



Department for  
Communities and  
Local Government

# The value, impact and delivery of the Community Infrastructure Levy

Report of Study

Published February 2017  
The University of Reading and Three Dragons in  
association with Smiths Gore and David Lock Associates

Department for Communities and Local Government

This report was commissioned to inform the review of the Community Infrastructure Levy which was submitted to Ministers in October 2016 and published in February 2017.

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# Summary of main findings

- 1 Introduced in 2010, the Community Infrastructure Levy (CIL) is the Government's preferred means of collecting developer contributions to infrastructure investment that has been identified as necessary to support the development of an area. It is intended to operate alongside a scaled back system of section 106 planning obligations, which will only be used for site-specific items and affordable housing. CIL is a local levy and it is the responsibility of planning authorities in England and Wales to decide whether to introduce it.
- 2 In March 2015 the Department for Communities and Local Government (DCLG) commissioned research into the value, impact and delivery of CIL<sup>1</sup>. Specifically, the research investigated five broad research areas that were set out in the project specification. These were:
  - a) Implementing and operating CIL: the extent to which the levy is simpler and quicker to operate than individually-negotiated section 106 agreements
  - b) The value of CIL: how much money is being raised and what it is being spent on (or intended to be spent on)
  - c) Who is paying CIL: the types of development that are paying the levy
  - d) The neighbourhood portion of CIL: how much money is being passed on to local communities and how the 'neighbourhood portion' of CIL is being administered
  - e) The impact of CIL on development viability: what, if any, impact it is having on development viability
- 3 The research provides an evidence base to inform a review of CIL. It is important to note from the outset of this report that CIL is a relatively new policy and this is reflected in the evidence available. Many planning permissions granted before CIL adoption are still to be implemented in local authorities that have recently introduced CIL. Similarly, many of the sites to which CIL now applies would have been acquired in a pre-CIL environment. Also, the regulatory framework governing the CIL regime has been subject to change. CIL spending has barely got under way and practice in relation to the proportion of CIL revenue that is allocated to Neighbourhood groups is only just beginning to emerge.
- 4 The research has revealed a wide spectrum of views on CIL, to the extent that drawing emphatic conclusions as to its 'success' or 'failure' would be very difficult. Furthermore, for most of the local authorities that have adopted CIL, it

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<sup>1</sup> The report does not cover the London Mayoral CIL, for which a biennial review was recently published: <https://www.london.gov.uk/sites/default/files/MCIL%202014%20Review%20December%202014.pdf>

is still very much in its early stages. Whether through interviews or questionnaire responses, the research identified many who have welcomed CIL, particularly the predictability it offers in comparison to negotiated section 106 planning obligations. Some, while supportive of CIL, have been critical of the revisions that have been made since its introduction. Others argued that section 106 agreements are preferable to CIL for a variety of reasons: because there was a more direct local connection between money collected and infrastructure provided, concerns about development viability with CIL in place, a perceived complexity of operating CIL or simply, from developers' perspective, that CIL is an unwelcome 'tax' on development. It is within this context that the detailed study findings sit.

## CIL implementation

- 5 Implementation of CIL by local authorities has been slow to start but has picked up over the past two years. (27%) charging authorities had adopted a CIL by the end of August 2015. Combining these authorities with those that are progressing towards adoption, a total of 202 (58%) authorities are engaged with CIL.
- 6 Authorities that have operational CILs are concentrated to a large extent in more affluent parts of the country where market and land values are higher. Over half of CIL adopters are from London and the south east of England. The main reasons cited by authorities that are not progressing towards adoption of CIL were lack of viability and the prioritisation of affordable housing delivery (which cannot be funded through CIL) over and above infrastructure provision.
- 7 The majority of surveyed local authorities said that CIL implementation took one to two years and cost approximately £15,000 to £50,000 to implement, excluding staff costs. The procedures that must be undertaken to implement a CIL are generally considered to be appropriate, being thorough but not overly burdensome. The area-wide viability testing that forms part of the implementation process is regarded as a focal issue and common practices now seem to be establishing themselves.
- 8 Local authorities have introduced a wide variety of charging policies, ranging from flat borough-wide rates to differentiated rates based on geographical zones, scale of development, land use or a mixture of these. Rates vary considerably, with underlying real estate values being the principal determinant (there is a clear relationship between residential charge rates and house prices) but with other key variables, notably the level of affordable housing being sought having an impact on viability.
- 9 The majority of authorities have set a CIL rate for residential and retail land uses and around a third have set charges for other uses too. Charges are often differentiated for specific types of residential development (private dwellings, student accommodation, retirement homes, etc.) and retail development (small units, supermarkets, retail warehouses, etc.) The average CIL rate for residential development is £95 per square metre but there is

substantial variation within and between local authorities. Charges are highest in London and the surrounding areas in the south east. Most of the surveyed local authorities have set a CIL charge for large strategic sites, some at the same rate as for other development and others setting a specific rate for large-scale developments. There were mixed views on what constitutes a large-scale scheme and then whether CIL plus scaled-back s106 or conventional s106 planning obligations would be the better approach for these sites.

- 10 There is little commonality in the approach local authorities are taking in the content of their Regulation 123 lists. Local authorities are split between including generic expenditure headings and those that list specific projects. For those authorities that adopted the latter approach there is then a wide range in the number of projects included. But there is a degree of consensus in that the principal expenditure items are transport and education.
- 11 Some stakeholders, particularly from the local government sector, felt that the rationale that underpinned the original conception of CIL has been eroded through successive amendments since its introduction. This is particularly the suggestion in relation to exemptions and reliefs, which have reduced the contributor base and potential funding for infrastructure.

## CIL operation

- 12 Guidance relating to the operation of CIL is regarded as clear, although many regard some of the regulations as complex, and successive amendments to the regulations have not alleviated that complexity. Indeed, many respondents commented on the level of bureaucracy that CIL involves. The continued need to negotiate scaled-back s106 agreements means that there has not been a noticeable change in resource requirements compared to conventional s106 planning obligations.
- 13 There is some concern about the procedures required to review CIL and the need to go through the same process as when CIL is first introduced. This may be dissuading authorities from undertaking updates which otherwise would be warranted by changes in market conditions.
- 14 Operational practices in relation to the neighbourhood portion of CIL are only just beginning to emerge. Despite concerns about the reduction in CIL revenue available for more strategic infrastructure investment and the lack of resources with which to manage the process, local authorities are actively engaging with community groups to develop revenue allocation mechanisms.

## CIL revenue and expenditure

- 15 Average revenue received per CIL charging authority for 2014-15 was £0.7m from residential developments, £0.2m from retail and £0.6m from other types of development. In cases where CIL has been in place for two years or more,

year-on-year revenue has been increasing significantly from an average of £0.2m per charging authority in 2012-13, £0.5m in 2013-14 to £2m in 2014-15. This illustrates the time lag between issuing CIL liability notices and receiving revenue.

- 16** The operation of exemptions and reliefs has reduced the CIL income local authorities might have expected, prior to their introduction. Reliefs issued for self-build and residential annexes/extensions per charging authority averaged 17 and 10 respectively in 2014-15. Using a small sub sample of case study authorities their monetary value was calculated:
- Residential extensions/annexes - £180,000 per authority per annum
  - Self build new dwellings - £300,000 per authority per annum
  - Social housing - £850,000 per authority per annum
  - Total (excluding charitable relief) - £1,300,000
- 17** The above averages must be treated with caution as the sub sample was very small and does mask significant differences between authorities.
- 18** There is very little evidence of expenditure so far but this is perhaps not surprising given the short time period over which many CILs have been operating. CIL revenue will need to build over several years before it is able to fund significant infrastructure investment. Moreover, the inability of local authorities to use CIL as loan collateral means that the period over which CIL funds must accrue will be longer. The principal items of expenditure are educational facilities, transport and travel infrastructure and environmental improvements.
- 19** The average amount of CIL revenue passed to neighbourhood groups in 2014-15 was just over £50,000 per charging authority (based on a sample of fourteen authorities)<sup>2</sup>. Parish / Town Clerks were positive that the additional funds were helping to support spending priorities at the local level. The level of funds varied widely across the sample, with some already in receipt of significant monies, while others were anticipating substantial sums once planned major development got underway. Parishes expressed some concerns that large amounts of money could become unmanageable and extra support from the local authority may be needed to help prioritise spending.
- 20** For the three non-parished areas that were examined, expenditure arrangements varied but tended to build upon existing neighbourhood partnership structures with the local authority playing a much stronger role in terms of administration of monies, identification of spending priorities and even project implementation.
- 21** When it came to incentivising development, all of the parish / town councils were sceptical that the CIL would make a qualitative difference to local residents' attitudes. The relationship to neighbourhood planning was also somewhat unclear.

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<sup>2</sup> The requirement to pass on a proportion of CIL receipts only applies to developments for which a CIL liability notice was issued from 25 April 2013

## Impact of CIL

- 22** Bearing in mind the relatively recent introduction of CIL for many local authorities that have chosen to implement, there does not appear to be any discernible impact on planning applications or permissions, after an initial ‘dip’ in applications immediately post adoption as reported through the interviews with local authorities. In contrast, but noting the extremely small sample size, the available statistical evidence gives a very tentative indication that CIL may reduce the supply of affordable housing. The evidence direct from the local authorities though, does not support this finding where, for example, the e-survey of local authority adopters showed that three authorities felt that the introduction of CIL had affected the delivery of affordable housing but 33 authorities felt that CIL had not had an impact.
- 23** From an early stage of the research there was concern amongst stakeholders that schemes regarded as ‘marginal’ would become unviable once CIL is introduced. However, CIL is a relatively minor development cost, around 2% of total market value on average compared with the impact of s106 costs prior to the introduction of CIL (but this does depend on the level of the CIL charge and whether s106 was collected historically). Viability modelling shows that the introduction of CIL has limited impact on development viability and does not make, on its own, a viable scheme unviable. The impact is proportionately more where the CIL rate is high and/or market values are lower. The latter being given by some local authority non-adopters for their decision. There are some specific development types (for example housing for older persons) where schemes may not be viable in some locations but the introduction of CIL is not making a viable scheme unviable.
- 24** Nevertheless, some developers interviewed expressed a concern about the impact of CIL on viability. The majority developer view is that CIL payments “*come off the land value*” and that, in a rising market, this would not be a major issue. However, where developers have paid for land before CIL was introduced, there is not this flexibility and landowners may be unwilling to discount the price of their land.
- 25** In terms of setting CIL rates, viability buffers (typically set at around thirty per cent) have been introduced to try and address this and, in a rising market, CIL appears to be a charge that can quite readily be absorbed by development, at least in higher value areas.



# Chapter 1

## Introduction

### Study aim and objectives

- 26** The overall aim of the research was to provide an evidence base that would inform a review of CIL. The research was designed to provide evidence of:
- How much money CIL is raising and what it is being spent on (or intended to be spent on)
  - The types of development that are paying CIL
  - What, if any, impact CIL is having on the viability of development and is it proving a burden
  - How much money is being passed on to local communities and how the 'Neighbourhood portion' of CIL is being administered
  - The extent to which CIL is simpler and quicker to operate than individually negotiated section 106 agreements

### Research methods

- 27** A mixed mode approach was used to investigate the implementation, operation and impact of CIL, comprising stakeholder interviews, analysis of published data, a questionnaire survey and case studies. This enabled evidence to be gathered from a wide range of stakeholders involved with all aspects of CIL. Details of the research methods used can be found in the Technical Annex to this report and they are summarised below.
- 28** Initial interviews were undertaken with ten stakeholders focusing on issues pertinent to each organisation and covering the following broad topics: the process by which CIL rates are set; administration of CIL payments and the use of exemptions and reliefs; (any) impact of CIL on viability of development; payment and use of the neighbourhood portion of CIL; the relationship between CIL charges and scaled-back s106 requirements and the use of the 'Regulation 123 list'; and the way in which decisions are made about the way CIL is spent.
- 29** Analysis of published data focused on (a) CIL Watch, a database of CIL implementation that is compiled by Planning Resource, (b) data published by Glenigan that records planning applications and permissions at the local

authority level, and (c) development statistics that are compiled by DCLG. The data from Glenigan and DCLG were used to investigate the impact of CIL on development activity.

- 30** Using CIL Watch data, a random sample of 27 local planning authorities (LPAs) that have adopted CIL was selected<sup>3</sup> for detailed desk-based analysis of their approach to setting their CIL rates and make-up of their Regulation 123 list. The following information was collected from each authority's website for analysis:
- Charging schedule
  - Regulation 123 list
  - Examiner Report
  - Viability Study
  - Other documents submitted for CIL examination where required
- 31** A detailed e-survey was emailed to 141 local authorities and 69 responses were received, a response rate of 49%. There was a higher response rate (67%) from CIL adopters, with 47 returns, compared to CIL non-adopters (31%), with 22 returns. The survey investigated the attitudes and experiences of implementing and operating CIL for the adopters. The survey also investigated attitudes and experiences of those local authorities that have not yet adopted a CIL (either because they are still going through the procedures leading up to adoption and as set out in the regulations or because the authority has decided not to implement a CIL.
- 32** In-depth case study interviews were held with officers from 14 local authorities that had adopted CIL. The local authorities were selected from respondents to the e-survey that had indicated they were willing to be interviewed. Selection was also weighted towards authorities that had been operating CIL for longest (but included adopters with less experience). Case study selection was also intended to provide a reasonable spread and authorities from the different local authority families and areas of higher and lower values as well as a spread of unitary and district councils and examples of authorities that had been working in collaboration with neighbours to establish their CIL.
- 33** From the local authority case studies we also identified (a) 12 developers for interview, including a mix of national (5), sub-regional (3) and local developers (or their agents) (4), and (b) three community groups which had received (or were expecting to receive) CIL money (from the neighbourhood portion). The community groups were a mix of parish councils and other types of community groups in non-parished areas located in the north west, south east and east of England. It is worth noting that all three areas were currently experiencing, or were shortly about to experience, significant levels of development. In one parish this amounted to an additional 5,000 homes on a greenfield site; a significant figure considering that the existing village currently comprises around 800 homes. A fourth interview was conducted with a community action

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<sup>3</sup> Local planning authorities were listed alphabetically and alternate authorities were selected, but adjusted slightly to ensure there was representation from each local authority family and excluding authorities where information was not readily available

group that had received CIL funding. It was situated in a regeneration area in a large urban area in the south west of England.

- 34** The final element of the research was a desk-based exercise to assess viability of (residential) development pre and post adoption of CIL. The exercise was undertaken using information collected elsewhere in the study and from other published data sources including recent CIL examination information.
- 35** The research team would like to thank everyone who took part in the research.

# Chapter 2

## CIL implementation

### Progress in adopting CIL

#### CIL adoption and progress towards adoption

- 36 According to the DCLG 93 (27%) charging authorities had adopted CIL by the end of August 2015. Figure 2.1 shows, on a half-yearly basis, how the number of adopters has evolved since the latter half of 2011 when the first local authority introduced CIL. The graph shows the acceleration in CIL adoption in the past 12 to 18 months; 65 LPAs have had a CIL in place for a year or less.

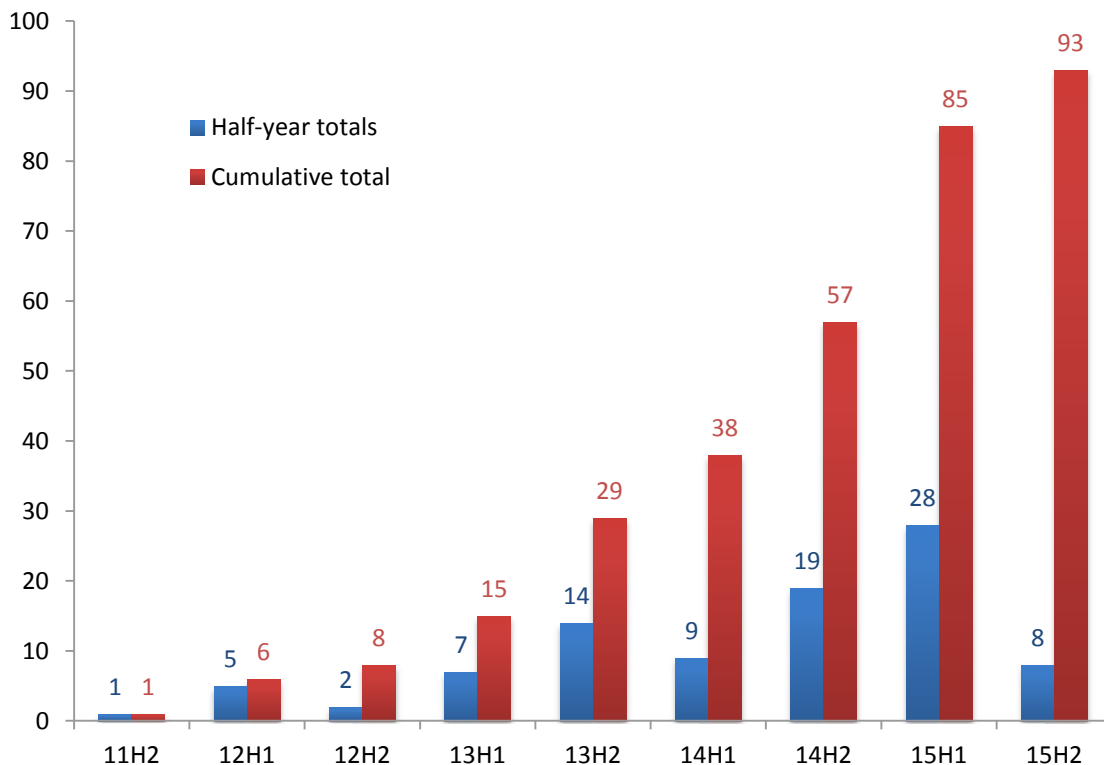


Figure 2.1: CIL adoption timeline

- 37 CIL adoption represents the end of the implementation process but there are several milestones along the way. According to CIL Watch<sup>4</sup>, by the 21<sup>st</sup> August 2015, a further 49 LPAs had published their preliminary draft charging

<sup>4</sup> CIL Watch is a database that is compiled and maintained by 'Planning Resource'. It contains details of the progress that local authorities are making in the adoption of CIL. Although considered reliable and comprehensive, it is a voluntary system reliant on local authorities providing the information.

schedules (the first milestone), four had published their examiner’s reports, 23 had published their draft charging schedules and 32 had submitted their charging schedules. In total 108 (31%) of LPAs were at some stage in the process towards full adoption. Combining CIL adopters with those LPAs that are progressing towards adoption, a total of 202 (58%) LPAs are engaged with CIL.

- 38 Over half of the 93 CIL adopters are in London and the south east of England. 82% are from the south (London, south east, south west and east of England). Table 2.1 compares CIL adopters using a combination of two characteristics; average house price<sup>5</sup> and local authority family<sup>6</sup>. The London Mayoral CIL and the CIL of the London Legacy Development Corporation have been removed from this analysis. The dominance of London and more prosperous commuter and rural local authorities is clear to see. Approximately half of CIL adopters are classified as London or Commuter Belt. Very few authorities from Existing Urban Centres, Urban England or Wales have adopted a CIL. Further evidence of the correlation between CIL implementation and house price can be found in the Technical Appendix and Table TA3.1 in particular.

**Table 2.1: Adopted CILs classified by average house price and local authority family**

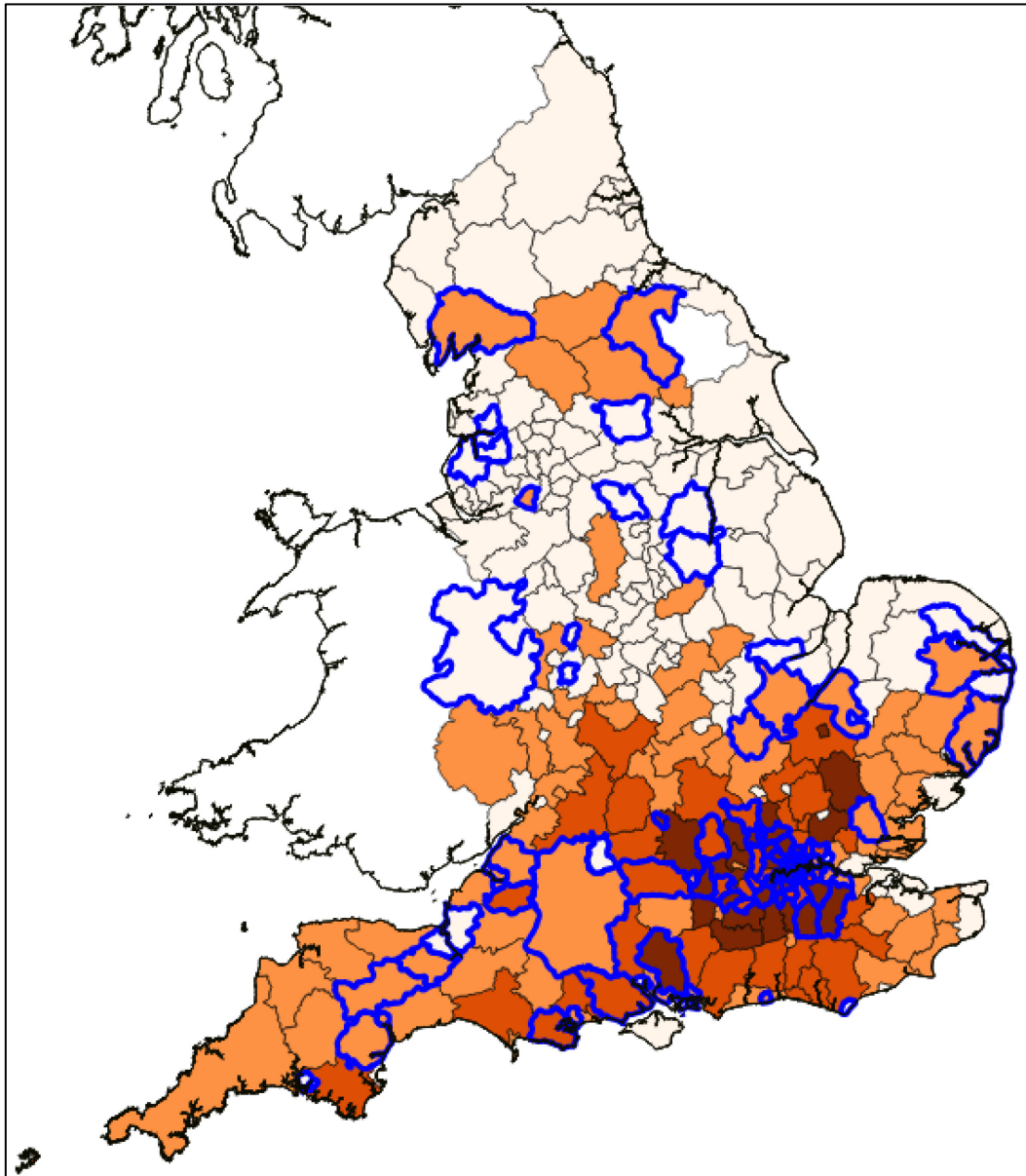
Local authority family	Median house price band						Total
	1	2	3	4	5	6	
Commuter Belt			4	9	9	2	24
Existing Urban Centres	1	2					3
London			1	5	4	10	20
Rural England		5	13	2			20
Rural Towns	1	7	4				12
Urban England	1	5	2		1		9
Wales	3						3
<b>Total</b>	<b>6</b>	<b>19</b>	<b>24</b>	<b>17</b>	<b>14</b>	<b>12</b>	<b>91</b>

- 39 Figure 2.2 shows the location of LPAs that have adopted CIL in relation to 2014 residential land values<sup>7</sup>. The relationship between CIL adoption and land value is clear.

<sup>5</sup> Based on 2012 median house prices published in DLG Live Table 586. 1 is low and 6 high. Further details can be found in the Technical Annex.

<sup>6</sup> These are broad groupings of local authorities based on a combination of geographical and socio-economic characteristics. Further details can be found in the Technical Annex.

<sup>7</sup> DCLG (2015) Land value estimates for policy appraisal, Department for Communities and Local Government



Source: DCLG (2015) Land value estimates for policy appraisal

**Figure 2.2: CIL adopters in England as at March 2015 (outlined in blue) overlaying 2014 land value estimates (darker shades represents higher land values)**

### **Local authorities that have not yet adopted CIL**

- 40 By August 2015 146 LPAs in England and Wales had not yet embarked upon CIL implementation and it is important to understand the reasons for this lack of involvement. Whilst acknowledging that it is difficult to elicit responses from non-participants, the e-survey that was undertaken as part of the research did have some success. Full details are provided in the Technical Annex to this report but, in brief, of the 22 LPAs that responded to the survey and which have not yet adopted CIL, 12 are planning to do so and five are not (five did not comment). Reasons for not doing so varied; but none of the respondents cited the absence of an infrastructure-funding gap as an explanation for the lack of progress with CIL implementation.

41 For those e-survey respondents intending to prepare a CIL in the future, the main explanation for ‘delay’ in doing so was because they were preparing a local plan and believed that adoption of CIL was dependent on this.<sup>8</sup>

42 For those who were not going to progress a CIL, the key reason was that CIL would not be viable, either generally or, in the case of residential development, because the authority thought the introduction of CIL would be to the detriment of affordable housing delivery (which is a higher priority for the authority):

*“CIL is currently unviable ... because of relatively lower land and property value and higher costs because of the need to recycle brownfield land.”*

*“...[The] priority is to maximise affordable housing (with CIL potentially reducing full affordable housing provision viability)... ”*

Other reasons put forward were CIL would not generate sufficient revenue to fund necessary infrastructure (two non-adopters) and/or that CIL is a complex system and using s106 – despite its restrictions – is preferred (four non-adopters), for example:

*“It appears a protracted process that once adopted may cause further confusion given that S106 will still be applicable. S106 (whilst not a perfect system) provides flexibility and retains the direct link to the development.”*

43 Two respondents mentioned that the introduction of CIL in rural areas presented particular difficulties. One commented that:

*“CIL would seem to work in urban areas but be a less fair tax in rural areas such as ours. The initial set-up cost, administration and parish council share all reduce the ability to recover sufficient funds for education and transport in low value areas ... [W]e have consistently secured policy compliant s106 in these low value areas...”*

44 The concerns of those stating they did not intend to adopt CIL were echoed by many of the LPAs in the e-survey who nevertheless had decided to start the process towards adoption and will wait for their viability evidence before deciding whether to proceed or not.

45 While, as noted by one commentator, ‘...the beauty of CIL is that it can get money from developers who wouldn’t have contributed in the past’, concerns were raised that some types of use were more likely than others to be excluded from CIL charges. Charges for residential and retail uses are common while charges for other uses are much less frequent and the evidence to justify this was, according to some interviewees, not always apparent.

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<sup>8</sup> Two authorities have had charging schedules approved at examination ahead of adopting an up to date local plan.

# Preparation of charging schedules

## Overview

- 46 The stakeholder interviews revealed that the CIL setting process, from evidence gathering to preliminary draft then draft charging schedule and culminating in the CIL examination, is generally well understood but does take time and resources. Getting CIL right the first time was important; the process for review of CIL was regarded as somewhat inflexible and a possible deterrent against review of CIL, be this to reduce or increase CIL rates when market conditions change.
- 47 Larger developers and landowners are perceived to be broadly familiar with the process of CIL setting and were regularly consulted by local authorities, but this may not be the case for smaller, more local developers. Local authorities are not ignoring this group but, as there are many of them and they may only come across CIL in one authority area, they may simply be unfamiliar with the process or what an adopted CIL will mean for them.
- 48 The local authority case studies indicated that the process of CIL adoption, although complex, is generally well understood by LPAs and is “...quite smooth” and runs, “reasonably to plan...” The LPA ‘front runners’ that received advice from the Planning Advisory Service found this helpful.

## Extent of evidence base, consultation and scrutiny

- 49 The e-survey of adopters gave a very mixed picture of views about the extent of the evidence base that is required to support the introduction of a CIL. For example, eleven adopters felt that it was proportionate:

*“Implementation of CIL was relatively straightforward. The evidence required ... forms part of the evidence base required to deliver a local plan. Two-stage consultation at PDCS<sup>9</sup> and DCS<sup>10</sup> seems sensible and again mirrors general approach to plan making.”*

- 50 Whereas ten respondents stated that the evidence base was extensive, but not necessarily disproportionate:

*“Achieving an adopted CIL Charging Schedule was a resource intensive process.”*

*“The amount of evidence was significant”*

*“There was a considerable amount of evidence and work involved, especially on viability assessment, mainly commissioned from consultants. However, this was felt to be necessary given the basis of CIL.”*

- 51 LPA opinion was divided about the consultation process required before the CIL examination, especially the requirement for a PDCS and DCS. For those

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<sup>9</sup> Preliminary Draft Charging Schedule

<sup>10</sup> Draft Charging Schedule



respondents (to the e-survey) that found the process acceptable, a parallel with other planning procedures was drawn:

*“The process of a preliminary and then draft charging schedule is considered to be a reasonable approach and is consistent with other policy document processes. The overall level of consultation is considered to be suitable.”*

*“The consultation process is as you would expect with any policy document e.g. a couple of rounds of public consultation, and the evidence required was manageable.”*

- 52 For those that felt that the consultation process was overly cumbersome, a reduction in the level of consultation was put forward:

*“...one round of consultation would have been sufficient as we experienced little interest from the development industry when setting our CIL charge...”*

- 53 A particular complaint about the level of consultation required was that exactly the same process has to be followed when CIL is reviewed as when it is first adopted. This issue was raised by four LPAs in the e-survey and the responses below illustrate the issue:

*“It seems onerous to have two rounds of consultation and an examination in public; one round of consultation could be dispensed with, especially where an authority is just updating a Charging Schedule.”*

*“...when initially introducing CIL two rounds of consultation allows all parties to investigate, comment and adapt as necessary ... It would seem that one round would be sufficient when reviewing and submitting for the second time.”*

## **VIABILITY TESTING**

### ***Scope and issues***

- 54 Viability testing was acknowledged as being a key element of the evidence base, “...at the heart of the process...”, and evidence collected by authorities was said, by stakeholders to be increasingly standardised. Nevertheless, stakeholders expressed criticisms about a lack of consistency between viability studies commissioned by authorities and their understanding of that evidence and how it relates to the real estate market in the area. On the other hand, local authorities can find it difficult to obtain information from the development industry to help inform their viability evidence. There are also some more specialist uses, such as agricultural buildings, which may not be tested as part of the viability evidence (and get included in a generic use type), but the affected developers and landowners do not always engage in the process to challenge this.
- 55 The case study local authorities supported these views and often described the process of producing a viability evidence base as a ‘*learning experience*’. Four of them identified ways in which they would improve their viability evidence if and when they repeated the exercise, typically to ensure that no use got ‘caught’ by CIL that the LPA did not intend and/or to source more fine-grained

information that reflected the specific types of development in their area, for example,

*“...would do more specific viability testing on type of sites in X...”*

*“We are currently reviewing our CIL and are taking a finer grain approach to the currently fairly nominal amount we charge. Looking at a finer grain of spatial zoning as well as different uses, and new viability work to underpin and maximise income from CIL.”*

*“Not going to review in the near future but if were to - would look at more evidence for a wider range of uses.”*

### **Viability buffers**

- 56 A specific aspect of viability testing reviewed through the desk-based analysis was that of the viability buffer. A viability buffer allows for a cushion between the amount charged and the maximum amount of CIL which viability analysis demonstrates could be charged. This provides developers with a margin for future increases in costs and/or decreases in values. Planning Policy Guidance states that

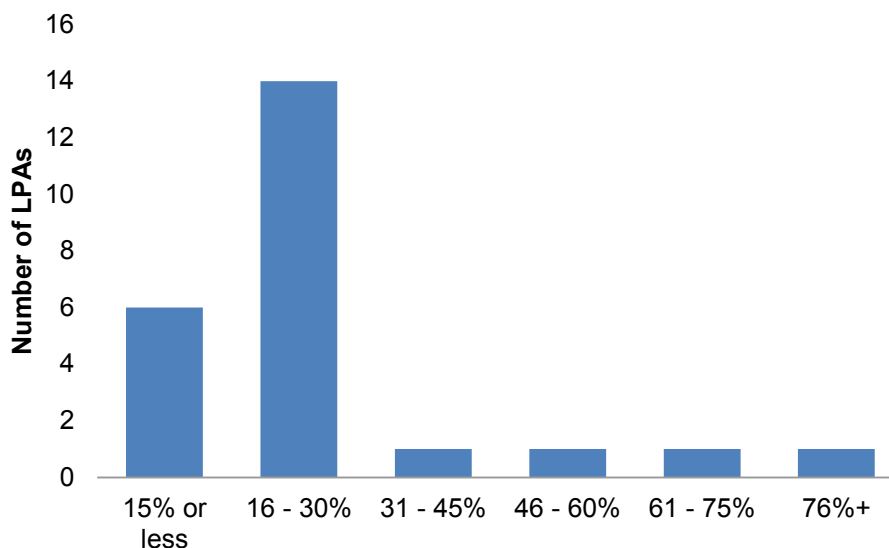
*“Plan makers should not plan to the margin of viability but should allow for a buffer to respond to changing markets and to avoid the need for frequent plan updating”<sup>11</sup>*

- 57 The amount of ‘buffer’ was not recorded explicitly for all the adopters analysed. In some cases viability buffers were set out in the examiner’s report; in other cases, buffers were set out in supporting viability studies. Where these two sources of information were silent, the maximum chargeable CIL as set out in the viability evidence was compared to the actual amount of CIL in the draft charging schedule.<sup>12</sup>
- 58 Most charging authorities allow for viability buffers but they varied between authorities. Figure 2.3 shows that most buffers were less than 30%, with the largest group (of fourteen authorities or over 50% of our sample) allowing for between 16% and 30%. For three authorities it was not possible to find evidence of a viability buffer and it appeared from the information available that there was no buffer in operation. There was no discernible pattern by local authority family, all the Commuter Belt authorities allowed for 30% or less. Of the four LPAs with higher buffers there are two in London, one Rural Town and one in Rural England. They are spread across the second, third and fourth quartiles for median house prices.

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<sup>11</sup> PPG paragraph 008 06/03/2014

<sup>12</sup> The latter method usually produced a range and we have used the lower figure from this range for further analysis.

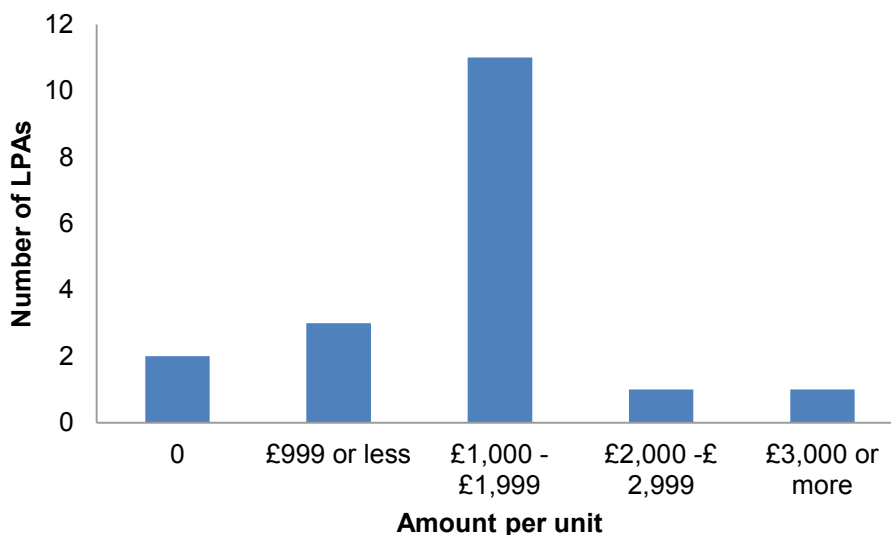


**Figure 2.3: Percentage of residential buffer**

### SCALED BACK PLANNING OBLIGATIONS

- 59** The CIL regulations provide that where the levy is introduced (and nationally from April 2015), s106 requirements are scaled back to those matters that are directly related to a specific site, as well as for affordable housing. In arriving at their CIL charging rates, local authorities need to take this into account. The desk based review of the sample of 27 authorities showed that generally authorities make an assumption in their viability evidence about the likely ‘average’ level of residual s106 post adoption of CIL.
- 60** Figure 2.4 shows data for the general rate for the scaled back s106 charge – some authorities also set out a rate for large-scale schemes, which we report on separately below. Figure 2. 4 shows that most authorities allowed for a general residual s106 charge of between £1,000 and £1,999 per dwelling, with ten out of the eleven authorities in this group using £1,000 and the remaining authority using £1,500. Several authorities tested more than one amount in their viability assessments<sup>13</sup>.
- 61** Nine of the authorities sampled gave a ‘general’ rate as shown in Figure 2.4 and then **also** set a higher residual s106 rate for larger sites (three were less than £5,000 per dwelling, three were between £5,000 and £10,000 per dwelling and three were at £10,000 per dwelling). This may reflect a decision to set a low or zero CIL rate for large sites and rely on s106 to deliver infrastructure. Most authorities did not define ‘larger sites’ in their viability study but one gave a figure of over 400 dwellings and another of over 50 dwellings. It is, of course, possible that other authorities in the sample also have sites of this size but use the same rate for all sites.

<sup>13</sup> In these cases we have used the figure stated in the report as the most likely to occur or we have taken an average.



**Figure 2.4: General rate of residual s106 (where recorded) (does not include rate for large scale developments)**

- 62 In Chapter 3 we consider the actual level of residual s106 payments received by local authorities with a CIL in place and find that the estimates authorities used in setting their CIL have been broadly borne out by experience.

**WORKING WITH STAKEHOLDERS**

- 63 The importance of working with stakeholders from an early stage has been highlighted by interviewees as these comments from the local authority e-survey highlight:

*“[We] adopted an approach of working closely with the development industry, landowners and investors from the start of the preparatory work on CIL. These groups were involved in the design of modelling work on CIL viability and kept informed throughout the preparation process. This ensured early buy-in to proposed CIL rates and reduced the level of comment and objection at consultation and examination stage.”*

*“Early engagement from the development industry is required.”*

- 64 Although not all had equal success in engaging the development industry; one respondent commented that the *“...main difficulty was getting developers to engage in a positive way, they then sought to totally disrupt the examination.”*

- 65 However, the developers interviewed, although fully aware of CIL and how it was operating in the areas they work in, may not have had any involvement in the CIL setting process and, where they did, sometimes expressed doubts that they were listened to. Of the twelve developers interviewed, only three had been actively involved throughout the process, including attendance at a CIL examination. For national developers, involvement in each local CIL process may be difficult because of the time and resources involved. For smaller developers, again non-engagement may relate to resource constraints and a case of leaving *“...it up to the larger developers with specialist resources to speak for the industry”*.

- 66 There is a very mixed picture amongst the developer interviewees about the implementation process, with conflicting comments such as:

*“Didn't play a role in the developer consultations ... Wasn't aware of developer workshop although may well have been invited”. “...the process is straightforward and adequate.”*

*“It is a cumbersome process” and “far too complicated.”*

*“The implementation process seems fine and CIL can now be introduced relatively quickly.”*

- 67 There were a couple of comments by interviewees that they intend to take a more active role in CIL setting processes elsewhere in their area of operation but overall the level of engagement of the development industry in the local CIL setting process is, at best, patchy.

- 68 There was minimal comment from developers about the scale and quality of the evidence used to justify CIL rates proposed and the comments that were made were negative:

*“...it is a bit of a nonsense that a rate should be applied to a particular land use across an entire borough. Differential rates are okay but variations in the approach to their derivation is questionable. The scope for differential rates could be tightened up - lines on a borough-wide plan do not necessarily follow market delineations.”*

### **The CIL examination**

- 69 The CIL examination was thought by the stakeholders to have become more rigorous over time and the examination process has not raised major issues of consistency or rigour. It is now clear that authorities must test CIL on the basis of their plan policies (notably their affordable housing targets) and that where an authority wants to charge different rates for different areas (as well as for different uses) they have to produce clear evidence to justify this.

- 70 The case study local authorities did not raise any adverse comments about the examination process and, when mentioned at all, the comments were usually positive:

*“Overall this process (evidence gathering) went smoothly, as did the examination.”*

- 71 Interviewee comments from the local authority case studies also highlighted the way relationships with the development industry can help or hinder at examination:

*“We worked closely with housebuilders and this was helpful at the examination...”*

*“Lots of challenges about the viability evidence at the examination ...[leading to] further delay...”*

## Time and cost of implementation

### OVERALL PROGRAMME

- 72 In addition to the local authority resources needed to take a CIL through to adoption, authorities are said to be putting a lot of effort into their infrastructure planning and the level of detail required for this was questioned.
- 73 The e-survey asked adopters “How long did it take to proceed from publication of a preliminary draft charging schedule to CIL adoption?” The responses showed that:
- 17% more than two years
  - 54% between one and two years
  - 28% between six and twelve months
- 74 There was little additional comment specifically on overall timescales but with the opinions expressed split fairly evenly between those respondents who felt that implementation was relatively straightforward and those that felt it was “expensive and time consuming”.
- 75 The case study interviews with LPAs explored whether the time taken to implement CIL had been as expected or if there had been delays against the initial timetable. Of the fourteen case studies:
- Eight said the time taken was as expected (e.g. *“No obvious delays - ran reasonably to plan”*)
  - Five experienced delays (with reasons ranging from waiting for a date for an examination to political involvement post examination);
  - One where the interviewee felt the process had been swifter than anticipated *“...this was a relatively positive experience...”*

### RESOURCES

- 76 The e-survey of adopters showed that for the majority of respondents (about 60%) the cost of implementing CIL was between £15,000 and £50,000, between £50,000 and £100,000 for 22% and over £100,000 by 18%. Most of these estimates exclude staff costs. One authority explained that, *“[t]he cost of implementing CIL was not low - £26,200 Viability evidence, £19,000 examination costs plus staff and councillor time over the 2 year process the value of which must be £20,000+.”*
- 77 The case study LPAs included a number that had worked with one or more neighbouring authorities to produce their CIL, either to prepare a common evidence base, a joint CIL examination or to produce a common charging schedule. In general, these arrangements have worked well with cost savings and perceived advantages in terms of officer understanding of the evidence base and its scope. These arrangements can have their own difficulties, for example a common approach to viability that does not best reflect the differences in the type of development in each authority. However, when asked if the LPAs would work differently if/when they reviewed their charging

schedule, the authorities that had collaborated in the past thought they would work together again. But none of the other case studies suggested they would look to work with neighbours for a future review of CIL.

## CIL Rates

### Overall approaches

- 78 Charging authorities have flexibility in setting CIL rates, which can vary according to type and scale of development, as well as by geographical area. Consequently there is a wide spectrum of rate-setting approaches ranging from a single residential rate to an authority with seven geographical zones and four land use specific rates.

### Residential rates

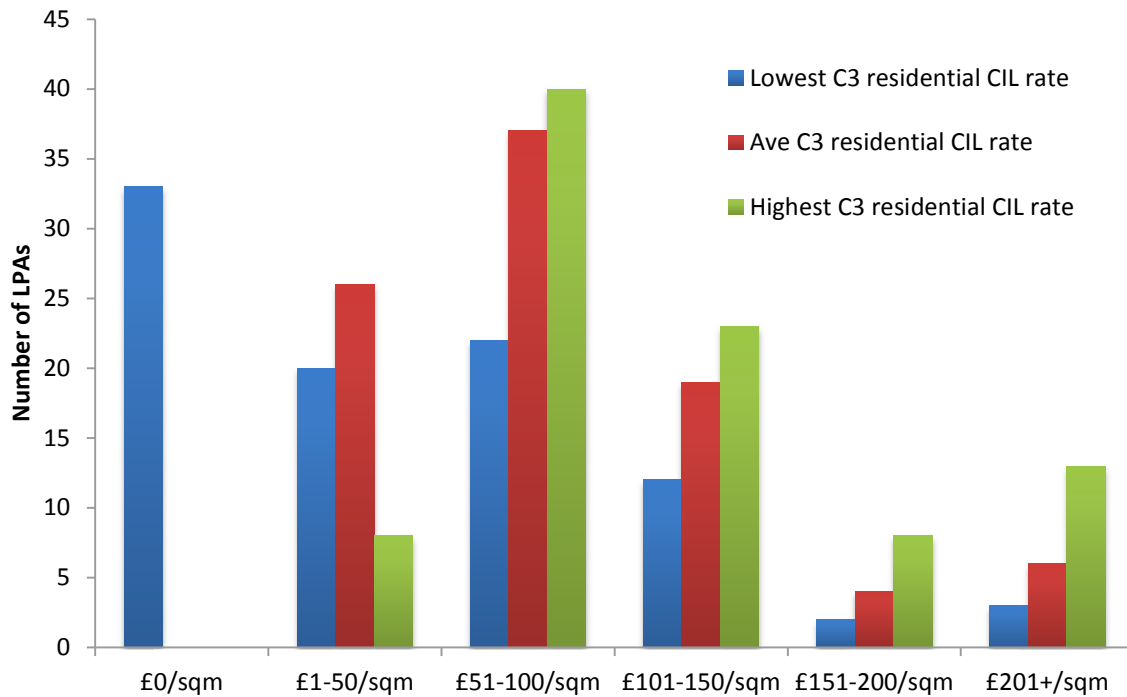
- 79 Many LPAs have set residential CIL rates that vary depending on location (geographical zones) and residence type. For the latter, private dwellings, student accommodation, hotels and care/retirement/sheltered homes were the most commonly specified residence types but there were also instances of LPAs setting differential rates depending on whether the accommodation was part of a small or large-scale development. Using data from CIL Watch and focusing on CIL rates for private dwellings only (i.e. C3 uses), Table 2.2 shows that just under a third of LPAs set a single geographical rate, a similar proportion set two zones and the remaining third set three or more.

**Table 2.2: Geographical charging zones for private residential dwellings**

Number of geographical zones	Number of local authorities
1	28
2	29
3	19
4	11
5	3
6	1
7	1
Total	92

- 80 Whilst the average CIL rate for private residential dwellings across all CIL adopters was £95 per square metre, there was substantial variation in the rates charged within (as well as between) LPAs. Figure 2.5 shows that at the upper end, the majority of charging authorities set maximum residential CIL rates in the £50-£150 per square metre range. Thirteen authorities have a maximum rate in excess of £200 per square metre and five of these (all in London) are £400 per square metre or more. 22 LPAs have adopted a single rate for private

residential dwellings; ten of which fall within the £51-100 per square metre range; two are below this level (at £40 per square metre) and ten are above (from £125 to £200 per square metre).



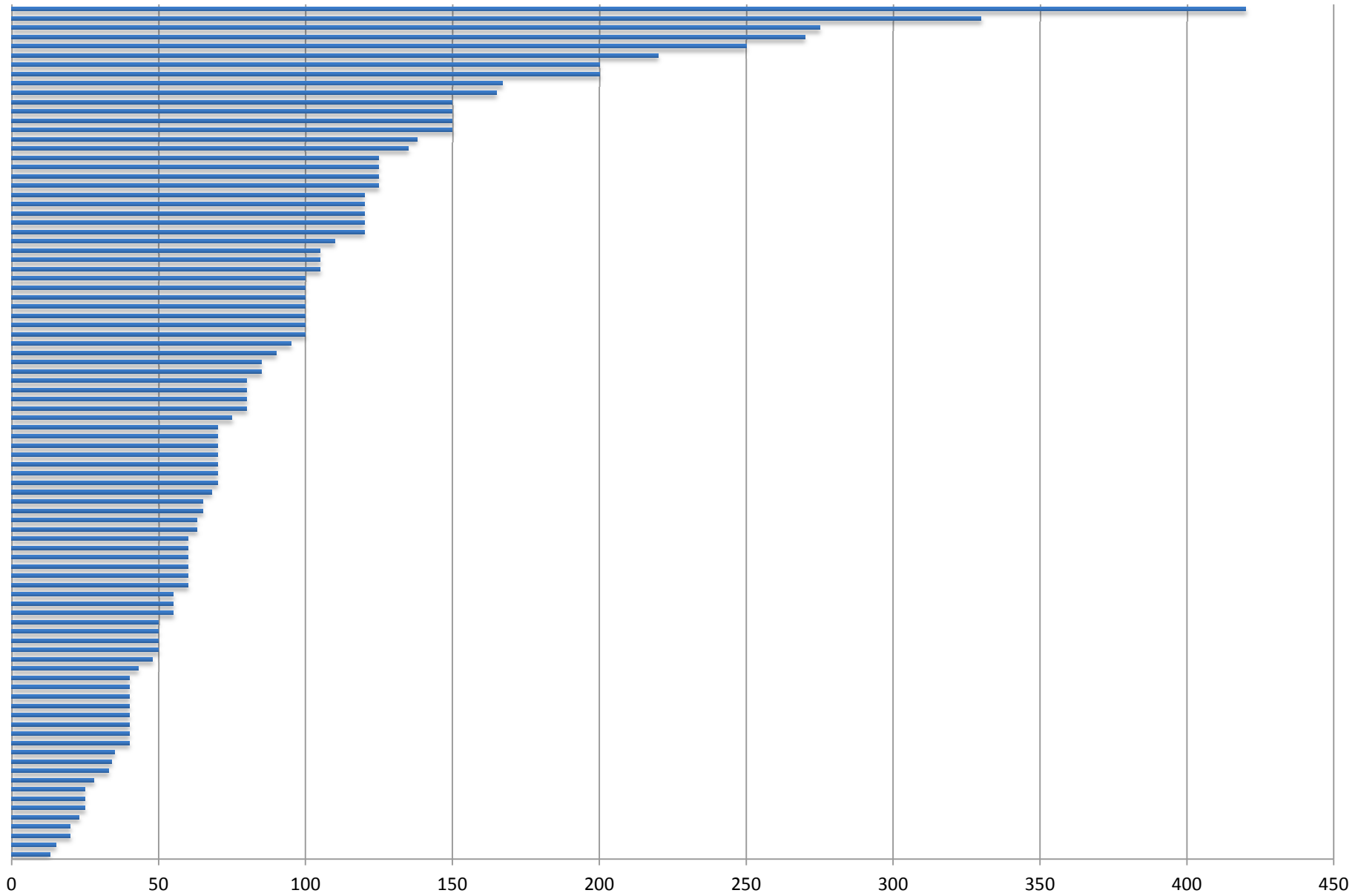
**Figure 2.5: C3 residential CIL rates**

81 To compare rates between (rather than within) local authorities an average CIL rate for private residential dwellings was estimated by selecting the middle charging zone (or an average of the middle two in cases where there was an even number of zones). Figure 2.6 shows the middle residential rate for each local authority family. Authorities in London and Commuter Belt have the highest average residential CIL rates; they are more than double those of Urban England. Figure 2.7 shows the same data but at the LPA level.





**Figure 2.6: Middle C3 residential CIL rate by local authority family**

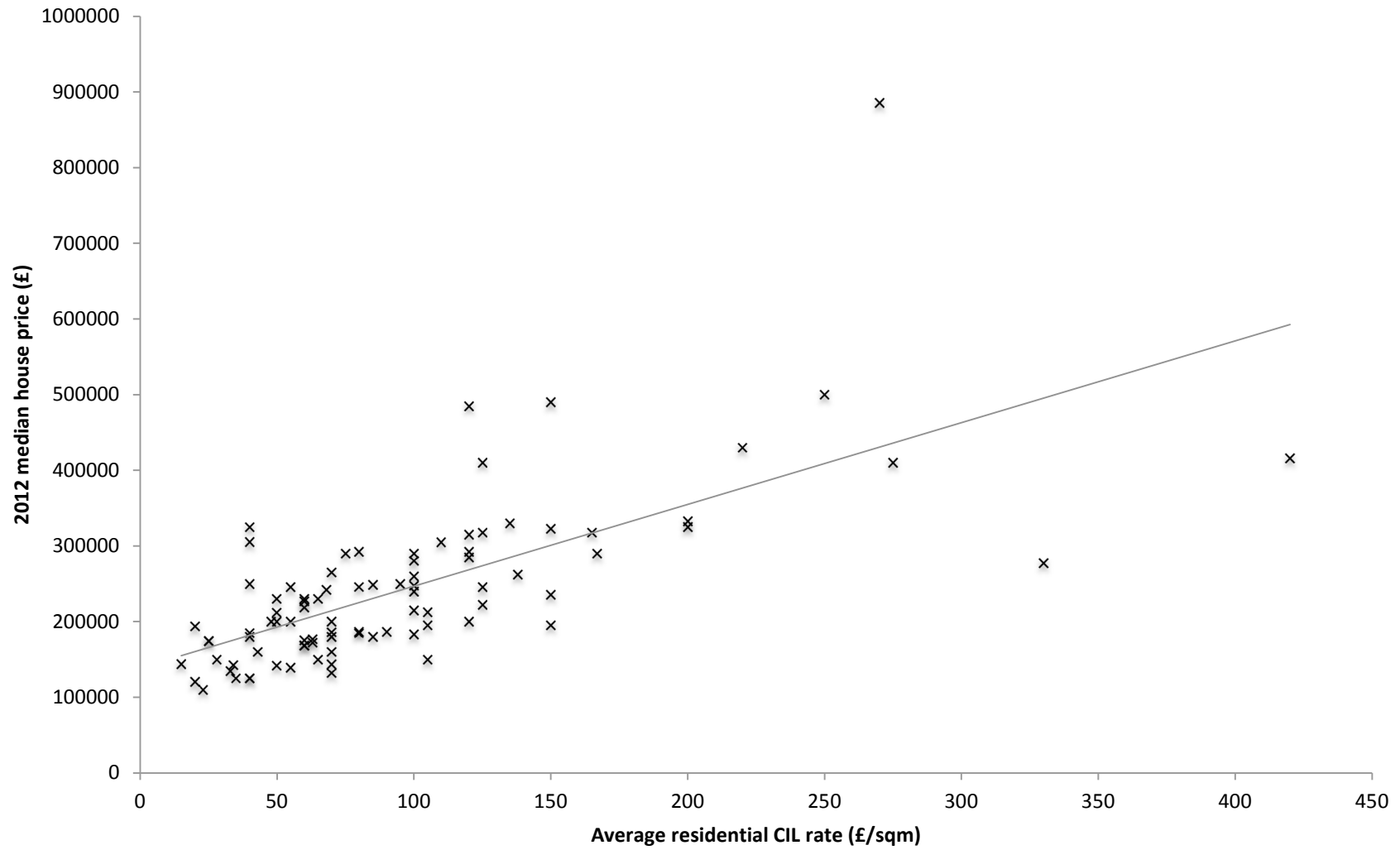


**Figure 2.7: Middle C3 residential CIL rate (£/sqm)**

- 82** The average CIL rate for each LPA has been plotted against its median house price in Figure 2.8 (each point in the diagram representing one LPA). This shows a clear relationship between median house price and CIL charging rate with rates increasing steadily with value. The figure also shows that there can be significant variation in rates for private residential dwellings between local authorities, even where house prices are broadly similar. There are several possible explanations for this. There may be a very high rate that covers a small geographical area, different proportions of affordable housing might be sought by LPAs in areas of similar values, or there might be different levels of anticipated residual s106 payments. Also, there might be different approaches to the viability analysis undertaken for authorities with the same underlying value and/or assumptions about benchmark land values (i.e. the minimum land value that a landowner would be willing to accept) and viability margins that are sought.
- 83** In terms of operating different rates for residential development, none of the case study authorities with multiple zones reported major difficulties with this or significant disputes about the zone in which a development is located.<sup>14</sup> There were detailed lessons learnt about how the boundaries between zones were defined e.g. the importance of using GIS based maps to ensure the accuracy of boundaries and using 'common sense' so that, for example, boundaries did not run through properties.
- 84** The analysis above focuses on CIL rates for private residential dwellings i.e. C3 uses. Other types of residential accommodation attract CIL too: over half of CIL adopters have one or more additional rates for other types of accommodation including student housing, hotels and retirement/sheltered housing schemes.

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<sup>14</sup> Of the 14 case study authorities, 12 have either two or three residential zones, one uses a single zone and one has 4 zones.



**Figure 2.8: Median house price and average residential CIL rate for each local authority**

## Non-residential rates

- 85 The vast majority (93%) of CIL charging authorities have set rates for retail development, which attracts some of the highest of any CIL rates. Figure 2.9 shows the maximum retail rates identified through CIL Watch. As with residential rates there is diversity in retail rate levels but converging on the £50 to £150 per square metre range, with the higher end aimed at larger retailers and the lower end at convenience and neighbourhood retail developments.

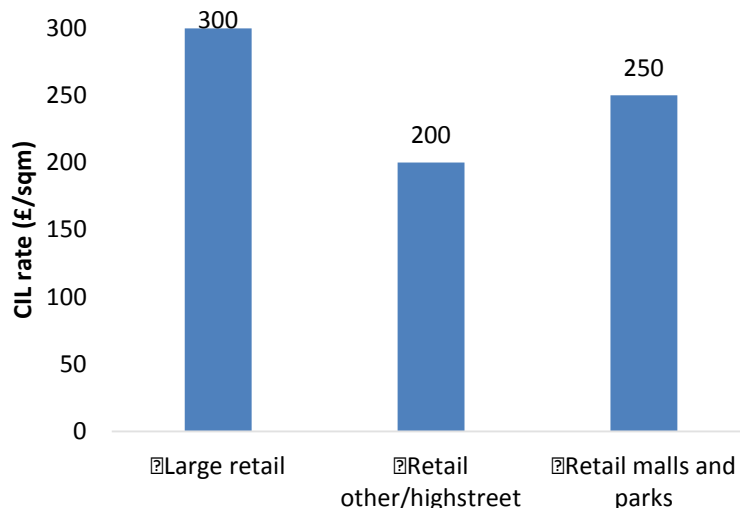


Figure 2.9: Maximum CIL rates for different retail uses

- 86 Around a third (32%) have set rates for other non-residential land uses too and these typically include office developments and leisure facilities. Additionally, several authorities have set 'catch all' rates for all other types of development. Some of these are low, for example three LPAs have a rate of £5 per square metre and one has a rate of £10 per square metre, and some are high, with examples of £75, £85 and £120 per square metre.
- 87 The local authority case studies followed this general pattern and all, except one, operated a CIL charge for some form of retail use. Only four authorities had a charge for any other non-residential uses (two for student accommodation, two for forms of employment use and one for hotels). Comments were made that it would have avoided any ambiguity if the authorities had spelt out that uses not mentioned in the charging schedule attract a £0 rate.

## Strategic sites

- 88 According to the e-survey responses from CIL adopters, a number of local authorities have set zero CIL rates for large strategic sites to account for their individual viability circumstances. However, the vast majority (40 out of 47 responding CIL adopters) has some level of CIL charge (even if very low) for

such sites. A variety of reasons were given for this – some negative and some positive:

- No such sites in local authority area
- Not permissible when CIL charging schedule was introduced
- Zero rates have been set against use classes only

- 89** In one case the examiner did not accept evidence for the CIL charge in relation to a large residential development site so the authority plans to use s106 instead. One authority did not set a low/zero rate initially but plans to review its CIL charging schedule and establish a zero rate for a large site in a Regeneration Area. Another noted that, with hindsight, a low/zero rate might have been a more appropriate way to ensure delivery of key on-site infrastructure requirements for the strategic sites.
- 90** One survey respondent commented: *“CIL is a more appropriate mechanism for capturing infrastructure funding to mitigate the cumulative impact of smaller scale developments. However it would be more appropriate to have maintained s106 as a mechanism for delivering on-site infrastructure requirements for large-scale sites. The issue of upfront infrastructure cost for large-scale sites is still an obstacle to delivery whether under CIL or s106.”*
- 91** Large (strategic) sites raised a particular set of issues for stakeholder interviewees but with no agreed definition of what constitutes a large site. One viewpoint was that it is better to use planning obligations rather than CIL to secure infrastructure for these schemes but this was caveated by concerns over the limits on pooling of s106 payments. It was noted that developers of large sites might prefer the s106 route because it gives them greater control over the timing and delivery of infrastructure even if the overall cost to them may be more than with CIL in place. There were some criticisms that the current regime of in-lieu CIL payments is not working very well.
- 92** The mixed picture on large-scale strategic sites was reflected in the local authority case studies. Not all of the 14 case study authorities have large-scale sites in their area. Of those that do, some granted permission for the strategic development just before CIL was introduced. Two authorities have different CIL rates (£0) for one of their large-scale sites – in both cases the sites are regeneration schemes that are not thought capable of bearing a CIL charge and remaining viable.
- 93** For the remaining nine case study local authorities there is no distinction between the CIL charge for large-scale sites and the charge for other sites in the same zone. Views are very mixed about whether CIL plus scaled back s106 is a better mechanism for delivery of these sites than the pre-CIL, s106-only regime. Some interviewees would prefer to deal with the site’s requirements purely through s106 but have adopted CIL because of concerns about the limits imposed by the regulations on ‘pooling’ of planning obligations. S106 is considered to be a more flexible approach for large-scale sites. These views are balanced by other opinions that CIL/scaled back s106 is not a particular issue for large-scale sites. The following interviewee comments illustrate these divergent views:

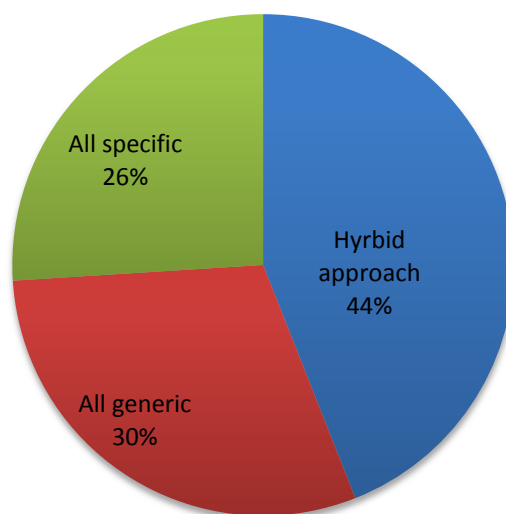
*“CIL may not work for very big sites where infrastructure requirements are significant ... but don't see how dealing with all requirements on large sites via s106 would work.”*

*“Negotiations around s106 requirements have taken into account what gets paid for by CIL.”*

*“Bigger the development the less flexibility with CIL. S106 better for larger sites...”*

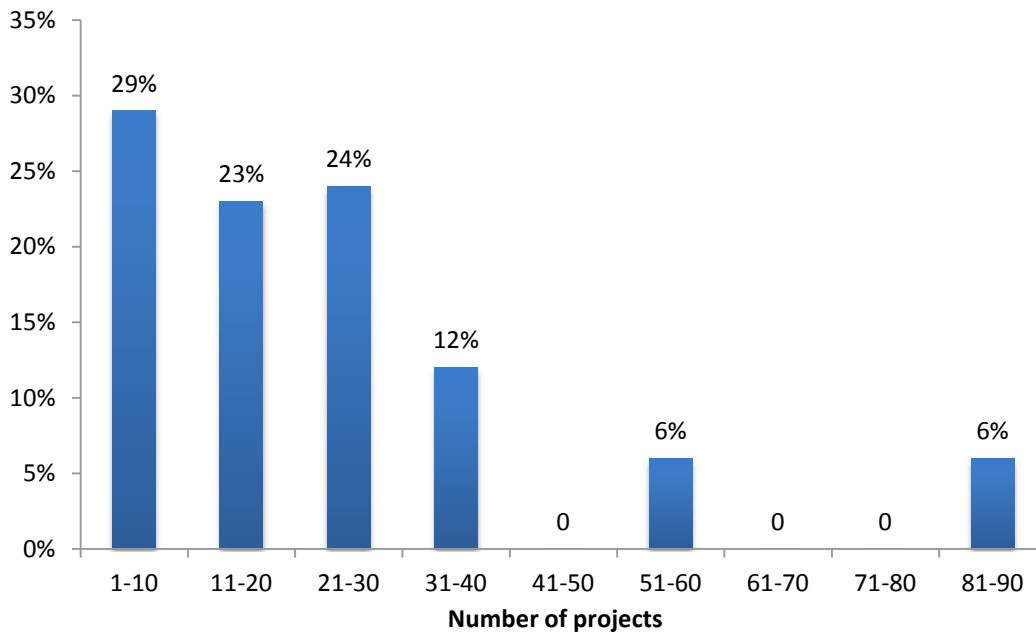
## Preparation of Regulation 123 Lists

- 94** When a charging authority introduces CIL (and nationally from April 2015), section 106 requirements should be scaled back to those matters that are directly related to a specific site, and are not set out in a regulation 123 list. For transparency, guidance states that charging authorities should have set out at examination how their section 106 policies will be varied, and the extent to which they have met their section 106 targets.
- 95** Regulation 123 of the CIL Regulations provides for charging authorities to set out a list of projects or types of infrastructure that they intend to fund, or may fund, through CIL. Authorities are not then able to fund such items through planning obligations. In this way, the authority's R123 list sets out what it expects CIL to be spent on and prevents 'double dipping' (i.e. developers paying twice for the same item of infrastructure).
- 96** For the sample of 27 authorities included in the desk-based analysis, Figure 2.10 shows that there was a split between authorities listing very specific project items (e.g. 'widening A123'), authorities listing all items as generic (e.g. 'highways') and authorities using a mixture of the two.



**Figure 2.10: Project types listed on R123 list**

97 For the 19 LPAs that had listed specific projects in their R123 list the number per authority were analysed and this is shown in Figure 2.11. Approximately 75% listed 30 or fewer items but the number did go up to 90.

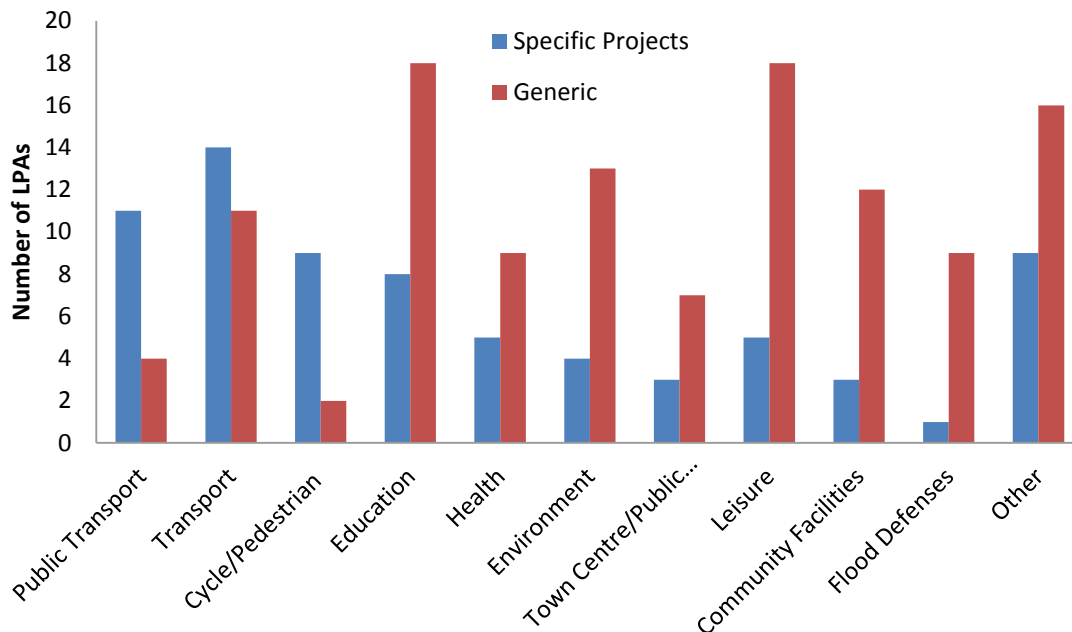


**Figure 2.11: Number specific R123 projects per authority**

98 Figure 2.12 shows the frequency with which items appeared in R123 lists, either as specific projects or generic expenditure items<sup>15</sup>. Specific projects refer to the number of LPAs that list at least one specific project in their area or actual projects. As with the general approach to listing specific or generic items, local authorities have taken quite different approaches to the content of their R123 list, albeit that transport and education infrastructure tend to be common across most R123 lists and are the main items authorities are looking to fund through CIL.

<sup>15</sup> Categorising items was at times subjective as projects could be placed in more than one category





**Figure 2.12: R123 – number and type of item listed by charging authorities<sup>16</sup>**

- 99** The most common items are education related (26 occurrences) and transport (25 occurrences). If all forms of ‘transport’ are grouped together (public transport, highways/transport and cycle/pedestrian) this forms the largest single group of items found in the sample of R123 lists, with 36 specific projects identified and 17 ‘generic’ listings. Only one authority did not list any transport-related projects and only three did not include education-related infrastructure.
- 100** For more community-orientated items such as green infrastructure, leisure, flood defence, emergency services and community facilities, the emphasis is on the generic approach.
- 101** 11 authorities from the e-survey have updated their Regulation 123 lists since adopting CIL, 35 have not. Only in two cases was the revised list not consulted upon prior to sign off. 35 authorities plan to update their lists in the next three years and eight do not. Reasons (and the number of authorities citing them) for updating include:
- To reflect future infrastructure priorities (12)
  - To resolve issues with the current list (8), including:
    - “Current list not fit for purpose ... priorities have changed”
    - “To ensure that we are clear what infrastructure will be delivered using S106 and CIL, particularly in the case of large strategic developments” (2)
    - “Consideration is being given to amending the list to take account of the experience of implementing CIL over the last two years. Simplification of categories and clarification of definitions is likely”

<sup>16</sup> ‘Other’ items included business support, criminal justice, community heating, waste, emergency services, local neighbourhood and pan-county projects.

- To reflect changes to Local Plan (3)
- To list more detailed projects, make it more scheme specific – particularly strategic sites (2)
- To reflect changes to Charging Schedule (2)
- To reduce bureaucracy
- Once neighbouring authorities have adopted CIL, there will be a need to consider whether strategic cross-boundary infrastructure has been captured in the respective CIL charging schedules

**102** Stakeholder interviewees felt that Regulation 123 lists are relatively easy to change and, in any case, a local authority can spend its CIL money on infrastructure that is not included in the R123 list. There was some criticism that R123 lists are not formally tested as part of the CIL examination process and that a later change to the R123 list can occur without taking into account the potential impact on viability.

# Chapter 3

## CIL operation

### Operational benefits and challenges

- 103** Many of the operational procedures for CIL are set out in the regulations and guidance. The aim of this part of the research was to investigate how these were put into practice. This included:
- Quantification of formal processes that have been performed by each local authority
  - Volume of applicant-led procedures that have been received
  - Frequency of occurrence of other procedural matters and an outline of their nature
  - Implementation of the neighbourhood component of CIL
  - The approach adopted for large-scale developments
  - How CIL activity compares with situation pre-CIL in terms of volume of activity, type of developments and revenue received
- 104** E-survey respondents highlighted two key operational benefits of CIL: greater transparency and more certainty. By way of example, one respondent commented that CIL was “... *easier to manage and monitor than S106*”. Another stated that “[o]verall, the implementation of CIL is considered a positive by this Council given the clarity and certainty it provides for both Councils and Developers / Applicants, and its continuation is supported” and another that “[t]he concept of CIL as a transparent, up-front levy is welcomed and, in theory, it does provide more certainty for developers.”
- 105** One authority was very specific about the overall benefits of CIL:
- “[F]or the vast majority of applications that are CIL liable the process is relatively simple - liability notice, commencement notice, payment. The costs are predictable and for larger sums payable in installments and developers are taking CIL into account in their calculations of land value. We have reduced the number of S106 agreements we sign by approx. 90% with less time on negotiations and need to pay legal costs. We are more certain on the levels of funding we will receive and therefore are able to provide infrastructure providers with certainty to help plan delivery. CIL has enabled the Council to secure central govt match funding for strategic infrastructure (through the LEP). The 15% local allocation is welcomed and appreciated by our town and parish councils and there is some evidence that it may reduce some resistance to development. It has encouraged some parish councils to go for a NDP and ....*

*Town Council have used their local allocation to lever in further private sector funds and take the lead on a potentially 3 to 4 year programme to improve the public realm of the town centre.”*

- 106 A number of e-survey respondents provided negative comments, most referred to the difficulties with the original regulations and subsequent amendments to those regulations:

*“Government appears to have lost sight of the original purpose of CIL, which was to tax the uplift in land values that arises from planning consent.”*

*“The various amendments made to the CIL Regulations have changed and undermined the original concept of CIL being a fairer and more equitable method of developers contributing to infrastructure costs.”*

## Resources required for CIL operation

- 107 In terms of operation, table 3.1 lists the number of CIL-related notices that authorities responding to the e-survey issued and received in 2014-15.

**Table 3.1: CIL notices received and issued in 2014-15**

	<b>Number of authorities that responded</b>	<b>Number of forms / notices</b>	<b>Average number per authority</b>
<b>CIL Information Forms / Notices of Chargeable Development received</b>	<b>38</b>	<b>7,878</b>	<b>207</b>
• 2012 CIL adopters	4	551	138
• 2013 CIL adopters	10	3277	328
• 2014 CIL adopters	15	3344	223
• 2015 CIL adopters	9	706	78
<b>Liability Notices issued</b>	<b>45</b>	<b>7,070</b>	<b>157</b>
• 2012 CIL adopters	5	2141	428
• 2013 CIL adopters	11	2849	259
• 2014 CIL adopters	20	1841	92
• 2015 CIL adopters	9	239	27
<b>Commencement Notices received</b>	<b>39</b>	<b>1,577</b>	<b>40</b>
• 2012 CIL adopters	4	545	136
• 2013 CIL adopters	10	622	62
• 2014 CIL adopters	18	356	20
• 2015 CIL adopters	7	54	8
<b>Demand Notices issued</b>	<b>42</b>	<b>1,837</b>	<b>44</b>
• 2012 CIL adopters	5	715	143
• 2013 CIL adopters	11	847	77
• 2014 CIL adopters	19	231	12
• 2015 CIL adopters	7	44	6

- 108 Of the 47 CIL adopters that responded to the e-survey, 14 felt that the administration costs associated with obtaining developer contributions were

now higher than using Section 106 agreements alone, 13 about the same, six lower and 14 didn't know.

- 109** When asked how many FTE staff were involved in administering CIL (in addition to s106 officers), 10 authorities said less than one<sup>17</sup>, 16 said one FTE and 17 said more than one FTE. One authority employed five CIL-specific staff – the highest recorded in the survey – and two authorities employed four: all three of these were London boroughs.
- 110** Three local authorities commented that, in addition to CIL-specific staff, other (usually planning) officers also had CIL-related responsibilities. For example:
- “The work has been spread between the existing planning officers, planning staff, s106 monitoring officer, finance staff and Planning Practice Manager. In total it probably equates to 1fte currently although immediately before and after implementation was in excess of this.”*
- 111** Four authorities are either actively seeking additional staff to cope with the increased workload or anticipate doing so.
- 112** Particular workload concerns were raised by six respondents to the e-survey and centered on the need to process exemptions and reliefs from CIL, and monitor whether claw-back has been triggered by a disqualifying event:
- “Tracking S73 changes on large applications/permissions is extremely challenging. Tracking disqualifying events for Self-Build and affordable housing is also extremely challenging and resource intensive.”*
- “Administering non-chargeable schemes, and schemes where relief/exemption are granted to take the CIL charge to zero, take officer time but without any administration costs being returned. Inconsistencies within regulations make administration process more complex than it could be (e.g. householder extensions & whether a CN is required, inconsistencies with liability assumptions & relief) & simplification/consistency could reduce the paperwork & administration time required.”*
- 113** The case study authorities were asked to compare the amount of time spent on administering the system of s106 and CIL payments with that of the previous s106 regime. Most case study authorities (eight) consider that more staff time is required with the new system, for example:
- “Definitely higher - more and different staff involved - requires validation, measuring plans, producing notices etc...”*
- 114** Among this group are authorities that attribute some of the extra workload to a pick-up in development generally and/or accept that the extra staff resources results in an increase in money (collected through CIL) to pay for infrastructure.

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<sup>17</sup> Where zero was entered it was assumed, based on comments made by some respondents, that existing staff had subsumed CIL duties.

115 In any case, the extra staff resources required can be mitigated by the 5% administration allowance that authorities can use for CIL administration and generally this was seen to cover costs but this conclusion is not universal.

116 Of the remaining case study authorities, at least two consider that the overall workload will decline as the new CIL system settles in:

*"...more expensive than administering s106 - but CIL post paid for by the 5% allowance on CIL money collected ... Going forward expect CIL/s106, will be less expensive to administer because of more limited s106 negotiations."*

117 A further two authorities believe that the introduction of CIL has already led to a reduction in the staff resources required:

*"Probably less because doesn't require separate negotiations across so many (s106) items..."*

## Complexity of operation

118 The stakeholder interviews revealed mixed views regarding the ease with which CIL can be administered and a call for the regulations to 'settle in' so that any teething problems can be identified and resolved (with the scale of the 'paperwork' thought to be somewhat onerous). Self-help groups of 'obligations officers' are emerging to assist with the implementation process.

119 13 LPAs in the e-survey highlighted, in general terms, the complexity of the operational processes associated with CIL:

*"[I]n practice, CIL has been incredibly resource intensive and the wealth of regulatory changes has made it complicated to administer."*

*"The administrative process is quite complex, as you would expect for a tax, but this could be streamlined to make it easier and less resource intensive to ensure the levy is appropriately collected."*

*"A good system in principle which has become too complex and ineffective due to over-complicated and ever-changing regulations and too many 'exemptions'. Can only fund a fraction of infrastructure needs."*

120 Some respondents felt that, despite operational complexity, CIL would, in time, bed down and awareness and best practice would disseminate:

*"The current Regulations are very bureaucratic which probably contribute to much of the discord surrounding CIL. However I believe that there are enough people with a working knowledge of CIL to be able to contribute to a collective initiative to improve the Regulations so that CIL works better and better help deliver sustainable development and growth."*

121 Specific procedural matters were raised and these have been included in full in the Technical Appendix. In brief they related to:

- Indexation
- Handling of payments in kind
- Structure and content of various forms and notices
- Handling of the pooling restriction
- Administration of exemptions and reliefs

## Calculating and collecting CIL

- 122 The local authority case studies explored in detail issues relating to the calculation and collection of CIL.

### CALCULATING CIL

- 123 Six of the 14 case studies reported no serious issues (at least after an initial settling in process) in calculating CIL payments with a number commenting on the importance of their software system to help with this.

*"[We] benefit from good software ... This is essential in order to make CIL work".*

- 124 Where authorities referred to problems in calculating CIL payments (and some authorities described these as serious), the issues were of four main kinds
- Time taken to check the measurement of floorspace submitted by applicants (e.g. as spot checks on applicants figures especially with applications for large schemes)
  - Disputes over the amount of (existing/vacant) floorspace to be netted off the CIL liability because the space has been in lawful use in the last three years – this was said to lead to, *"No end of debate about the interpretation of the regs"*
  - Detailed issues about the type of use for new space and therefore what CIL rate applied to it (e.g. is a flat above a pub residential or ancillary to a non residential use?)
  - Use of the BCIS index for uprating CIL rates (as required in the regulations) and the cost of obtaining the index (a subscription service from BCIS) and how the timescales used by BCIS relate to the timing of the update by the local authority

- 125 The developer case studies suggested that calculation of CIL payments was also relatively well understood amongst those in the development industry (both local, regional and national businesses), although there may have been something of a learning process when CIL was first adopted by local authorities and the additional paperwork is dealt with:

*"The mechanics of it are "straightforward" just lots of paper work which takes time and resource."*

*“All CIL recent processes have been fine (but caught out by notice of commencement when CIL first introduced and threatened with large penalty). Have a good working relationship with council and process is smooth.”*

*“Calculations on amount of CIL payable have all been smooth. Calculations are simple.”*

- 126 Where problems did arise with the calculation of CIL payments, these were detailed technical points that may affect only one development, for example, questions about how indexation gets taken into account.

#### **COLLECTING CIL**

- 127 Collection of CIL is not proving a significant issue for the case study local authorities, with the importance of well thought out processes highlighted:

*“Have issued XXX notices and majority paid with no issues...”*

*“Have a good process in place - liaise with the revenue dept which does the collection - have a robust system...”*

- 128 For smaller developers, there may be more issues raised about payment of CIL, especially when first introduced – for example:

*“...initially small developers who were not used to the planning system resisted the charge but the self build exemption has made that easier. We send out an official council invoice rather than a demand notice.”*

- 129 Views diverged between authorities as to how flexible they are prepared to be in dealing with late payments. Some authorities, *“try and avoid the legal route if at all possible”* while others use a stricter interpretation of the regulations from the start or have moved that way after operating CIL for some time:

*“...previously we were prepared to negotiate on late payments but moving to a more rigid process and using surcharges...”*

- 130 But whichever approach is taken, authorities are making efforts through various forums to inform developers about the operation of CIL:

*“We have tried to be pro active in contacting people with liability to explain the system - and have used the existing developer ... forums to do this.”*

#### **INSTALMENT POLICIES AND PAYMENTS IN KIND**

- 131 The case study authorities were asked about their use of instalments policies and payments in kind. While all case study authorities offered some form of payment by instalments, only one authority had used the option of a payment in kind.

- 132 Approaches to instalments policies (as opposed to dividing a phased scheme into separate chargeable amounts) have been under review by some authorities who recognise that even a small initial payment may affect viability of small-scale schemes and have or are considering offering greater flexibility:



*“The £15,000 within 3 months causes the most problems”.*

*“Changed the approach to provide more instalments for smaller schemes to assist viability - and will even arrange an individual payment plan if the developer is still struggling to make the payments.”*

- 133 Having to make a payment early was singled out by the smaller developers in the developer case studies as a potential viability issue, reinforcing the benefits of the shift to more generous instalment policies that some authorities are considering:

*“You have to pay the full amount straight away up to £30k which is unfair as it's a large sum for smaller developers. It's cheaper to pay larger sums of CIL on larger sites because you can spread payments rather than have to pay upfront. Would be better to pay at tail end of developments.”*

*“[a] huge” amount upfront and while can defer payments its only 6-9 months...”*

*“We try to get LAs to agree to the phasing of CIL receipts, as opposed to payment being solely at the beginning of a development.”*

- 134 On the other hand, larger developers may prefer to make a single payment at the outset to avoid potential late payment penalties and index linked increases in the amount to be paid.
- 135 None of the developers interviewed had made use of payment in kind and there was a limited awareness of this potential option. The one authority that had used this option, explained that it provided some flexibility around viability negotiations on its strategic sites. Another four authorities indicated they may make use of payments in kind in the future. Reasons for low take-up to date were that it is perceived to be ‘*complex to operate*’ with a specific comment that:

*“...everything to be agreed pre-commencement ... There isn't much guidance in how to write policy for this and to implement, it will be down to trial and error.”*

## CIL and scaled-back s106 planning obligations

- 136 With the introduction of CIL there may still be a need for scaled-back s106 requirements for those matters that are directly related to a specific site, as well as for affordable housing. Stakeholder interviewees had very different views about how scaled-back s106 payments and CIL were operating together. Some commented that the updated regulations had been very helpful in clarifying the three tests for planning obligations while others thought the system was still ‘*very much trial and error*’. The differences in views were reflected in both the e-survey and case study interviews.
- 137 25 of the 47 LPAs that have adopted CIL and responded to the e-survey felt that planning obligations are now simpler and quicker to agree post CIL. 16 felt

that they were not and two thought that it was too early to tell. Many comments reflected the ease and speed of the CIL process, particularly when compared to previous s106 negotiations. One respondent commented that the process is *“Easier to administer and seek outstanding contributions from developers.”* Another stated, *“We have found the process generally to be a lot simpler than the regulations suggest.”* One respondent noted that the quantity of s106 agreements had fallen dramatically following the introduction of CIL: *“We have seen approx. 90% reduction in s106 agreements.”*

- 138** One of the responses received gave some indication as to why the procedure was more straightforward post-CIL: *“There are fewer heads of terms the developer has to enter into ... S106 obligations ... tend to be standard and require less negotiation... There is a lot more consistency as the [authority] endeavours work with a template agreement and make amendments only when necessary.”* Another respondent concurred: *“There is now less complexity, as only a limited number of s106 agreements are now required, chiefly for affordable housing.”*

- 139** Many of the case study local authorities echoed the positive views of CIL with half seeing the combined process of charging CIL and negotiating scaled-back s106 requirements as a simpler process. For the case study authorities, as in the e-survey, this is largely explained by the reduction in the number of s106 requirements to negotiate, for example:

*“overall is less onerous and saves time”*

*“It (introduction of CIL) has resolved these arguments. For specific sites its (i.e. negotiation re s106) not necessarily disappeared ... but we can focus on key mitigation elements of schemes - it's a positive.”*

*“S106 contributions secured through negotiations usually works quite well...”*

- 140** However, in both the e-survey and with the case studies, these positive views were not held by all LPA adopters. Three e-survey respondents felt that the process of obtaining planning obligations had not improved, mainly because of the procedures required in applying CIL: *“For those applications that smoothly move through each of the intended stages of the CIL process, the amount of additional administration and documentation is minimal. However a significant proportion require extensive additional correspondence i.e. requesting documents, explaining procedures, notifying liable parties of surcharges/legal action, responding to complaints, etc.”*

- 141** Other comments (made by seven e-survey respondents) indicated the complexity that remains when negotiating site-specific s106 planning obligations.

- 142** Three case study authorities considered that the introduction of CIL had made s106 negotiations more complex for all sites or at least for larger sites:

*“Both processes add increased resourcing complexities and CIL brings in more schemes as there is no threshold but there is an increase in viability reports which means more negotiation with developers.”*

*“s106 negotiations take less time now than pre CIL (except on the very large sites”*

- 143 Developers (from the developer case studies) thought the process of negotiating s106 agreements with CIL in place was really no different from the situation pre CIL (*“not really made a difference”, “still broadly the same”*).
- 144 Only one out of the 12 developers interviewed thought that the process was now easier (*“...as you know what you have to pay”*.)
- 145 There had been an expectation by some developers that the introduction of CIL would make negotiation of the scaled-back s106 agreements much easier but they had been disappointed, for example:

*“One would hope that a benefit of CIL is speed. It takes a long time to get planning permission - factor in a year for planning. Substantial time taken in discussing and negotiating S106 and getting document agreed. This has not changed even if just includes affordable housing.”*

*“Preferred the old system - thought CIL would streamline s106 process and thought this was a good idea but still require s106 charges so end up with CIL and s106. No change in the amount of time negotiating s106...”*

- 146 Negotiating affordable housing contributions and the impact on scheme viability remains central to the process of agreeing scaled-back planning contributions. There is then a wide variety of other types of s106 contributions being sought including play equipment, open space, some transport measures but with no clear pattern emerging - although the number of types of s106 contributions appears generally to be quite limited or none is sought at all.

#### **AFFORDABLE HOUSING**

- 147 On the issue of affordable housing, negotiations remain a concern for some authorities as these comments from the e-survey demonstrate:

*“The council has scaled back its planning obligation requirements since adoption of CIL. However, affordable housing was already the most difficult S106 item to negotiate, and this remains the case.”*

*“Site-specific needs have not changed; in addition the question of viability of affordable housing is now raised more frequently.”*

- 148 The report returns later to the issue of the amount of affordable housing developed with CIL in place.

## Exemptions and reliefs

- 149 Table 3.2 shows the number of exemptions and reliefs that LPAs responding to the e-survey have made during the 2014-15 financial year.

**Table 3.2: Exemptions and reliefs 2014-15**

	Number of local authorities	Number of exemptions	Average number of exemptions per authority
Self-build	42	783	17
Residential annexes / extensions	32	410	10
Charities	19	39	1
Other	1	1	1

- 150 Several e-survey respondents commented specifically on the impact of changes to the CIL regulations in respect of exemptions and reliefs. One commented, *“We have found the adoption and implementation of CIL to be a positive experience overall. The main negative has been the constant changes made to the CIL Regulations to exempt more and more development from CIL and the associated monitoring of these exemptions to ensure the terms are not breached.”* Another respondent shared this view, *“CIL is definitely an improvement over S106, and should be beneficial for both planning authorities and developers. But every additional exemption makes it less likely that infrastructure can be delivered to ensure that new development can be facilitated, and that's not in anyone's interest.”*

- 151 Of the various exemptions available, self-build exemption generated several negative responses focusing on loss of CIL revenue but also the change to the regulations during and after CIL adoption by local authorities:

*“The self-build element in respect of new and replacement houses has resulted in a significant loss of CIL income.”*

More specifically:

*“Our experience suggests strongly that the Government's failure to impose any floorspace limitation for self-build relief is not assisting additional people to own their own home, but mostly assists existing home owners to create larger, bespoke homes (we have examples of up to 2,200m<sup>2</sup>) without such development supporting any form of investment in additional local infrastructure.”*

We consider the scale of reliefs and exemptions in chapter 4.

- 152 The majority of the case study authorities (nine out of 14) offer none of the discretionary reliefs from CIL, the main reasons for this being:

- To keep the operation of CIL simple and consistent

- Concern that allowing for discretionary reliefs would escalate workloads with many applications for reliefs being made
- That the scale of the relief that could be available (given state aid rules) would be small and not offering value for money

153 These views are illustrated in the following comment from an interviewee:

*“No (we decided against offering reliefs) because we wanted to keep approach consistent - in any case the amount of relief available is very little”*

154 The other authorities have used either discretionary charitable relief and/or social housing relief but across all 14 case study authorities, there have only been four occasions in total when discretionary reliefs have been granted. The reasons for the decision to offer discretionary reliefs vary but tend to be around concerns to maximise reliefs to encourage development in “*very uncertain economic times...*”

155 The case study authorities indicate that, in the main, local authorities have found the exemptions and reliefs reasonably easy to operate but have needed to provide considerable support to applicants to explain the process – especially to ensure applicants submit the correct forms to claim the relief. The requirement for those claiming household and self build relief to positively ask for the relief from the authority (through completion of a specific application form) has caused some adverse comment with calls by some authorities to ‘do away’ with this part of the process:

*“Easy to operate but some developers are still struggling. We/they spend a lot of time to ensure the right paperwork is in place but then the applicant misses out a form and they lose the relief! The local authority is keeping the applicants on the rails...”*

*“Not a major issue but have been active in making sure developers/agents understand the process”*

*“...self-build is a nightmare - lots of chasing especially of small operators for commencement notices. If they're started then they can't claim relief - not popular!”*

*“Difficulties with the household exemption - liable for exemption but applicant is required to complete various forms etc. and may not spot this and can end up becoming liable when should not.”*

*“Majority is householder and self build relief - the applicant claims the relief and the local authority grants it - when the commencement notice is submitted, the relief is received - just adding to the admin - better to get rid of the householder relief process.”*

156 To operate the system of exemptions, local authorities need to monitor any change in circumstances and authorities are recognising potential issues in how they can best do this:

*“The 7 year clawback for social housing relief is also difficult and it's unclear whether it will or how it will be adequately checked.”*

- 157 Not all the developers interviewed were aware of the reliefs available and that might affect them (mainly affordable housing and vacant building credit), sometimes this was because the nature and size of the developments they undertake would mean that the exemptions would rarely be relevant. The interviews did highlight issues about whether the industry is fully informed and making best use of the exemptions and reliefs available but those that had made use of them felt they were important:

*“The fact that the affordable housing element was exempt from CIL, was quite material in calculating the financial impact of introducing CIL in a particular area...”*

*“...reliefs are "critical" - affordable housing is a third of the development.”*

- 158 There were a number of further reliefs that the developers interviewed would like to see added to the regulations. These include:

- Garages
- Underground parking
- Market housing in rural exception sites
- Private rent
- Retirement housing (including bungalows)
- Commercial properties in mixed-use schemes.

### **Exceptional circumstances relief**

- 159 The stakeholder interviews revealed that the option of providing exceptional circumstances relief was taken up by few local authorities, which probably reflects the narrow definition of when this can be used.

- 160 The use of this relief was explored in more depth in the local authority case studies. None of the authorities interviewed made use of the exceptional circumstances relief (although one had for a time but decided that it was not worth the complexities). There were variety of reasons for the lack of take-up of the option, some had concerns about the complexity of operating it while others thought it would unlikely be useful in their area or because of concern about falling foul of state aid rules. These extracts from the case study interviews illustrate these points:

*“(we) feared a significant number of applications requiring lots of checking so more straightforward simply to say no”.*

*“People should be paying and there is no reason why they are not - if had this relief would lead to too many arguments”*

- 161 None of the developers interviewed had experience of using exceptional circumstances relief.

## Charging schedule review

**162** Two local authorities in the e-survey have reviewed their CIL charging schedules, one to tie in with its core strategy review and the other as a result of changes in policy and market conditions. When asked whether a review is anticipated within the next three years, 40 LPAs replied yes and five said no. Reasons for anticipating a review included:

- Viability changed locally 12
- Increased development activity 3
- Coincide with local plan 2
- Other (unspecified) 15

**163** Some concern was expressed at the likely prospect of having to review CIL on a regular basis:

*“[T]he requirement for CIL charges to be based on viability evidence is flawed in the sense that this will almost be out of date at the point it is prepared and therefore there is the high likelihood that CIL will need to be reviewed very regularly, which could be time consuming and resource inefficient. The process of review needs to be simplified. As an example there is no ability to include an allowance for improvements in the market and therefore the viability. As a result the overall funding levels for infrastructure are detrimentally affected.”*

**164** Similarly, the case study authorities are not generally looking to review their CIL rates in the near future and are focusing on bedding in the system they have already. But there were comments to suggest that some authorities may be holding back from a review because of the resources required to do so, for example:

*“Would love to update - viability work is now out of date and would expect rates would be higher now ... need a simpler process for review rather than going through the whole process ... resource constraints are putting off the authority from doing this...”*

## Neighbourhood portion of CIL

**165** The CIL regulations stipulate that a proportion of CIL revenue is allocated to Neighbourhood groups. In communities without a parish or town council (or recognised neighbourhood forum) the local authority will retain CIL levy receipts but should engage with communities where development has taken place and agree with them how best to spend the neighbourhood funding. In the initial phase of this research there was little evidence from the stakeholder interviews that revealed how this aspect of the CIL process was working, with only a few examples of CIL income being transferred to neighbourhoods and of infrastructure being funded through this route.

## Arrangements for the passing on of CIL receipts

- 166** In the e-survey of CIL adopters, 29 local authorities provided information about the Neighbourhood portion of CIL. Each authority had an average of 39 parishes. Eight local authorities reported that a total of ten Neighbourhood Plans / Neighbourhood Development Orders / Community Right To Build Orders had been made. 30 authorities reported that a total of 163 were planned.
- 167** Of these, 24 authorities stated that they had arrangements in place to agree spending of the neighbourhood portion of CIL. The arrangements were either set up specifically for CIL or built on existing networks. 18 stated that they did not have arrangements in place yet, with one commenting that “[h]igh-level arrangements are in place but detailed governance and spending arrangements [are] to be agreed once CIL income starts amounting.” Others that did not have arrangements (and some of those that didn’t respond to this question) commented that they were waiting to see what practices emerge elsewhere.
- 168** In terms of awareness of CIL, local authorities have generally been very active in informing local parishes and, in non-parished areas, other community groups about CIL, how the money is to be allocated to different areas or projects and what this might entail for local communities. Both officers and councillors are engaging with local communities.
- 169** Concerns were raised amongst e-survey respondents about the preparedness of recipients of the neighbourhood portion to receive and spend the money or alternatively how the receipts would build up into a useful amount to fund local infrastructure. For example:
- “Although parishes are keen to know how much they can receive the sums involved (especially 25% uncapped) do seem to be a source of worry to them around how they would manage the money and their responsibilities for ensuring it is spent.”*
- “The regulations as currently worded do not place any obligation on parishes to engage in the infrastructure delivery process for the strategic sites (some of which can be relatively unconnected with the parish in receipt of CIL funds) so it is left to operate on a trust basis only.”*
- “It will take time to build up an amount that is large enough to be spent on anything meaningful.”*
- 170** The interviews with the 14 case study local authorities explored their experience in operating the neighborhood portion of CIL in more depth. The authorities were a mix of those entirely comprising parishes (five), those entirely non-parished (seven) and those with a mix (two). The differences in the local governance arrangements strongly influenced how CIL is administered and decisions about how CIL funding is spent.



- 171 In non-parished areas the process of handing over receipts is much more varied. Examples included a local authority-administered ‘crowd-sourcing’ exercise whereby existing community groups bid for a maximum £5,000 share of a £60,000 CIL ‘pot’; the use of existing neighbourhood partnerships to distribute a mix of CIL, S106 and additional council funds with local authority oversight of the spending of monies and commissioning of works; and the use of council Neighbourhood managers who consult locally on the spending of a £40,000 fund spread over four Neighbourhood areas.
- 172 In parishes, interviewees felt that the bi-annual system of allocating CIL funds, administered by the local authority, was straightforward. It is worth noting that one parish opted to delay their first payment whilst they got their systems (bank account etc.) set up.
- 173 In summary, the important message is that the operation of the Neighbourhood portion of CIL is still very much in its early days (even for authorities that were early adopters of CIL) and the case studies can only give an indication of any emerging trends and issues.

### **The amount and use of CIL monies at the neighbourhood scale**

- 174 Based on the e-survey results, the total sum passed on to neighbourhood groups in 2013-14 was £590,305 from seven authorities, an average of £84,329. In 2014-15 the number of authorities had increased to 14, passing on a total sum of £704,855, an average of £50,347.
- 175 In terms of the *spending* of receipts, five e-survey respondents specifically commented on the lack of resources at the neighbourhood level for administering the spending of neighbourhood CIL and the consequence this has for local authority administration. For example:
- “...there isn't sufficient technical expertise within neighbourhood groups to co-ordinate the spending of their portion.”*
- 176 In areas with parishes, the local authority will typically have an established system for estimating the amount of CIL money due to each parish and passing it on to the parish every six months; thereafter, there is minimal local authority involvement in deciding on how the money is spent:
- “we send 15% to them twice a year and let them get on with it.”*
- “...the cash is ... sent directly to the parish/ town councils so they receive funds every 6 months. We remind them that they can't spend the monies on just anything and provide help if/ when required.”*
- 177 Parishes described the spending of CIL receipts as a relatively straightforward process whereby ideas are nominated by residents and / or parish councillors. While there was some variety in the types of projects, typically these related to additional parking and traffic management measures, the provision of additional bus stops, children’s play equipment, and open space maintenance. These kinds of projects were felt to be ideal for the spending of CIL monies in that they

tended to be widely supported and visible in terms of their positive impacts upon local residents.

- 178** However, some issues were raised whereby larger funds were expected, for example, when significant levels of new development were being phased over longer time periods. Parishes' ability to join up funds for what were described as "bigger spends" was felt to be limited by the five-year limit on spending specified in the regulations. Having the flexibility to combine funds, potentially beyond a 5-year term, was felt to be important in bringing parish facilities into line with what developers may be offering in new residential developments.
- 179** More generally, two of the parish clerks expressed concerns that large CIL 'pots' could become unmanageable for councils who are generally not well resourced or staffed. One interviewee foresaw a situation whereby they might be able to provide additional services, such as the maintenance of verges, in 'good times' but which are at risk of falling away once CIL monies dried up. This could lead to difficulties in managing contracts and staffing levels.
- 180** Relatedly, they worried that parish councils might be pressured into using their CIL funds to 'plug' service gaps that exist at the local authority level due to budget pressures. Another interviewee was concerned that parish councils might "tear themselves apart" deciding how to spend large portions of CIL money. In these instances his view was that local authorities should have more oversight of the process by which monies were spent in order to avoid conflicts at the neighbourhood scale.
- 181** However, in general, the current parish system was felt to be working well. Local authorities were supportive and largely 'hands-off' (regarded as a good thing) in terms of influence over spending priorities. Typically, their role was limited to ensuring that basic regulations regarding the spending of CIL monies were communicated to parishes and were being adhered to.
- 182** In non-parished areas local authorities are adopting a much more proactive role in identifying potential projects to be funded by CIL. In part, this reflects concerns that CIL money should not be
- "...passed over to individuals or unrepresentative groups."*
- 183** Another e-survey respondent commented that local authority's needed to play a more proactive role because:
- "...there is no guidance in the regulations on how to consult for CIL in non parished areas..."*
- 184** In these cases, CIL-funded projects might be drawn from existing community plans, identified through local consultation exercises or proposed by ward councilors or local authority neighborhood 'managers'. Often CIL funds are combined with other monies, such as S106 or other community funds. In one, the council has agreed to pool CIL revenue from developments greater than 50 dwellings to fund town-wide priorities such as investment in strategic highway improvements and sustainable transport measures. It then rests with the local authority to determine the priorities for spending, typically with initial

recommendations from council officers, with the final decision resting with elected members. Money held centrally in a 'CIL pot' is then allocated to successful projects, as illustrated by the following description from a local authority interviewee:

*"Neighbourhood managers identify projects to take forward ... the project is developed with ward members and community groups ... a draft project is taken to a corporate officer working group which identify prioritisation - take to cabinet for final decision..."*

- 185** All four parish / town councils interviewed had received CIL money since adoption. One parish had received £5,000 (to date) and expected annual receipts to remain stable around this level, another parish was expecting to receive up to £1.8m once two major developments had been completed in the next five years.
- 186** In terms of the *spending* of these receipts, in most cases it was too early to say what the money being is spent on. To date neighbourhood CIL expenditure has been at a fairly low level, providing, for example, new public seating areas, replacement trees in public spaces, community notice boards, new play equipment and other public realm improvements. This reflects the relatively small amounts of money passed on to local areas so far; for example, ten parish councils sharing approximately £130,000. However, some local areas are beginning to receive more substantial amounts of money – £300,000 shared between three neighbourhoods for example.
- 187** Some parishes are rolling up their CIL income over the five years allowed to fund larger "more strategic" projects. In other areas, where significant development is taking place, the amount of neighbourhood CIL revenue may be more than expected and some parishes are said to be, "... quite nervous about spending the cash in case they make an error..." Other areas, where development activity is negligible, will gain no benefit from CIL and, although case study evidence on this is very thin, there are concerns that these will be the poorest areas where the need for new local infrastructure may be greatest.

### **Incentivising neighbourhood planning activity**

- 188** When authorities were asked in the e-survey whether they thought the neighbourhood portion of CIL had incentivised communities to pursue neighbourhood planning, 17 agreed and 23 did not. The comments received reflect this dichotomy:

*"Even though our CIL is only 2.5 months old, Neighbourhood Groups and established Forums have shown interest in accessing money available through CIL. It is certainly influencing the appeal of undertaking a Neighbourhood Plan."*

*"It may have incentivised the timing to bring forward those already in development, but they are more concerned with stopping development or influencing design than using neighbourhood plans purely to maximise CIL receipts."*

- 189 Local authority interviews revealed there were a few neighborhood plans already in place (with a total of only ten mentioned across the 14 case study authorities i.e. less than one per authority) and a few more underway (less than ten). Therefore most of the neighborhoods in the case studies (be they parishes or otherwise) would be receiving 15% of CIL receipts for their area. Some areas receive no CIL revenue as they are in a zone with a nil CIL charge.
- 190 None of the community interviewees was located in areas with adopted or 'in-process' Neighbourhood Development Plans. However one of the parishes had begun discussions on the neighbourhood planning process. This interviewee commented that the initiative had received general support. They felt this was, at least in part, a result of the higher CIL levels they expect to receive following plan adoption.
- 191 However, this view wasn't one shared by all interviewees. For some, the possibility of receiving a larger share of CIL was not enough of an incentive to undertake neighbourhood planning. One town clerk explained this was because they already had "*an audience and influence with planning policy*", which included a say in the spending of all local authority CIL receipts.
- 192 An interviewee from non-parished urban area reported that they had investigated whether to work towards a Neighbourhood Development Plan but were put off by the length of the process. They also noted that they had a limited pool of volunteers to draw upon and were worried that the work involved in developing a neighbourhood plan may detract from other community based projects.

### **Incentivising development**

- 193 In terms of the neighbourhood portion's role in incentivising local communities to accept development, the LPAs responding to the e-survey were generally skeptical.
- 194 Views amongst the case study authorities were more mixed. Some interviewees felt it was too early to tell but two thought that CIL could have a positive effect:
- "It's a "carrot" to rural areas...expansion could be 'your opportunity to gain CIL revenue'"*.
- "Parish councils may be less resistant to development as a result of CIL as they see the benefits but it has no impact on communities..."*
- 195 But the stronger view from local authority case study interviewees was that CIL will not change attitudes:
- "No it doesn't, residents don't link the two. CIL doesn't have any impact in terms of objecting to planning application and the projects are run by community groups so it's quite removed."*

*“No - because what people object to is not ameliorated by local project spending”*

*“Parish councils are quite interested in how much cash they can get from development but at the same time, they oppose development!”*

- 196** At the neighbourhood scale, interviewees were not sure that CIL made communities more likely to 'accept' new development. Instead, an interviewee described their parishioners having more of an *“it's happening anyway so let's get what we can [from CIL]”* attitude.
- 197** Another Interviewee felt this was partly due to a lack of awareness of how CIL was supporting local projects amongst parishioners: *“They will know houses are being built and Tesco have opened another store but not many of them will know the parish council receive CIL in compensation”*. As a result, the parish was embarking on a public relations exercise to try and get the message across.
- 198** Another interviewee was sceptical about whether CIL could help to change attitudes since, *“the whole [development] process scares parishioners”*. She felt that their Parish receives *“less direct benefit through CIL than under S106”*. However this was an isolated view and, on the whole, community stakeholders felt that CIL was a valuable source of income that helped give local people *“more spending options”* than they would otherwise have

# Chapter 4

## CIL revenue and expenditure

### CIL revenue

- 199** Overall, the e-survey of adopters elicited a number of positive responses with regard to CIL revenue potential and the ability for LPAs to plan ahead to provide the infrastructure required to support their planned growth:

*“...enables contributions towards infrastructure to be collected from schemes which would not previously have been subject to a S106 agreement.”*

*“...a good way of spreading the cost of infrastructure.”*

*“Although establishing the Council as a charging authority is challenging and then maintaining performance, the flexibility that CIL provides in terms of assignment is seen as a real benefit in terms of supporting infrastructure that will unlock growth.”*

- 200** The e-survey asked local authorities that have begun charging CIL to estimate the revenue streams for each full financial year. The survey also asked for estimates of any scheme-specific s106 planning obligations that had been agreed. Respondents were asked to specify the amounts of CIL both in terms of liability notices issued and receipts. Table 4.1 records the results for residential development only. Only one local authority issued liability notices in the 2011-12 financial year, to the value of £12,560. Since that time the number of charging authorities and the financial sums recorded in liability notices and receipts has been increasing. The average (mean) residential CIL receipt in 2014-15 was just over £0.7m, the median was much lower at £81,000 illustrating the very large payments received by a small number of authorities.

**Table 4.1: CIL revenue for surveyed charging authorities 2011 to 2014 (residential only)**

Year	Liability notices issued			Receipts		
	Number of surveyed LPAS	Total value	Average value	Number of surveyed LPAS	Total value	Average value
2011-12	1	£12,560	-	0	-	-
2012-13	6	£2,748,400	458,067	6	£732,616	122,103
2013-14	13	£17,500,000	1,346,154	11	£4,100,000	372,727
2014-15	27	£71,973,044	2,665,668	27	£19,107,846	707,698*

\* Includes three zero amounts

- 201** In 2013-14 eight local authorities issued CIL notices for amounts relating to non-residential development totalling £4.9m and £1.3m of CIL revenue was received from five of these local authorities.
- 202** In 2014-15 the number of charging authorities increased significantly. Table 4.2 shows the CIL revenue amounts for this financial year. The average (mean) total CIL receipt for surveyed local authorities in 2014-15 was £870,614 (which includes one zero receipt); the median amount was £160,000. In terms of sources of CIL revenue, residential development was by far the largest, followed by retail development. Albeit on a much smaller scale CIL has been collected from the development of student accommodation, hotels and holiday lets, education, leisure, commercial and industrial, agricultural buildings and mixed use. No payments in kind had been received.

**Table 4.2: CIL revenue for surveyed charging authorities 2014-15**

		Number of LPAs	Total amount	Average amount
<b>Residential</b>	CIL Liability Notices Issued	27	£71,973,044	£2,665,668
	CIL Received	24	£19,107,846	£707,698
<b>Retail</b>	CIL Liability Notices Issued	13	£3,523,461	£271,035
	CIL Received	8	£1,509,547	£188,693
<b>Other</b>	CIL Liability Notices Issued	Varies	£33,069,203	£4,082,109
	CIL Received	Varies	£5,016,850	£589,711

- 203** Table 4.3 shows CIL receipts from eleven local authorities that have been collecting CIL revenue for at least two full financial years. The average receipt has been increasing as CIL becomes established. There are some very high levels of CIL revenue being collected by LPAs in London (nearly £8m in 2014-15) and the Commuter Belt (£4m in 2014-15) local authority families.

**Table 4.3: CIL revenue from surveyed charging authorities with CIL for at least two financial years**

LA Ref	LAF	2011-12	2012-13	2013-14	2014-15
1	UE			£140,980	£1,772,028
2	RE			£300,610	£580,271
3	CB			£1,700,000	£4,000,000
4	RT			£81,680	£534,241
5	UE			£7,064	£1,379,000
6	RE		£22,700	£205,646	£911,280
7	UE		£558,874	£334,073	£911,280
8	RE	£12,560	£131,988	£580,854	£1,711,481
9	L		£19,040	£1,779,122	£7,903,830
10	RE			£15,158	£71,338
11	CB			£275,692	£1,878,800
Average		-	£183,151	£492,807	£1,968,505

- 204** Charging authorities are required to report CIL receipts and expenditure under Regulation 62 of the CIL Regulations. Disregarding the London Mayoral CIL, for the latest reporting year (2013-14), the total CIL revenue from the 29 local authorities was £10,237,825, an average of £353,028 per authority. This figure

is slightly lower than the £372,727 figure reported in table 4.1 probably because the twenty-nine authorities that reported revenue under Regulation 62 included five with zero receipts.

- 205** The case study authorities commented on the timing of CIL receipts and the slow build-up immediately post adoption of CIL. For example, one case study explained that, in the first year of collection, they had collected very little but in the following year CIL receipts rose to around £4m. Other comments about the slow build-up in CIL and potential difficulties this has caused include:

*"we can immediately see we have problems in terms of the amount of cash coming in - at least in the first couple of years..."*

*"Envisaged (named infrastructure scheme) would open in (date X) but pushed back ... because of slow build up in receipts.*

*"...you should expect a dip in money coming in immediately after adoption."*

### **Scale of exemptions and reliefs**

- 206** The interviews with the case study authorities explored the scale of exemptions and reliefs that are being granted. For some authorities, this is proving quite significant and evoked comments such as, *"For every pound we raise, we are giving away two!"*

- 207** A sub-sample of case study authorities was able to provide details of reliefs by type, which has allowed the calculation of broad averages of the value of reliefs/exemptions. We have used information for the last full year for which data are available (2014-15) but in some cases have needed to estimate the value for a year from a longer time period. The estimates therefore must be treated with great caution as they are based on a very small sample of current adopters and we have needed to interpret some of the data available. The estimates show average reliefs and exemptions granted on an annual basis per authority as follows:

- Residential extensions/annexes - £180,000 per authority per annum
- Self build new dwellings - £300,000 per authority per annum
- Social housing - £850,000 per authority per annum
- Total (excluding charitable relief) - £1,300,000

- 208** The above averages mask significant differences between authorities, which will depend on levels of development activity and their CIL rates. Differences are most marked for relief for self build housing. The total value of self-build relief granted by authorities in our sample range from below £20,000 per annum to over £500,000.

### **Scaled-back s106 planning obligations agreed by CIL adopters**

- 209** S106 planning obligations remain an important source of revenue. In 2014-15 the amounts shown in table 4.4 were reported.



**Table 4.4: Scaled-back s106 planning obligations for surveyed charging authorities 2014-15**

	Number of local authorities	Number of planning obligations	Number of dwellings or area (ha)	Total value	Average value per LPA (median in brackets)
<b>Affordable housing</b>					
Direct payment	33	588			
In-kind	29	172	4,236		
<b>Education</b>					
Direct payment	20	218		£70,757,603	£3,537,880 (£904,716)
In kind	2	2			
Land	2	3	5.85 ha		
<b>Open space &amp; environment</b>					
Direct payment	22	270		£34,225,538	£1,555,706 (£158,650)
In kind	6	9			
<b>Community facilities</b>					
Direct payment	16	174		£32,954,006	£2,059,625 (£307,376)
In kind	2	2			
Land	1	1	2.47 ha		
<b>Transport and travel</b>					
Direct payment	29	333		£88,886,389	£3,065,048 (£558,000)
In kind	5	18			
Land	2	2			
<b>Infrastructure (e.g flood control, sewage treatment, utilities)</b>					
Direct payment	14	84		£225,699,577	£16,121,398 (£647,465)
In kind	4	8			
<b>Other (e.g. SUDs, health, training, environment, art, play equipment, SAMM, travel plan, heritage, economic development, leisure, access, noise abatement, security)</b>					
Direct payment	21	295		£18,357,370	£874,160 (£129,694)
In kind	4	27			
Land	1	5	0.7 ha		

### Conventional s106 planning obligations agreed by CIL non-adopters

210 Table 4.5 shows the number and value of s106 planning obligations agreed by respondents from the CIL non-adopter sample for the 2014-15 financial year. There were no affordable housing, infrastructure, transport and travel land contributions and no in-kind contributions for education, community facilities or infrastructure.

**Table 4.5: S106 planning obligations 2014-15 agreed by surveyed CIL non-adopters**

<b>Agreed planning obligations between 1 April 2014 and 31 March 2015</b>	<b>Number of local authorities</b>	<b>Number of planning obligations / Value of planning obligations</b>	<b>Average per local authority</b>
<b>Affordable housing</b>			
Direct Payment:			
• Number of obligations	10	89	9
In-kind contributions:			
• Number of obligations	9	86	8
• Number of dwellings	6	1,059	132
<b>Education</b>			
Direct Payment:			
• Number of obligations	12	246	18
• Total value of obligations	11	£27,837,559	£2,319,797
Land contributions:			
• Number of obligations	2	4	1
• Area of land (ha)	2	7	2
<b>Open space and environment</b>			
Direct Payment:			
• Number of obligations	13	318	24
• Total value of obligations	13	£9,998,292	£769,099
In-kind contributions:			
• Number of obligations	1	3	1
Land contributions:			
• Number of obligations	3	18	4
• Area of land (ha)	2	40	10
<b>Community facilities</b>			
Direct Payment:			
• Number of obligations	7	136	11
• Total value of obligations	7	£6,088,162	£608,816
Land contributions:			
• Number of obligations	1	5	1
• Area of land (ha)	1	11	3
<b>Transport and Travel</b>			
Direct Payment:			
• Number of obligations	11	216	20
• Total value of obligations	12	£9,655,024	£804,585
In-kind contributions:			
• Number of obligations	1	5	2
<b>Infrastructure</b>			
Direct Payment:			
• Number of obligations	1	2	1
• Total value of obligations	1	£13,884	£4,628
<b>Other Obligations*</b>			
Direct Payment:			
• Number of obligations	8	445	39
• Total value of obligations	8	£3,467,222	£433,403
In-kind contributions:			
• Number of obligations	2	13	7

\* Includes Health - built facilities, noise attenuation fence and land, youth and childcare, libraries, NHS England, public art, special protection areas and heathland mitigation.

## Comparison between conventional s106 planning obligations and scaled-back s106 planning obligations

- 211 Noting the very small sample sizes, an attempt was made to compare the average revenue from conventional s106 planning obligations received by CIL non-adopters (Table 4.5) with scaled-back s106 planning obligations agreed by CIL adopters. This is shown in Table 4.6 for the 2014-15 financial year. For all revenue streams and for the number of affordable dwellings, CIL adopters secured more s106 planning obligations than non-adopters.

**Table 4.6: Comparison surveyed CIL adopter and non-adopter revenue**

	Average CIL non-adopter s106 receipts per LPA	Average CIL adopter CIL/scaled-back s106 receipts per LPA
Education	£2.3m (11 LPAs)	£3.5m (20 LPAs)
Open space and environment	£0.8m (13 LPAs)	£1.4m (24 LPAs)
Community facilities	£0.6m (7 LPAs)	£2.1m (16 LPAs)
Transport	£0.8m (12 LPAs)	£3.1m (29 LPAs)
Affordable housing	132 dwellings (6 LPAs)	151 dwellings (28 LPAs)

## S106 contributions and CIL receipts before and after CIL adoption

- 212 The e-survey examined levels of s106 payments in respect of residential development that were collected by local authorities prior to adopting CIL. Not all authorities recorded this in the same way with some providing an amount per dwelling and others a total amount collected but with no information about the number of dwellings this applied to. Where an amount per dwelling was provided, this is shown in Table 4.7.

**Table 4.7: Average historic s106 per dwelling**

Amount	Number of LPAs
£2.5K - £5K	4
£5K+ - £7.5K	2
£7.5K+ - £10K	2
£10K+	1

- 213 Eight LPAs that had not adopted CIL provided estimates of the approximate amount of residential planning obligations (excluding affordable housing). On a per dwelling basis these ranged from £1,117 to £11,000. When asked for the approximate cost of commercial planning obligations, respondents felt that these varied too much to provide estimates.
- 214 The case study authorities reported that it was not straightforward to compare s106 payments prior to the introduction of CIL with combined CIL and s106 payments once CIL is in place. This was partly because s106 payments varied between sites and also because the interviewees may not have much knowledge of s106 negotiations and payments. However, of the eight interviewees that commented (and numbers are too low to draw robust conclusions) all said that s106 requirements had been reduced, using phrases such as “s106 has reduced considerably”, “s106 is scaled back considerably”

- 215** Some interviewees set out the typical s106 requirements pre-CIL that are now funded from CIL receipts, they included education, libraries and transport measures. With the exception of affordable housing, these post-CIL scaled-back s106 requirements are typically limited to 'minor measures', open space and children's play areas. It has proved difficult to source numeric estimates of the scale of the reduction in s106 payments on a per dwelling basis, the few examples that were given suggested that s106 payments had reduced from around £1,500 per dwelling to £1,000 or from £8,000 per dwelling to £3,000 with CIL in place.
- 216** In addition to the reduced level of s106, three interviewees specifically mentioned that the number of s106 agreements had reduced as a result of the introduction of CIL. None reported an increase.
- 217** Evidence about payment of s106 pre- and post-CIL on non-residential schemes is extremely limited but where comment was made it was emphasised that schemes varied so much in character, with many including replacement space, that no clear picture emerges, there are simply 'winners and losers'.
- 218** Importantly a number of case study authorities noted that smaller residential schemes (below 10 or 15 dwellings depending on the policy of the authority) had not been required to make s106 payments in the past and, although not being asked to do so now, were now contributing towards the cost of infrastructure through their CIL payments. It is noted that residential CIL charges did not vary by size of site (other than for their large-scale developments) in any of the case study areas.
- 219** The importance of the contribution from all sites, and not just large-scale development, was emphasised by a number of interviewees, either as a reason for an increase in the total s106/CIL contributions or to offset a reduction in the s106 contribution from larger schemes.
- 220** In terms of the total s106 and CIL receipts from pre- and post-CIL adoption there is a mixed picture. Only three authorities were clear that total receipts have increased with CIL in place, three indicated that they think the total receipts will remain about the same, three anticipate decrease and the remainder do not yet have sufficient information to make a judgment, for example:
- "It is very difficult to compare - at the moment in a transition stage - old s106 agreements still coming through and CIL slow to get started."*
- 221** A general finding from the case studies is that there is a dip in the combined s106/CIL contributions immediately post adoption of CIL, compared with the scale of s106 contributions pre adoption. As noted above, for some authorities, this is expected to be temporary.
- 222** There is no single explanation as to why some authorities are collecting less with CIL in place; the reasons put forward include:

*“In general, the situation might have been better than pre-CIL in terms of contribution levels, especially given no of small developments (in our area) but for the (recent) exemptions...”*

*“Overall seem to be collecting less because are getting a steadier flow of income whereas before, s106 payments arrived in large single payments ... now getting more of a trickle...”*

**223** The developers in the developer case studies have a very different view on the scale of payments being asked of them before and after the adoption of CIL. Of the nine developers who gave a view, six stated that payments had increased post CIL with phrases such as ‘massively’ and ‘increased substantially’ being used. Three specific examples were given of the level of increase in costs:

- from £3,000 per dwelling pre CIL to £10,000 with CIL and scaled-back s106
- another that payments had ‘doubled’
- another that payments had increased by ‘*between 5 and 10 times*’

**224** For the other three developers, the general view was that there had been no change overall in the level of payments and/or that it is difficult to tell as no two sites are the same.

## CIL expenditure

### Expenditure items

**225** Of the local authorities that have adopted CIL and responded to the e-survey, seven have begun to spend some of the revenue and 30 have not. Table 4.8 shows the heads of expenditure for the 2014-15 financial year.

**Table 4.8: CIL expenditure 2014-15**

<b>Categories of expenditure (an LPA may spend CIL in more than one category)</b>	<b>Number of local authorities</b>	<b>Total expenditure (% of total)</b>
Education (e.g. schools, special needs facilities, etc.)	3	£854,000 (37%)
Open space and environment (e.g. parks, allotments, recycling, play areas, etc.)	6	£285,906 (12%)
Community facilities (e.g. libraries, community centres, sports facilities, etc.)	2	£175,000 (8%)
Transport and travel (e.g. roads, paths, cycle lanes, etc.)	3	£403,661 (17%)
Other infrastructure (e.g. flood control measures, utilities, sewage works, etc.)	1	£596,154 (26%)
<b>TOTAL</b>		<b>£2,314,721</b>

## **Governance of spending**

- 226** The stakeholder interviews revealed that there are still issues, especially for local politicians, surrounding the disconnection between where CIL is collected and where it is spent. Although the use of the neighbourhood portion of CIL goes some way to address this, it still causes concern that money collected in one part of an authority area can be spent on an infrastructure project many miles away. They also commented on the limited input that the development industry is having/will have on the way LPAs determine their spending of CIL. Where a developer is making a (significant) CIL payment they are starting to ask the question '*what are you going to spend on my development, I am delivering X houses*' but this may be a very different agenda from the local authority's priorities.
- 227** The other emerging issue raised by the stakeholders is the added complication for two tier authorities around the collection and spending of CIL. The district level authority collects and administers CIL but the counties are responsible for some of the 'big ticket' infrastructure items such as education and transport.
- 228** The local authority case studies highlighted the widespread acknowledgement that CIL money collected will not be enough to fund all the R123 items and councils are putting in place governance arrangements to identify priorities.
- 229** The e-survey showed the following range of arrangements for decisions about how CIL money is spent:
- A group that includes councillors 19
  - According to an agreed spending plan 6
  - An officer team 3
  - Other (see below) 20
- 230** 'Other' included:
- The business plan from a wider grouping of contiguous local authorities
  - A member decision with support of officers - governance arrangements due to be set
  - An executive board for strategic elements and local ward members for the neighbourhood proportion including consultation with community groups.
- 231** The local authority case studies highlighted that governance arrangements are at different stages of development, largely dependent upon when councils adopted their CIL and three of the case study authorities reported that arrangements were still being finalised.
- 232** Where arrangements are agreed, councillors have played an active role in deciding on priorities (seven of the 14 case study authorities specifically noted this - there may be other authorities also with councillor involvement but this was not apparent through the interview). These arrangements typically involved the cabinet evaluating 'bids' made for CIL funding on an annual basis (e.g. by council departments and/or infrastructure providers). The process may be supported by a working group (of officers and sometimes councillors)

undertaking an initial sifting process and making recommendations to the decision making body. In other instances, CIL spending priorities were decided through a partnership arrangement with other councils working together or through an entirely different mechanism e.g. via a Local Enterprise Partnership.

- 233** In none of the case studies are developers directly involved in the decision-making process although they may be consulted generally about CIL through developer forum meetings. One case study interviewee reported that their council was considering including representatives of the development industry in the decision-making process.
- 234** The lack of involvement in priority setting reported by the local authority case studies was reflected in the developer case study interviews. Developers reported limited knowledge of the content of R123 lists for the area(s) they operated in with only one developer interviewed stating they knew the content – although another four knew of the existence of the R123 list and how to find it if needed. There was minimal awareness of how local authorities decide on their spending priorities (“...haven’t got a clue...”) but this does not seem to be a current concern. None of the developers interviewed thought that there were any infrastructure projects that might affect their developments and that could be CIL funded. If there was a more direct connection between CIL spending and the needs of their own developments, this picture might change.
- 235** As noted earlier, a number of local authority interviewees commented that the CIL collected will not be enough to fund all the items in the council’s R123 list and will need to be combined with other funding sources to maximise infrastructure delivery. In some instances CIL collected in the early years was less than anticipated, for example:

*“...make sure people understand that CIL is only one element of the funding available.... CIL is generating less money in early years than anticipated...”*

*“...and not enough CIL money to pay (for R123 list priorities) - this is a transitional period but there is a problem..”*

*“It (CIL money collected) won’t cover more than 30% of costs...”*

# Chapter 5

## Impact of CIL

### Impact of CIL on development activity

#### Planning applications, decisions, permissions, starts and completions

- 236 The analysis presented in this section of the report centres on a series of comparisons between a sample of LPAs that have adopted CIL and a comparable (in terms of local authority family and average house price) sample of LPAs that have not yet adopted CIL. Further details of the sample selection procedure can be found in the Technical Annex.
- 237 The section also draws on the local authority case study interviews, which explored how the development pipeline was being affected by the introduction of CIL. The introduction of CIL is not thought to have had a long-term impact on the development pipeline although there may have been a ‘rush’ of applications immediately before its introduction, followed by a short term dip thereafter but with rates returning to their pre CIL levels.

*“Actually been an increase in activity ... a reaction to improving economic circumstances ... CIL has not put a damper on activity ... we have seen an increase in applications and big sites coming forward”*

*“But applications now coming forward from developers who said (CIL) would make their scheme unviable!”*

*“Development has held steady.”*

- 238 The analysis of available data explored below would seem to confirm the local authority perspective.
- 239 An important ‘impact’ question is whether the number of dwellings included in submitted planning applications has declined as a result of the introduction of CIL. Table 5.1 shows, for each LPA that has adopted CIL, the number of dwellings included in planning applications on a quarterly basis. The quarter in which CIL adoption took place is highlighted. The volatility in applications is clearly evident but there appears to be little impact on residential planning applications resulting from CIL adoption. Taking the average of the number of dwellings included in planning applications both before and after CIL adoption in each of the 40 earliest adopters, 18 saw a reduction and 22 an increase.



**Table 5.1: Number of dwellings submitted for development in planning applications, with CIL adoption date highlighted  
(source: Glenigan)**

LP A	2010 Q1	2010 Q2	2010 Q3	2010 Q4	2011 Q1	2011 Q2	2011 Q3	2011 Q4	2012 Q1	2012 Q2	2012 Q3	2012 Q4	2013 Q1	2013 Q2	2013 Q3	2013 Q4	2014 Q1	2014 Q2	2014 Q3	2014 Q4	2015 Q1	2015 Q2	2015 Q3
1	1881	53	279	3275	131	139	255	26	32	436	60	79	34	161	30	59	220	104	268	169	75	*	*
2	84	225	392	252	178	222	655	184	149	162	139	300	442	640	1548	486	1319	1528	1369	826	498	*	*
3	96	40	203	79	79	194	23	121	82	168	25	65	68	267	76	24	322	70	34	32	79	*	*
4	15	70	631	52	156	290	52	111	160	41	27	99	50	204	130	184	14	13	181	51	39	*	*
5	130	65	86	211	91	111	76	184	29	849	234	224	213	152	741	356	81	118	163	284	476	*	*
6	358	179	227	641	180	91	48	276	120	46	52	122	18	23	862	37	151	115	209	195	267	*	*
7	582	1241	226	234	626	532	483	138	187	297	646	390	116	174	424	409	352	238	69	146	153	*	*
8	122	65	98	66	73	108	55	1428	79	52	59	105	125	164	71	79	127	126	201	187	212	*	*
9	17	15	55	19	49	21	42	219	5	46	41	27	45		13	44	94	143	147	53	47	*	*
10	102	207	53	181	146	94	108	94	34	81	73	128	83	148	117	77	163	99	34	141	156	*	*
11	222	379	473	287	1278	120	1040	509	260	354	233	338	344	373	550	1028	160	284	423	304	855	*	*
12	37	95	137	37	50	61	400	33	30	45	299	63	58	136	16	233	194	43	85	532	172	*	*
13	840	191	280	674	804	348	228	221	110	791	171	325	508	495	301	9078	1364	355	4492	1453	254	*	*
14	54	720	215	1607	52	61	407	71	146	2092	639	1070	287	355	187	154	350	286	238	71	1120	*	*
15	31	153	195	24	25	15	248	104	83	141	293	3787	264	798	241	103	72	199	256	102	78	*	*
16	322	269	162	1061	262	218	197	446	429	113	1121	895	76	189	363	327	164	712	314	181	209	*	*
17	30	263	112	99	302	102	19	99	182	1083	21	112	15	109	50	175	17	76	80	21	281	*	*
18	22	62	21	2777	52	306	74	25	85	135	252	16	16	190	384		99	212	128	23	110	*	*
19	95	22	29	36	33	32	62	21	59	45	77	65	30	58	81	558	118	116	640	171	259	*	*
20	188	191	136	144	439	79	335	700	106	653	240	405	239	252	211	136	265	208	231	553	34	*	*
21	166	456	235	14	78	66	48	102	26	382	289	387	534	176	376	106	477	394	179	146	221	*	*
22	10	42	8	20	62	124	25	252	58	168	168	875	464	494	186	48	542	349	124	55	288	*	*
23	79	224	211	91	180	78	201	275	32	33	20	153	46	27	236	213	242	366	129	45	92	*	*
24	38	105	140	46	81	63	172	76	1323	10	111	350	128	413	61	813	166	215	506	243	74	*	*
25	97	57	164	109	57	100	317	175	70	38	170	456	38	42	129	55	338	85	297	95	549	*	*
26	32	44	93	33	42	36	116	45	16	109	26	21	124	2085	277	22	49	85	20	76	43	*	*
27	43	97	71	9	1924	37	731	144	110	525	121	27	102	323	103	588	188	516	451	79	10	*	*
28	61	2549	53	741	88	2263	61	791	358	48	1397	2905	598	104	686	331	821	465	4238	933	44	*	*
29	122	33	53	79	105	14	53	114	13	112	81	170	36	145	114	501	45	64	109	189	130	*	*
30	81	423	436	9	38	40	364	1060	131	56	166	67	439	737	3318	512	725	167	139	230	123	*	*
31	27	170	21	207	36	148	174	40	38	49	75	54	234	327	253	215	16	41	107	265	159	*	*
32	363	255	579	942	268	36	308	94	58	145	109	541	656	26	279	369	70	129	51	775	227	*	*
33	331	16	20	117	81	26	299	66	29	51	154	84	59	95	123	145	74	125	107	351	224	*	*
34	100	2383	43	131	65	21	142	587	55	118	117	91	92	177	49	840	570	128	309	131	85	*	*

35	43	20	75	1		8	6	155	3	6	66	22		144		58			56	44	25	*	*
36	176	205	279	198	431	588	161	197	162	410	610	224	160	600	414	431	327	334	236	222	84	*	*
37	139	395	372	139	130	199	491	66	763	220	286	160	94	341	713	124	109	133	59	160	76	*	*
38	37	212	66	43	768	30	978	153	149	93	138	642	61	206	24	288	99	142	353	452	62	*	*
39	23	14		28	18	18	16	25	68	40	47	9	9	166		24	6	64	34	33	7	*	*
40	14	85	256	47	29	25	58	77	59	17	146	232	16	55	82	50	25	59	60	208	76	*	*
41	98	11	121	376	1	4	29		14	7	88	63		138	20	10	119	66	89	54	31	*	*
42	122		77		13	117	47	5	224	2		167				5			5		1	*	*
43	8	24	107	134	8	64	134	169	79	225	14	45	123	70	138	112	42	41	192	80	159	*	*
44	200	309	99	125	119	1030	303	214	132	25	550	1930	408	104	310	113	285	136	127	231	29	*	*
45	19	23	63	75	45	26	363	88	25	47	16	81	172	106	561	61	173	37	96	34	130	*	*
46	18	91	55	34	63	67	53	157	41	74	147	216	176	287	740	347	34	104	116	48	141	*	*
47	135	506	103	102	184	152	63	416	579	275	107	105	58	1184	80	827	420	80	160	21	175	*	*
48	1062	1127	513	1209	314	292	267	2606	185	507	313	1509	192	95	642	225	748	214	801	67	443	*	*
49	55	123	375	77	944	25	205	175	191	318	620	80	348	69	202	599	400	354	142	27	310	*	*
50	109	58	62	61	55	106	111	389	65	371	31	808	45	78	153	149	54	577	130	72	56	*	*
51	7	57	56	23	3	28	79	205	275	25	21	361	31	64	12		217	47	26	41	27	*	*
52	125	231	1259	244	555	4449	1018	3464	1094	270	251	945	840	299	464	245	731	542	574	972	1449	*	*
53	84	92	29	124	82	58	296	35	18	36	257	42	53	60	131	126	61	101	96	107	70	*	*
54	15	35	44	28	21	40	23	106	15	15	115	16	99	41	41	297	10	75	211	56	48	*	*
55	28	43	65	75	160	27	206	74	168	70	49	46	72	91	56	96	151	182	72	154	205	*	*
56	59	162	368	947	216	121	229	227	23	297	92	305	122	118	105	198	74	37	275	63	71	*	*
57	118	91	624	136	105	145	108	93	546	127	76	72	69	56	36	133	180	174	591	84	1262	*	*
58	156	154	289	45	212	96	371	54	731	253	42	104	110	155	355	195	53	17	100	2018	67	*	*
59	253	15	49	111	31	4	23	100	25	7	221	85	134	23	40	30	243	54	70	21	76	*	*
60	115	24	89	38	12	38	67	72	274	35	23	83	400	29	79	17	607	398	48	129		*	*
61	774	1030	1668	150	601	946	1319	1415	942	523	761	2437	1981	2032	1077	2482	690	1530	1030	2888	585	*	*
62	424	22	25	99	543	360	202	19	52	90	48	536	254	134	165	14	332	1598	35	166	13	*	*
63	127	69	264	58	55	2557	87	89	180	83	67	710	329	1722	444	651	661	475	191	80	168	*	*
64	193	42	1609	68	150	45	509	92	355	54	23	607	982	591	57	462	140	905	326	1177	57	*	*
65	84	108	49	47	14	17	28	194	86	8	41	30	67	86	29	422	25	87	61	140	164	*	*
66	629	2559	707	476	358	779	574	386	438	3295	1390	679	499	624	1128	788	534	991	1243	1554	592	*	*
67	42	146	471	131	318	6814	43	178	193	99	76	165	52	75	296	26	289	113	89	125	64	*	*
68	22	35	78	22	41	17	141	135	22	66	116	41	146	119	35	391	149	161	77	178	69	*	*
*no data																							
CIL adoption date																							

240 Figure 5.1 shows the average number of residential units included in planning applications submitted by 68 local authorities that have adopted CIL. The red line indicates the point of CIL adoption. There does not appear to be any identifiable trend, corroborating the finding shown in table 5.1.

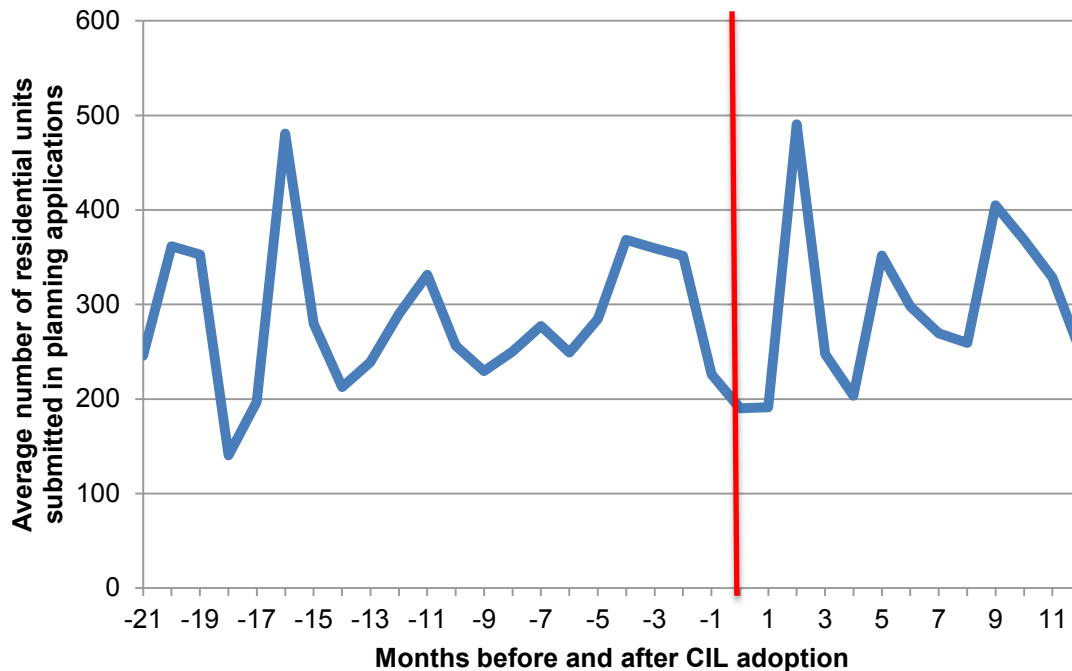


Figure 5.1: Average number of dwellings submitted in planning applications before and after CIL adoption (source: Glenigan)

241 Table 5.1 and Figure 5.1 focus on local authorities that have adopted CIL. It is also useful to compare those CIL adopters with those that have not adopted CIL. Given the short timescale over which many CILs have been operational, this question can only be answered tentatively at this stage. Figure 5.2 shows, for the CIL adopter and CIL non-adopter samples, the average number of dwellings granted planning consent between 2010 and 2015. The evidence suggests that, in line with the findings from the case study interviews with local authorities, the adoption of CIL has not led to any discernible impact on planning applications.

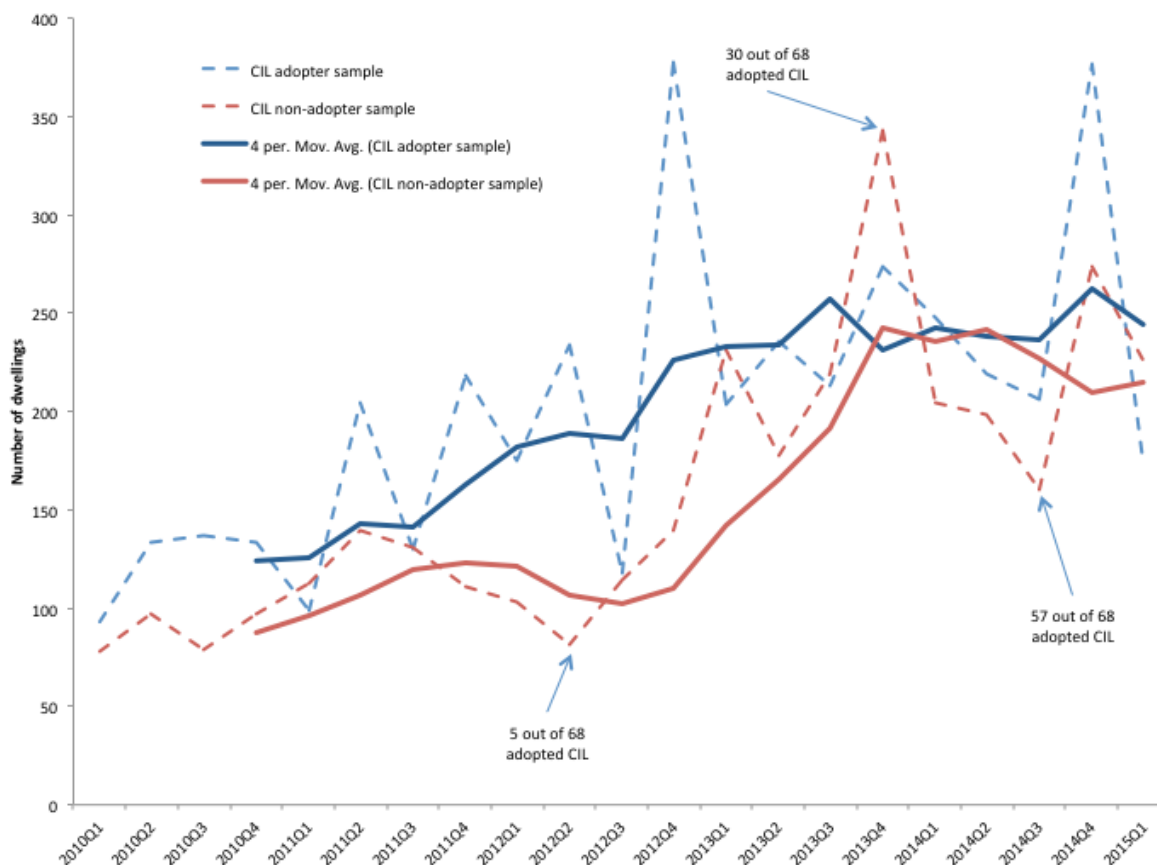


Figure 5.2: Average number of dwellings granted planning consent

### Affordable housing delivery

- 242** One of the key differences between CIL and planning obligations that was highlighted in the stakeholder interviews was that CIL is a fixed levy and s106 is negotiable. This has led to concerns that, where scheme viability is an issue, there will be a reduction in planning obligations sought and, notably, a reduction in affordable housing that is provided.
- 243** However, the e-survey of local authority adopters showed that only three authorities felt that the introduction of CIL had affected the delivery of affordable housing, with one stating *“CIL was delivered alongside a review of the Local Plan including the affordable housing targets. In a number of locations the proportion of affordable housing sought reduced in order to achieve the necessary infrastructure investment”* and another that *“...on a few marginal schemes a reduction in affordable housing provision has been accepted when accompanied by an appropriate viability assessment, however this was the same under the S106 regime.”*
- 244** On the other hand, 33 authorities felt that CIL had not had an impact on the delivery of affordable but with other authorities stating that it was too soon to tell.
- 245** The issue of the potential impact of CIL on affordable housing development was discussed with the 14 case study authorities. Of these, only two

commented that the introduction of CIL had had a direct impact on the delivery of affordable housing. In one case, this had affected the tenure mix of the affordable housing achieved (although the overall percentage had held up) and the other authority had been achieving a lower percentage post CIL. Half of the case studies said that there had been no change (or only a minor decrease) and the others either did not know or felt that it was too early to tell. In one case, a downturn in delivery of affordable housing was attributed to the then national site size threshold for affordable housing of 10 dwellings.

- 246** As context for their assessment, it was highlighted that there are, *“Difficulties with or without CIL, it is resisted regardless.”* Changing market conditions were also commented on by some interviewees with two mentioning that *‘improving market conditions’* had overcome any impact that CIL might have on viability. Another interviewee commented that affordable housing delivery had been declining prior to the introduction of CIL and its continuing decline post CIL was part of this wider trend.
- 247** Attention was drawn by at least two interviewees to comments from developers before its introduction that CIL would have an adverse impact on scheme viability but that they had proceeded to bring forward their schemes with CIL in place:

*“...have got a current application where a developer said they couldn't afford CIL pre adoption but have now gone all the way through the process and paid the CIL...”*

## Impact of CIL on development viability

### Views on viability and the impact of CIL

- 248** Stakeholder interviewees, backed up by the case study authorities, reported that infrastructure plans typically show a significant requirement for infrastructure investment but few funding opportunities. Consequently the primary determinant of CIL charge is the impact on development viability.
- 249** It is difficult to isolate the impact of CIL on viability as there are many other factors to take into account. With a ‘typical’ residential CIL said to be approximately 2-3% of the house price, in a rising housing market, the impact may be negligible. Stakeholders felt this was more the case for larger developers and landowners that understand the process and likely costs and can factor these into their plans. But for smaller developers, CIL can still be *‘a bit of a shock’*. The continuing need also for some s106 payments can also *‘catch people out’*.
- 250** At the time of the interviews, developers of small sites welcomed the removal of a requirement to meet any planning obligations for schemes of ten or fewer dwellings, but with a concern that local authorities will consequently increase CIL rates for these schemes.

- 251 The e-survey of local authorities identified that development viability was a
- 252 particular operational concern amongst CIL adopters. One commented, “[t]he toughest part for a planning department to deal with is the viability element as knowledge in this area is limited and we are totally reliant on consultants.”
- 253 Several responses highlighted the negligible impact of CIL on development viability, emphasising the role of more market-based drivers of viability and drawing attention to the difficulty in obtaining direct evidence of a negative impact of CIL on development viability.
- 254 The local authority case study interviewees were asked whether, “...the introduction of CIL had an impact on the viability of development in this authority?” There was very little comment to suggest this is the case to any significant degree; although with some recognition that there may be a transition phase while sites purchased pre CIL work their way through the system. Land deals struck post CIL can take the cost of CIL into account. But overall, CIL is thought to have a marginal impact compared with the other values and costs involved in development. There are more comments about viability concerns for small-scale development but no specific evidence to support this. The following quotes typify the views of the local authority case study interviewees, which recognized that smaller developers may face viability issues with CIL in place and that larger-sale developers dislike of CIL maybe about a loss of control (compared to the use of s106 agreements) rather than viability:
- “Developers coming with same offers post CIL than pre. CIL impact is small compared to other impacts - e.g. wider housing markets conditions. ... Maybe if scheme wasn't viable in the first place CIL can be seen as the tipping point.”*
- “When introduced - viability was an issue and developers coming back to reduce the affordable housing requirements on sites but as market values have picked up ... not really an issue”*
- “Smaller outfits struggle more with it. Margins are tighter. They often don't know about CIL. We try to publicise it.”*
- “In future developers will take CIL into account when buying land - now in a transition phase when developers are dealing with land brought before CIL and are coming back to us with viability issues.”*
- 255 The developers interviewed were more mixed in their views with five of the 12 stating that the introduction of CIL had affected development viability but one of these then commented that the impact on viability had been mitigated by rising market values. Of the remaining developers, three stated that the introduction of CIL had no impact (“CIL is a minor consideration”) and two were unsure of the impact.
- 256 Where CIL rates are considered ‘reasonable’ (with an example of ‘reasonable’ given at around £50 per square metre), CIL is said to be a small part of the development costs and can readily be set against the land value but this would not be the case at ‘high’ rates.

- 257 As with the local authority interviewees, it was noted that, in a rising market, the degree of potential impact on viability is mitigated:

*“If house prices had not increased over past few years, the affordable housing would have been lost due to viability.”*

- 258 The majority view from the developers interviewed (mentioned directly by eight interviewees) is that CIL payments “*come off the land value*” and that, in a rising market, this would not be a major issue. The eight included four of the interviewees that had stated that CIL was impacting on development viability.

- 259 Where developers paid for land before CIL was introduced, there is not this flexibility as may also be the case when option agreements have to be re-negotiated. Similarly where “*land supply is highly competitive*”, it was said that land owners may hold on to land rather than discount the price because of CIL.

- 260 Despite these various concerns about viability, only one interviewee said that they were favouring areas without a CIL for land purchase. By contrast, other interviewees commented that:

*“CIL is a minor consideration. Not aware of any development decisions hanging on whether a location has CIL or not. Instead factors such as location, values, site availability, delivery and whether the development fits the corporate profile are all more important.”*

*“(CIL) provides more certainty as to what we are willing to pay for sites, than where we were making assumptions about S106 costs.”*

### **Scheme viability (pre and post CIL) and relationship to AH**

- 261 In the Technical Annex, in the section entitled ‘CIL and development viability’, a simple development appraisal model demonstrates that, because CIL is a minor development cost, land value is not sensitive to percentage changes in CIL. For example, if building costs are £1,000 per square metre and CIL is £50 per square metre, residual land value would be much more greatly affected by a 10% increase in the former compared to the latter. In addition, a change in build costs affects all dwellings in a scheme but CIL will only be applied to market dwellings in a typical scheme and therefore CIL has a lesser impact. The section also demonstrates that the (now widely used) method of assessing viability of a development – benchmarking residual land value against a threshold level – means that marginal sites are much more likely to become unviable following small downward shifts in development value and uplifts in costs.

## Viability analysis

### APPROACH TO THE ANALYSIS

- 262** To provide an assessment of the impact of CIL on development viability, two tests have been devised. Both compare the situation before and after CIL is introduced and make assumptions about the scale of s106 payments prior to CIL and then the scaled-back s106 with CIL in place.
- 263** To do this we have drawn up four notional local authority case studies. These represent a ‘typical’ local authority in four of the median house prices bands identified in Table 2.1. We have selected four bands for analysis to assess the impact of CIL. The bands are 2, 3, 4 and 6 (with 6 being almost exclusively London boroughs) – the higher the number of the band, the greater the market values found in that band.
- 264** None of the case studies is based on a single local authority. For each case study, we have identified the three local authorities that sit around the median house price of that band and amalgamated information for each to draw up the case study viability profile.
- 265** Wherever possible, the assumptions used are taken from published reports or use values that have been accepted at CIL examinations<sup>18</sup>. The Technical Annex provides a full set of data used but key assumptions and sources are as follows (as far as possible, current costs and values are used):
- The first set of tests assumes a notional one-hectare scheme with three alternative densities of development used (35 dwellings per hectare (dph), 55 dph and 320 dph) – the 35 and 55 dph tests are only used in case studies for Bands 2, 3 and 4 while a density of 320 dph is tested in Band 6, i.e. high density London
  - For each density a mix of dwelling types is taken from previous studies
  - The size of dwellings accords with current policy
  - A mix of dwelling types
  - Market values are derived from Land Registry price paid data for 2014 and to September 2015 (inflated to bring up to current values)
  - Build costs are taken from the RICS Building Cost Information Service (BCIS) using five-year median values
  - Affordable housing is assumed to be policy compliant (with policies taken from relevant local plans)
  - Affordable housing is a mix of affordable rent and shared ownership with affordable rents as 80% of the Local Housing Allowance
  - CIL rates are taken as a single average value
  - Two alternative historic s106 payments are tested – £4,500 and £8,000 per dwelling i.e. without CIL (taken as best estimates derived from this research)
  - A figure of £1,500 is assumed for the scaled back s106 where there is a CIL (taken as a best estimate from this research)

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<sup>18</sup> Including GLA Strategic Housing Land Availability Assessment, Viability Assessment, Final Report, April 2014 and the Section 106 Planning Obligations in England, 2011-12, May 2014, Report of study for DCLG



- A developer return of 20% market value and contractor return of 6% costs for the affordable housing is assumed
- Other development costs include professional fees at 10% of costs, finance at 6% of costs and marketing fees at 3% of market value
- No allowance is made for any additional development costs and/or exemptions or reliefs from CIL such as vacant building credit

266 All the assumptions used in the testing are averages and the results presented **must be treated as being illustrative** of the impact of CIL on viability. As with all modeling of this kind, changed assumptions could produce quite different results. The value of the analysis is to highlight the relative impact of CIL on different types of development in different value areas, rather than demonstrate absolute viability of a particular scheme.

#### CIL AS A PROPORTION OF VALUE

267 The first exercise shows how much costs vary before and after the adoption of CIL. The changes that are taken into account are the reduction in s106 requirements with CIL in place and the cost of CIL itself. Because CIL only applies to market housing, the proportion of affordable housing assumed has an impact on CIL charges and this is set out along with the assumed CIL charge. The results are shown for the two options for s106 payments prior to the adoption of CIL (£4,500 and £8,000 per dwelling), with a scaled-back payment of £1,500 assumed with CIL in place.

268 The results are expressed as a percentage of the development value of the market housing.<sup>19</sup>

**Table 5.2: For the case studies in median house price Bands 2, 3, 4 and 6 - percentage change in combined costs of s106 payment and CIL, pre CIL and with CIL in place (figures in black represent a percentage increase in costs, those in blue a reduction)**

<i>s106 per dw pre CIL</i>				35 dph		55 dph		320 dph	
				£4,500	£8,000	£4,500	£8,000	£4,500	£8,000
BAND	CIL £/sqm	AH %							
2	£ 50	30%	0.1%	-1.9%	-0.1%	-2.5%			
3	£ 80	35%	1.0%	-1.0%	0.9%	-1.5%			
4	£ 100	35%	1.0%	-0.2%	1.0%	-0.5%			
6	£ 350	45%					4.3%	3.0%	

269 For bands 2, 3 and 4, there is a reduction in cost when CIL and scaled back s106 replaces the higher s106 pre CIL cost (i.e. £8,000 per dwelling). But costs go up if the s106 cost pre CIL is the lower amount (i.e. £4,500 per dwelling). Even so, the increase is only around 1% in all cases.

270 With Band 6 and a CIL cost of £350/sqm and affordable housing at 45%, costs with CIL increase over both pre CIL s106 options but by less than 5% of the value of the market housing.

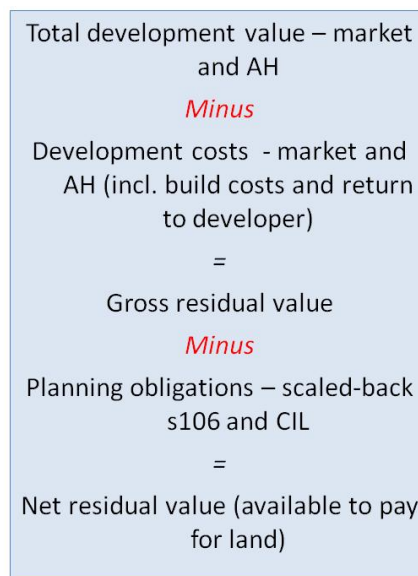
<sup>19</sup> In practice, this underestimates the total value in a scheme as the affordable housing will also have a value and therefore the results will over-state the true impact of CIL.

271 The tests do not show the impact of CIL on schemes that made no s106 contribution prior to the introduction of CIL, which will be the case for some<sup>20</sup>. In these circumstances, costs will increase for all the tests. We estimate this at between 2% and 3% in the three lower value bands to around 5% to 6% in Band 6.

## TESTING THE RESIDUAL VALUE

### *Principles*

- 272 Although the impact of introducing CIL is marginal, at less than 5% of gross market value for the majority of the tests and well within the average buffer of 30% used in CIL viability studies, we have undertaken further analysis to assess whether the introduction of CIL could still be the ‘tipping point’ for schemes and turn viable schemes into non-viable schemes.
- 273 To do this we estimate the residual value of a series of development types starting with the one-hectare tiles and compare the residual value for each with a benchmark land value.<sup>21</sup> The residual value of a scheme is the difference between all the scheme revenue (from market and affordable housing) and all its costs (including allowing for a return to the developer). The residual value is available to pay for the land. This is illustrated in figure 5.3.



**Figure 5.3: Components of a residual value calculation**

274 If the residual value exceeds the benchmark the scheme is viable. Benchmark land values have been taken from CIL viability studies for the local authorities that make up each case study and we have averaged these to provide case study benchmarks. We fully recognise that identifying benchmark land values can be a contentious area of viability testing and found that the benchmarks for the authorities in each band varied significantly. We have adopted a single benchmark for Bands 2 and 3, with separate benchmarks for Bands 4 and

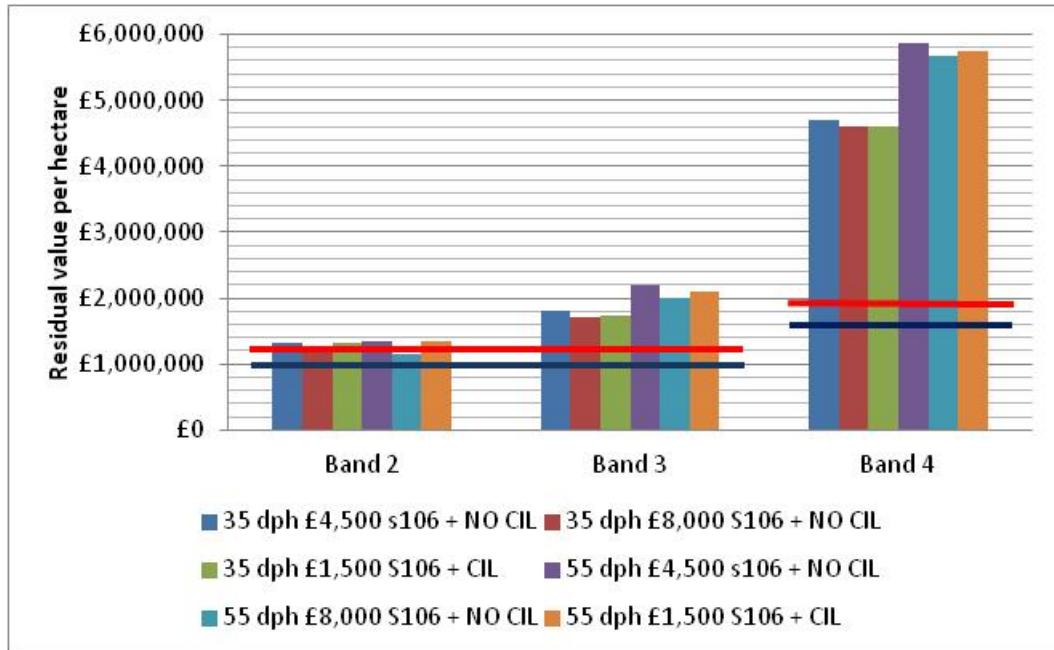
<sup>20</sup> For this test – as a s106 payment was not required pre CIL, we also assume that there is no ‘scaled-back’ s106 payment with CIL in place.

<sup>21</sup> Benchmark (or threshold land value) should represent the value at which a typical willing landowner is likely to release land for development.

Band 6. We have also undertaken a sensitivity test which uses a benchmark 20% above our baseline. The other assumptions are as set out earlier.

**Results for the 1 hectare tiles**

275 The test results for the 1 hectare tiles are set out in Figures 5.4 and 5.5.



**Figure 5.4: Residual value per hectare for 1 hectare tile for Bands 2, 3 and 4 – for alternative combinations of s106 with and without CIL, compared with base benchmark land value (dark blue line) and benchmark plus 20% (red line)**

276 In Bands 3 and 4, residual values comfortably exceed the benchmark with and without CIL and, on the assumptions used, there is no viability issue. The introduction of CIL has a very limited impact on residual value in comparison with the pre CIL situation and s106 costs of either £4,500 or £8,000 per dwelling. For Band 2 (the lowest value Band tested), the situation is more marginal, although the residual values for all the tests undertaken exceed the base land value benchmark. However, it is not necessarily the introduction of CIL that is causing any viability concerns; with the tests giving the lowest residual value being those without CIL but a s106 contribution of £8,000 per dwelling. In reality, this might lead to a negotiation of the scale of the s106 contributions but our testing is intended to compare the relative impact of CIL against a pre CIL regime. In any case, overall, it is to be expected that areas with the lowest values are those where viability issues generally are most likely to be found, whether CIL is in place or not.

277 Assessing a realistic benchmark for Band 6 is particularly problematic as CIL viability studies show a range of values for different existing uses on potential development sites. We have erred on the cautious side from the available published data and considered a base benchmark of £15m per hectare and an alternative higher benchmark at £20m per hectare.



**Figure 5.5: Residual value per hectare for 1 hectare tile for Band 6 at 320 dph – for alternative combinations of s106 with and without CIL, compared with base benchmark land value (dark blue line) and alternative benchmark (red line)**

278 All the tests show a residual value comfortably in excess of the benchmarks in Band 6.

#### ***Results for the strategic site***

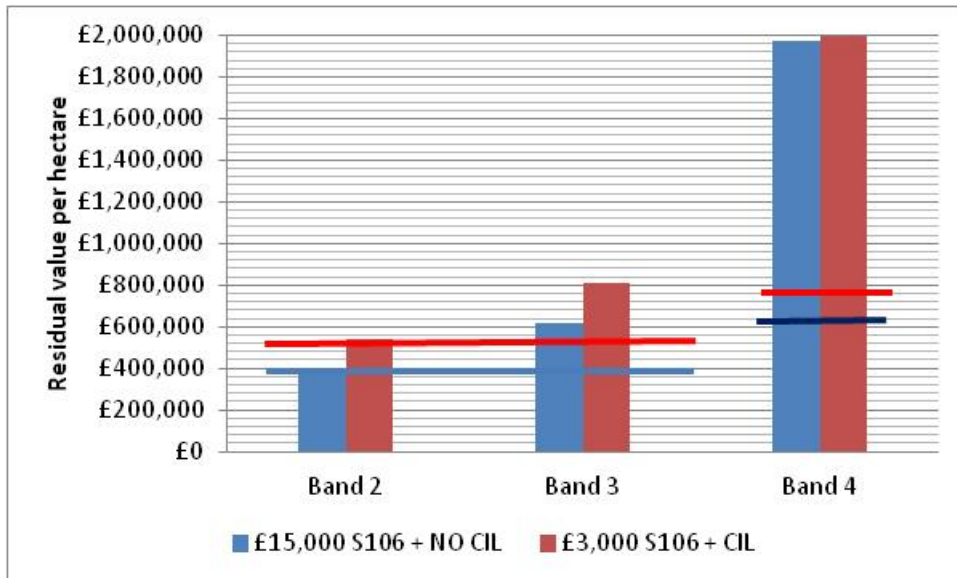
279 The next set of tests is for a notional strategic site of 3,000 dwellings (for Bands 2, 3 and 4). The basic assumptions set out earlier are repeated but with the following additional assumptions:

- Using the dwelling mix for 35 dph only;
- In addition to the 15% additional allowance on build costs for external works, a further £200,000 per hectare strategic opening up costs is allowed;
- A net-to-gross ratio for developable land at 65%;
- A 14-year development period.

280 Two scenarios are tested which represent the situation pre CIL and with CIL in place. They are:

- Pre CIL - s106 costs at £15,000 per dwelling (all tenures);
- With CIL in place - s106 costs at £3,000 per dwelling (all tenures) + CIL at appropriate rate.

281 Benchmark land values are also different for large-scale schemes. As a guide, we use 40% of the notional benchmark for the 1 ha scheme. From experience of recent CIL studies, this is a reasonable guide but no more than that but it does give an indication of how these types of schemes perform with and without CIL in place.

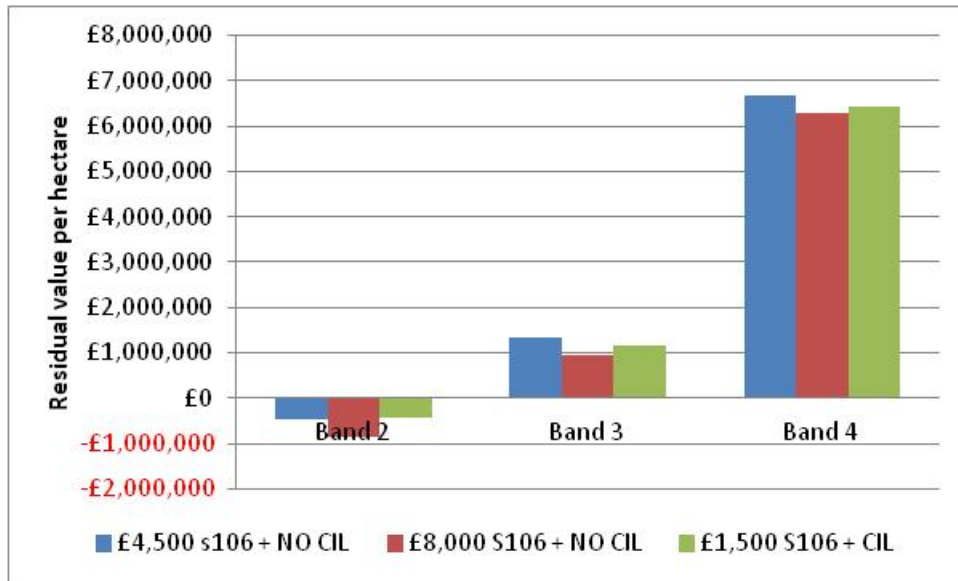


**Figure 5.6: Residual value per hectare for strategic site – for alternative combinations of s106 with and without CIL, compared with base benchmark land value (dark blue line) and alternative benchmark (red line)**

- 282 With CIL in place and a scaled-back s106 requirement (replacing a £15,000 per dwelling s106) residual values increase and all exceed the benchmarks but again, viability is more marginal in Band 2 – the lowest value band.

***Results for an older persons scheme***

- 283 The final set of tests is for an older persons’ scheme which allows for the higher build costs, additional non saleable space as well as the longer sales period typical of such schemes. The testing is in accordance with the Retirement Housing Group publication – Community Infrastructure Levy and Sheltered Housing/Extra Care Developments - A Briefing Note on Viability Prepared for Retirement Housing Group by Three Dragons May 2013. The full set of assumptions is set out in the Technical Annex. We test the scheme for Bands 2, 3 and 4.



**Figure 5.7: Residual value per hectare for older person scheme – for alternative combinations of s106 with and without CIL**

284 The results show that the older persons scheme that we modelled is not viable in the lower value Band with or without CIL in place but in the two higher value bands (3 and 4) it remains viable with CIL in place and the test with CIL provides a higher residual value than the second option i.e. a s106 requirement of £8,000 per dwelling.

***Concluding comments on viability testing***

285 All viability analysis depends on the assumptions used and a different set of costs and values than those adopted for the testing undertaken for this report, would give different results. However, the testing as has been undertaken demonstrates that viability is heavily dependent on market values. The introduction of CIL has a limited impact on viability and represents a small portion of scheme value. The combination of CIL and a scaled back s106 payment can produce a higher residual value than with s106 alone – as we have tested. The testing does illustrate that in lower value areas, schemes can be more marginal generally and paying for CIL and/or s106 could make a viable scheme unviable and lead to potential negotiations on what the scheme can afford.



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