposal for time-limited relief from the Community Infrastructure Levy to support housebuilding in London

Qualifying developments

Question 4: Do you agree that the relief should not apply to development on “excluded land” as defined? Please explain your answer.

Yes. We agree relief shouldn't apply to development on “excluded land” as defined in section 3.2. The listed typologies (land designated as Green Belt, land designated as

Metropolitan Open Land and parks, recreation grounds, allotments, golf courses or other local designated open space) have long been afforded protection from development, so it is right that CIL relief should not apply in these cases.

If CIL relief were to be extended to these typologies, some landowners / developers may be encouraged to make applications on land with little realistic prospect of gaining planning permission. This would generate additional applications that council planning teams are not currently resourced to deal with, potentially slowing down decision times for sites in more acceptable locations.

The nature of the exclusions also means relief is predominantly targeted at brownfield land supporting Government's brownfield-first approach to housebuilding. As the consultation acknowledges, these sites are more likely to present viability challenges, which CIL relief could mitigate to some extent.

Question 5: The Government welcomes views on approaches restricting relief to certain land uses – including the merits of whether the policy should apply based on established use classes, or something more bespoke.

We agree in principle with the restriction to residential uses. The relief should apply to residential-led (predominantly residential) developments falling within C2 and C3 use classes rather than being restricted to residential-only developments, which would discourage some residential-led mixed use developments from coming forward.

Residential-led mixed use developments can play a key role in redeveloping non-residential sites while also delivering large levels of housing. The non-residential element can make a proposal acceptable at a site where the council aims to retain certain land uses. For example, our scheme at 180 Ilderton Road, Bermondsey, involved the redevelopment of a former single storey industrial site into a five- to nine-storey building comprising business uses at ground floor level with residential above. Although the site was located within a Preferred Industrial Location, the council considered the scheme acceptable, in part because business uses (and associated employment) would be retained in the area.

Question 6: The Government welcomes views on the application and level of the proposed borough-level CIL liability threshold, including whether this would have significant negative implications for SME builders.

The £500,000 borough-level CIL threshold is broadly appropriate for targeting relief at schemes where CIL impacts viability. However, the threshold would exclude smaller but still marginal schemes including those delivered by housing associations and SME builders on complex sites. Some flexibility or additional exemption criteria would help ensure constrained schemes benefit from the relief.

Consideration should also be given to lowering the exemption threshold to encourage more SMEs to bring forward residential schemes. Average CIL liabilities for outer London Boroughs are likely to be over £100,000 for schemes as small as 20 homes. Reducing the

threshold to £100,000 in such circumstances would incentivise more SMEs to bring forward schemes and therefore help deliver more housing at a quicker pace (since smaller schemes are likely to deliver homes more quickly than larger schemes).

Question 7: The Government welcomes views on the threshold applying to a development as a whole, and whether this presents any challenges for phased developments where each phase is a separate chargeable development for CIL purposes. If so, should a lower threshold apply for each phase of a phased development?

Applying the threshold to a development as a whole is sensible, but it creates challenges for phased schemes where each phase is subject to a separate CIL charge. For large, master-planned or regeneration schemes, relief should be assessed across the whole development or achieved via a lower threshold to discourage phasing and delaying delivery. Where a scheme is formally phased for planning purposes, the threshold should apply to each phase of the development and be reduced as per our response to Question 6 above. This would ensure that large sites with outline permission can be sold to multiple developers who can all benefit from the CIL relief. This is likely to ensure that smaller developers can bid for phases of a development and avoid major schemes being dominated by very large housebuilders. Where sites are built out by multiple developers, they are likely to deliver homes more quickly, helping achieve the Government's objective of speeding up housing delivery.

Question 8: The Government welcomes views on the proposal to require a minimum level of affordable housing as set out in this sub-section.

We support the proposal to require a minimum level of affordable housing to be eligible for CIL relief. A 20% threshold is a reasonable baseline, provided policy also incentivises delivery above this level and recognises tenure differences. It also aligns with the threshold proposed under the GLA's new time-limited planning route.

The requirement for a minimum of 20% affordable housing (to be eligible for CIL relief and the new-time-limited planning route) could have the knock-on effect of helping housing associations acquire stalled schemes and ultimately increase the proportion of affordable homes delivered.

That's because housing associations can claim grant funding for the 'additionality' – the additional affordable homes delivered compared to those specified when planning permission was granted – meaning acquisition becomes a more viable proposition.

Question 9: Overall, are you supportive of the qualifying criteria outlined? Please set out your views.

We agree in principle with the overall approach. Please see our responses to Questions 4-8.

Question 10: The Government welcomes views and evidence on whether a time-limited borough-level CIL relief in London will have the desired effect of improving viability to support housebuilding in London? As part of this, the Government would welcome case studies on the impact that borough-level CIL has on development in London.

Yes, time limited borough level CIL relief would improve viability and accelerate delivery in London. Borough CIL represents a significant upfront cost that constrains cashflows and delivery of homes. Relief would help unlock stalled schemes particularly in our Bow River Village scheme in Tower Hamlets where we are currently modelling the scenarios.

Question 11: Are there any specific criteria that you think could be clarified or adjusted? If so, please give your reasons why.

Please see our responses to Questions 5-7. The key points are that:

- relief should apply to residential-led (predominantly residential) developments falling within C2 and C3 use classes rather than being restricted to residential-only developments
- further criteria should be used besides a monetary value to ensure constrained schemes benefit from the relief
- consideration should also be given to lowering the exemption threshold in some cases to encourage more SMEs to bring forward residential schemes
- relief should be assessed across the whole development or achieved via a lower threshold for large, master-planned or regeneration schemes
- the threshold should apply to each phase of a development and be reduced where a scheme is formally phased for planning purposes.

Question 12: Are there any additional eligibility criteria you think should be considered for the CIL relief beyond those proposed? Are there any other observations or comments you wish to make?

No further comments.

4. Process for securing relief

Question 13: The Government welcomes views on the proposed steps before applying for relief as set out in this sub-section. This includes views on how the grant funding mechanism may interact with the proposed CIL relief, and any circumstances where following the order/choreography set out would be difficult.

The proposed steps are sensible, but greater flexibility is needed. In practice, planning, funding and commercial decisions often run in parallel. A rigid sequencing requirement could delay delivery, particularly for housing associations working with multiple partners. We also believe that CIL relief shouldn't be withdrawn or subject to severe penalties/fines where procedures are not followed exactly. For example, where a developer has successfully claimed CIL relief, a fine should not be imposed where a commencement of

development notice has not been served. Instead, the developer should be given the opportunity to remedy the matter by serving the notice as a first step. Fines should only be imposed if the commencement notice is still not received. Some leeway is needed as many SMEs may not be familiar with the steps for obtaining relief in the same way as larger developers. Unfair penalties could potentially disincentivise SMEs from bringing forward certain schemes.

Question 14: The Government welcomes views on the proposed application fee, the level of fee that is proposed and whether this would create any difficulties.

An application fee is acceptable if it is proportionate and focused on cost recovery. It should not be set at a level that undermines the viability benefits of the relief, particularly for not-for-profit affordable housing providers and SMEs. A £25,000 fee is likely to be high for some developments brought forward by SMEs. Consideration should therefore be given to a sliding scale based on the size of the scheme and/or a reduced rate for schemes under 50 homes. While we note the comment regarding the diversion of council staff capacity, the majority of London boroughs have a dedicated CIL/s106 team with a skill-set well suited to dealing with relief claims. Given there is a current fall in application numbers for residential development (the reason for this consultation), it is likely that most of these teams have additional capacity at present. The package of measures currently proposed is therefore likely to bring application numbers back up to where they should be, meaning these teams should have the capacity to deal with the uplift.

Question 15: The Government welcomes views and evidence on whether 50 per cent relief for qualifying schemes delivering 20 per cent affordable housing is appropriate, or whether an alternative approach should be considered.

A 50% relief level for schemes delivering 20% affordable housing is appropriate and meaningful. However, a sliding scale would be preferable, with higher relief available where schemes deliver higher levels of affordable housing. Therefore, we welcome the intention to increase relief up to 80% for schemes providing 35% affordable housing. 35% is an appropriate cap since any higher cap would compromise housing associations' ability to acquire stalled sites and deliver higher levels of affordable housing. Housing associations can claim grant for additional homes delivered on top of those specified in the s106 agreement, so a lower starting point improves the viability of acquisition. The 35% cap is also in line with most boroughs' current affordable housing requirements, creating alignment between CIL relief thresholds and typical affordable housing requirements in the capital. Please also see our response to Question 16.

Question 16: The Government welcomes views on whether this approach strikes an appropriate balance and provides a clear incentive for additional affordable housing to come forward.

We welcome this approach in principle, though do note that a knock-on effect of the proposal will be a significant reduction in borough CIL receipts. This is a key consideration given CIL contributions play an important role in supporting local infrastructure priorities

and funding local authority planning departments, which despite recent interventions – including in November’s Budget – remain under-resourced. For that reason, CIL relief should be temporary and precisely targeted to avoid slowing the delivery of housing over the longer-term.

Question 17: The Government welcomes views on the optimal levels of relief to ensure development can proceed, while maximising CIL receipts and affordable housing delivery.

A minimum of 50% relief is likely to be required to unlock marginal schemes. Higher relief levels should be available where schemes deliver increased affordable housing or a greater proportion of homes for social rent, ensuring relief directly supports policy outcomes. Please also see our responses to Question 15 and 16.

Question 18: The Government welcomes views as to whether boroughs should have any discretion in relation to the relief and if so in what circumstances, and how this may work such that robust incentives for additional affordable housing remain.

A limited degree of borough discretion is appropriate, but it should sit within a clear national framework. Any deviation from national policy must be transparent and tightly defined to avoid inconsistency, delay and the reintroduction of viability negotiation risk.

Question 19: The Government welcomes views on the appropriate and proportionate level of information that a developer must provide for a scheme in order to be able to qualify for the relief, ensuring that only those schemes which genuinely need the relief are able to benefit from it but avoiding the level of viability testing that would be required under the GLA’s Viability Tested Route.

Information requirements should be proportionate and avoid full viability testing. High level cost and value information, alongside confirmation of abnormal costs, should be sufficient to demonstrate need while maintaining speed and certainty.

Question 20: The Government welcomes views on whether existing enforcement mechanisms for (i) statutory declarations (see section 5 of the Perjury Act 1911), and (ii) prosecution under the CIL Regs (see Regulation 110 of the CIL Regs) for supplying false or misleading information that is required to be provided under those Regulations, are sufficient to deter gaming of the system, or whether other deterrents should be made available? If you think these are not sufficient, please set out your reasons and views on what kinds of other deterrents may be needed, noting the Government’s aims of creating a streamlined and certain process.

Existing enforcement mechanisms are sufficient. Additional deterrents risk adding complexity and delay.

Question 21: The Government is interested in obtaining views on the suitability of the proposed process for securing the relief. The process is intended to provide consistent,

timely and proportionate decision-making, whilst ensuring that applications for relief are robust and honest. We welcome feedback on whether these steps are practical and effective in supporting the intended outcome.

The proposed process is suitable and capable of supporting timely delivery, provided it is implemented consistently and avoids unnecessary delay.

Question 22: Are you supportive of the overall approach proposed to securing relief?

Yes. We support the overall approach, particularly its focus on certainty, speed and delivery outcomes.

Question 23: Do you foresee any challenges with particular aspects of the approach proposed to securing relief? If so, how might these be overcome?

The main risk is delay arising from rigid process requirements or inconsistent borough interpretation. This can be mitigated through clear guidance and standardised decision making.

5. Administration

Question 24: The Government welcomes views on appropriate clawback provisions to ensure schemes which benefit from the relief contribute to urgent housing need. This will include clawback of relief if an incorrect/false statement is made about the viability evidence which is submitted to justify the need for relief from CIL.

The proposed clawback provisions are appropriate where relief is secured on the basis of incorrect or misleading information. Clawback should be proportionate and focused on protecting public value, not penalising genuine delivery risk.

Question 25: Are you supportive of the overall approach proposed to administering the relief?

Yes. We support the proposed administrative approach, subject to proportionality and clarity.

Question 26: Do you foresee any challenges with particular aspects of the approach proposed to administering the relief? If so, how might these be overcome?

Challenges may arise from inconsistent borough capacity and interpretation. Clear national guidance and monitoring will be essential.

6. Implementation

Question 27: Do you foresee any challenges with the proposed implementation process?

The primary challenge will be ensuring consistent and timely implementation across boroughs. Early clarity and standardisation will be key.

Question 28: The Government welcomes any views on other ways that developers could be supported through the CIL system to bring forward developments.

Further support could include greater flexibility in CIL payment timing, deferred payments, or alignment with affordable housing grant to support cashflow and delivery.

Part II: A proposal for permanent changes to the Town and Country Planning (Mayor of London) Order 2008 to support housing delivery in the capital

8. Proposals for Greater Powers

Question 29: Do you agree with the new PSI category of 50 homes or more? Please state why.

- Yes
- No

Yes. A new PSI category for schemes of 50 homes or more is appropriate and reflects the strategic importance of larger residential developments in London.

Question 30: Do you agree with the streamlined process for the new PSI category? Please state why.

- Yes
- No

Yes. The proposed streamlined PSI process would reduce delay and uncertainty, supporting faster delivery while retaining appropriate oversight.

Question 31: Do you agree that development in Category 3D of the Schedule of the Mayor of London Order 2008 should be brought into scope of the Mayor's call-in power? Please state why.

- Yes
- No

Yes. Bringing Category 3D developments into scope of the Mayor's call-in powers is appropriate given their strategic and sensitive nature.

9. Public sector equality duty and Environmental Principles

Question 32: Do you have any comments on any potential impacts for you, or the group or business you represent, and on anyone with a relevant protected characteristic that might arise under the Public Sector Equality Duty as a result of the proposals in this document? Please provide details.

No comment.

Question 33: Is there anything that could be done to mitigate any impact identified?

No comment.

Question 34: Do you have any views on the implications of these proposals for the considerations of the 5 environmental principles identified in the Environment Act 2021?

No comment.