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DOI
10.14650/94660

Publication date
2019

Document Version
Accepted author manuscript

Published in
Scienze Regionali

This is the authors' post-print version (final draft post-refereeing as accepted for publication by the journal Scienze Regionali). The final, peer-reviewed and edited version of this article is published as: Falco, E. & Kleinhans, R. (2019). The Impact of the Community Infrastructure Levy on English Local Authorities' Planning Practice. *Scienze Regionali*, 18(3), pp. 465-486.
DOI: https://doi.org/10.14650/94660

The Impact of the Community Infrastructure Levy on English Local Authorities' Planning Practice

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Abstract

The English system of developer contributions, planning obligations, remained unchanged between 1990 and 2010 and attracted major criticisms of causing slow, opaque, unaccountable planning processes. In 2010, the Community Infrastructure Levy was introduced to reform planning obligations and deliver a faster, more transparent, certain and accountable planning process. This paper seeks to determine whether these objectives have been achieved by means of an online survey submitted to all English planning authorities between October 2015 and June 2016. The results (82 respondents with a response rate of 27%) show that local authorities that have implemented the CIL find it able to deliver advantages in terms of greater transparency, speed, accountability and certainty. On the downside, especially local authorities that have not yet implemented the CIL think that the new system is overly demanding in terms of required time and personnel and reduces in-kind and financial contributions from developers.

Keywords: Community Infrastructure Levy; Planning Obligations; Planning Gain; Developer Contributions; Local Planning Authorities.

H70 General; R52 Land Use and Other Regulations

1. Introduction

Private developer contributions to funding community infrastructure and services in area (re)development are a fundamental element of spatial planning. Practices that aim at making these developers contribute to provision of public infrastructure and mitigation of development's impact on the wider community exist in the majority of countries with a mature planning system (Alterman, 2010). Approaches vary from the imposition of taxes on the increase in the value of land, through the transfer of development rights, case-by-case negotiation, to in-kind contributions. Regardless of the differences among approaches, the objective usually remains the same across different systems and prompts new research and practices to remedy failures and allow the wider community to share in the benefits of land (re)development.

Developer contributions play a fundamental role in the planning gain debate (Callis and Grant, 1991, Healey *et al*., 1995, Crook and Monk, 2011). They enable the community to share in the benefits of development of land that would otherwise accrue to developers and landowners only. The English system of developer contributions – planning obligations under the 1990 Planning Act – was reformed under the 2008 Planning Act, which introduced the Community Infrastructure Levy (CIL) as a new system of developer contributions based on locally determined standard charges per square metre of new development. After a short 'incubation' time, CIL regulations came into force on 6 April 2010 with the overall purpose of ensuring "*that costs incurred in providing infrastructure to support development of an area can be funded (wholly or partly) by owners and developers of land*." (Planning Act 2008, s 205,2).

Through the CIL the national government also aims at reducing the level of discretion and negotiation and at increasing the transparency, certainty and speed of decisions on developer contributions to be made towards the wider community (ODPM, 2005; DCLG, 2010a, DCLG, 2011). CIL works alongside the reformed previous system of developer contributions, which was based solely on planning obligations between 1990 and 2010.

Also known as 'Section 106 agreements', under the 1990 Planning Act planning obligations were defined as a legal contract between a local planning authority (LPA) and a developer by means of which the former aimed to secure financial or in-kind contributions from the latter to both service the land and mitigate public impacts of new developments (Crook *et al*., 2016). As a result of the CIL's introduction, planning obligations cannot be used to secure contributions to items of infrastructure funded through CIL and their initial scope has been reduced to including negotiations on affordable housing and site-specific contributions (e.g. access roads to development site)s. Planning obligations have attracted significant scholarly criticism and have been the subject of government reform proposals and consultation for several years since the turn of the millennium (Lord, 2009). Planning obligations were defined by some as an informal and variable tax on betterment value and viewed as a form of 'negotiated bribery', corrupting the planning system as a result of concealed agreements and negotiations, scant transparency, slow speed, little (if any) accountability, and low predictability (Healey *et al*., 1995; Corkindale, 2004).

Since the 2008 Planning Act reform and the introduction of CIL, there has been hardly any academic debate about the impact of the CIL on local authorities' planning practice in terms of increased speed, certainty, transparency and accountability. Recent articles on the English planning system have focused on the latest planning reforms: for instance, the Localism Act of 2011 and neighbourhood planning (e.g. Parker, Lynn, and Wargent, 2015; Sturzaker and Shaw, 2015), infrastructure planning and policy at the national and regional level (Wong and Webb, 2014), inter-agency collaboration on local infrastructure planning (Holt and Baker, 2014), spatial planning as a mechanism to deliver infrastructure (Morphet, 2011), Section 106 agreements and the provision of affordable homes (Crook and Monk, 2011). Lord (2009: 338) raised issues concerning the impact of CIL on the viability of development and the amount of land being developed, and stressed that research is needed in in this regard. However, in 2009 Lord could provide no answers to his questions because the CIL had not yet been implemented. Burgess and Monk (2012) and Burgess, Crook,

and Monk (2013) conducted exploratory research on the impact of CIL on affordable housing delivery, Section 106 agreements and viability of development, even though in May 2013 only 13 CIL charging schemes had been implemented (Burgess, Crook, and Monk, 2013: 8). Further research on the issues of development viability and the relationship between CIL charges and scaled-back s106 requirements has also been conducted by Crosby, McAllister and Wyatt (2013) and more recently by a Report of Study published by the Department of Communities and Local Government (DCLG, 2017).

In relation to the focus of this article, Crook and Monk (2011:1014) stated that the CIL "increases equity, certainty, speed, transparency and accountability in using betterment to fund infrastructure." However, no specific research has been conducted in on these matters.

A recent insightful study (Wyatt, 2017) addresses the question of CIL running alongside planning obligations and analyses administration, viability, revenue and expenditure of CIL and its impact on development activity and affordable housing supply. We focus on the administrative component and examine the impact of CIL on four dimensions of administration: transparency, certainty, accountability, and speed of the planning system.

This study attempts to fill this gap through a survey-based first analysis of the perceptions of local authorities regarding the Community Infrastructure Levy (CIL) as the first reform of Section 106 agreements since the 1990 Planning Act. It aims to answer questions such as: has CIL delivered advantages for the planning system, especially for the public sector, in terms of greater transparency, certainty, accountability, and speed? What are the challenges and the downsides that local planning authorities face during its adoption and use? The focus has been placed specifically on the perspective of planning authorities and on these concepts because of the explicit government objectives attached to the CIL (DCLG, 2010a and 2011) and because of the specific issues arising from the widening application of planning obligations (Healey *et al*., 1995; Campbell *et al*., 2000; Barker, 2004; Corkindale, 2004).

We look at the perceived impact of CIL on local authorities by distinguishing between the experience of authorities that have adopted and are currently using CIL, and the perception of authorities that have not yet adopted CIL. In order to achieve our aims, the article uses an internet survey submitted to 326 local authorities (charging authorities) in late 2015 and early-mid 2016 through Google Forms, achieving a good response rate of 27%, doubling the 13% response rate of previous research conducted for the Royal Institution of Chartered Surveyors (RICS) (Burgess and Monk, 2012) and about half the response rate - 49% - of more recent research (DCLG, 2017).

The paper is structured into five sections. The second section briefly reviews the history of government attempts to secure developer contributions and the reform process that England has undergone during the last 25 years to provide, for those who might need it, a concise historical background. The third section briefly discusses the relevance of developer contributions and planning gain for planning practice as an introduction to the main features and legal context of the CIL. Fourth, we discuss the research design and subsequently the results of the survey. Finally, we draw conclusions on the benefits of the CIL, the main implementation challenges faced by local authorities and the reasons that lead other authorities not to adopt the CIL and highlight that further research is needed in the form of in-depth analysis of case-studies for a deeper understanding of the impact of CIL on local authorities' planning practice.

2. A Brief History of Planning Gain, Planning Obligations and Proposals for Reform

There have been many and different efforts over the last century in England to secure developer contributions. Collection of planning gain in England via the planning system started in 1909 under the Housing, Town Planning, & C. Act (Adams, 1952; Connellan, 2004). Changes were made through the 1932

Town and Country Planning Act (Jennings, 1946), although more fundamental ones took place during World War II when the important question of betterment was recognised by both the Barlow and Uthwatt Reports respectively in 1940 and 1942. In 1947 the new Town and Country Planning Act contained many of the recommendations made by Uthwatt in 1942, nationalising land development rights and introducing the *Development Charge*. This was the first of four post-war attempts at introducing a tax on betterment value between 1947 and 1976. The other three attempts were made in 1967 (*Betterment Levy*), 1973 (*Development Gains Tax*), and 1976 (*Development Land Tax).* The history of these four attempts can be seen as a class conflict between the Labour Party and the Conservative Party, and it was described by Corkindale (2007: 47) as a "political football." The Labour Party introduced three of the four measures (*Development Charge, Betterment Levy,* and *Development Land Tax*), which were scrapped by the subsequent Conservative government. After the repealing in 1985 of the *Development Land Tax*, Healey *et al.* (1995: 34) argue that "*all evidence suggests that developers became even more willing than before to play the 'planning gain game' if it would result in a quick grant of planning permission."* This led to a greater use of planning agreements by local planning authorities, and to the introduction of planning obligations under the 1990 Planning Act to secure developer contributions to infrastructure and facilities.

2.1. Planning Obligations

Established under Section 106 of the 1990 Planning Act, planning obligations were used to prescribe the nature of a development (e.g. secure an element of affordable housing as part of a wider residential development), compensate for a loss created by a development (provision of open space), or mitigate a development's impact (public transport provision, new access road, new school facility) (ODPM, 2005). Planning obligations were also criticised for causing a slow, opaque and unaccountable planning process (Healey *et al*., 1995; Crow, 1998; Lichfield and Connellan, 2000; Corkindale, 2004). Between 1990 and 2010, the planning obligations system was strongly characterised by agreements being used not only for direct impact mitigation and making development acceptable in planning terms. Agreements were also used for wider social, economic and environmental objectives and as means for funding facilities, services and infrastructure and returning a portion of the windfall gain accruing to landowners to the wider community, shifting part of the financial burden from local planning authorities to developers (Campbell *et al*., 2000).

The use of Section 106 planning obligations increased over time, as reported by several studies and other investigations commissioned by the Department for Communities and Local Government (DCLG) for the years 2003/04, 2005/06 and 2007/2008 (Grimley, 1992; Healey *et al*., 1993; Campbell *et al*., 2001; Crook *et al*., 2006; Crook *et al*.; 2008; Crook *et al*., 2010). The reports highlight an increasingly important role played by planning obligations in the planning system as a whole, as well as in providing the necessary infrastructure, services, facilities and affordable housing within new developments. This system was defined by some authors as an informal and variable tax on betterment value, and a form of 'negotiated bribery' corrupting the planning system (Allmendinger, 2011; Barker, 2004; Corkindale, 2004; Healey *et al*., 1995;). As a result, government targets were to improve the transparency, speed, accountability and predictability of the planning agreement 'game' (ODPM, 2005). Bearing in mind the extensive literature (Healey et al., 1995; Lichfield and Connellan, 1997; Barker, 2004; Conellan, 2004; Cullingworth and Nadin, 2006; Corkindale, 2007), we will now briefly summarise government attempts in the last 15 years at reforming the system of planning obligations in order to gain better understanding of the rationale behind introduction of the CIL.

2.2. Proposals for Reforming Section 106 prior to CIL introduction

In light of the criticism of the planning obligations systems as codified in Section 106 of the 1990 Planning Act, the government tried to reform this system through a long and tortuous process. It started in 2003 with

the Optional Planning Charge (OPC), then moved on to the Planning-Gain Supplement (PGS) as proposed by the Barker review of Housing supply in 2004 (Ratcliffe and Stubbs, 2009), to finally arrive at the adoption of the Community Infrastructure Levy (CIL) under the 2008 Planning Act. Over time there has been a shift in government policy from the standard charges of the OPC, firstly to a tax-based instrument (PGS) and then back to a system of tariffs under CIL regulations. Particularly interesting is the PGS proposal of a new tax-based mechanism whose objective was to recoup and return a small portion of the betterment value resulting from the granting of planning permission to the wider community (Barker, 2004; Oxley, 2006). This, if introduced, would have represented the fifth Government attempt to tax increases in land value after the previous ineffective experiences of 1947, 1967, 1973 and 1976.

Neither professional nor institutional bodies welcomed the new measure which was objected to by many "players" and stakeholders significantly involved in the planning process. The Royal Town Planning Institute and Halliwells (RTPI and Halliwells, 2007) deemed the PGS proposal as not ready to proceed. Other reasons were linked to the timely delivery of the necessary infrastructure and slow payments of PGS (Crook *et al*., 2016). Furthermore, as Oxley (2006) pointed out, many professional bodies reacted against such a tax measure in consideration of the fact that previous experiences had not been successful in recapturing land value increase for several reasons, such as: i) reduction of land coming forward for development because the charge was too high; ii) excessive complexity of legislation; iii) and other exogenous factors relating to changing market and political conditions.

3. Planning gain, developer contributions and CIL

As mentioned in the Introduction, the CIL aims to ensure that costs incurred in providing infrastructure to support area (re)development can be (partly) funded through contributions from land owners and developers (Planning Act 2008, s 205). Increments in land value are produced for example by direct public investment in infrastructure, by economic growth of society and spatial growth of cities, and by the change in the use of land and granting of planning permission for a new residential, office, and commercial development. Economists since the 18th century such as Adam Smith, David Ricardo, John Stuart Mill, and Henry George (Smith, 1776; Ricardo, 1817; Mill, 1848; George, 1879) proposed a tax on the increase in the value of land produced by society in general for the redistribution of the benefits that come with it. Examples of practices in the field of planning are based on in-kind and financial contributions and date back to the reconstruction of London after the great fire of 1666 and Baron Haussmann's works for Paris in the second half of the 1800s (Peterson, 2009; Paccoud, 2012). Planning rationales also focus on making the development fit within a scheme or to mitigate the impacts of a proposed development (Fudge, 2003). Additional development value created by the granting of planning permission is referred to as 'betterment value', 'windfall gain', 'planning gain' (Bowers, 1992; Healey *et al*., 1993; Crook *et al*., 2016). As Callies and Grant (1991: 222) underline, the expression 'planning gain' is also used to "encompass all contributions made by developers to local authorities and other public agencies in land, buildings, or money". Developer contributions to infrastructure find legitimation in the principle of the social function of private property. As Krueckeberg (1995: 307) highlights, "rights to profit from property (…) have always been subject to reasonable constraints for the benefit of the entire community and the society." Different schools of thought determine government perspectives and action at central and local level to deal with planning gain (Muñoz Gielen, 2010; Alterman, 2011).

Even though the CIL is **not** a charge on land value increase since it is **not** calculated on the increase in the value of land determined by the granting of planning permission, both the scholarly debate and official government documents emphasise that CIL provisions "*accept that gains in development value should be used to fund infrastructure*" (Crook and Monk, 2011:1014). An official CIL government document (DCLG,

2011:5) states: "*Almost all development has some impact on the need for infrastructure (…) so it is only fair that such development pays a share of the cost. It is also right that those who benefit financially when planning permission is given should share some of that gain with the community which granted it to help fund the infrastructure*." The Royal Town Planning Institute (2016: 1) in its response document to consultation on CIL claims: "*Our interest in the Community Infrastructure Levy (CIL) stems from work we have done to identify how planning can deliver great places, including ways in which the uplift in value of land can be used sensibly to provide infrastructure*." Therefore, the scholarly, governmental, and professional debates share the view that CIL makes use of planning gain to fund infrastructure. In fact, under CIL legislation and associated regulations (DCLG, 2008, Planning Act 2008, s 211(2)(a)(b)(c); CIL Regulations 2010; CIL Amendment Regulations 2014, s 14) it is specified that charging authorities, in setting CIL rates, are required to take into account actual and expected costs of infrastructure, economic viability of development and other actual expected sources of funding for infrastructure. Charging authorities are required to identify the infrastructure needed to support the development of their area and its costs. It is on the basis of such evidence that charging authorities must issue a charging schedule setting CIL rates[1] (DCLG, 2008, 2013, Planning Act, 2008, P. 11, Section 211).

However, previous research (CIL Review Group, 2016) has highlighted that development viability has a far more important role in determining CIL rates than the evidence base. The "*requirement for local infrastructure, which was originally intended to have formed the basis for deciding the level of CIL, has effectively been divorced from the process, which tends to focus mainly on viability"* (CIL Review Group, 2016, p. 18). As the DCLG points out in a previous document (2011, p. 8), charging authorities "should propose a rate which does not put at serious risk the overall development of their area." Viability assessment works in the direction of guaranteeing that developer contributions (CIL or S106 agreements) do not make a viable scheme unviable. As described by Crosby et al., (2013, p. 7) "*the 'rule' is that a scheme is viable if a potential development remains sufficiently profitable at a given level of planning obligations"* and CIL rate (on development viability see also: Henneberry, 2016). Research carried out by Three Dragons consultancy and the University of Reading on behalf of the DCLG (DCLG, 2017, p.8) focusing, among other topics, on viability of development, showed that CIL represents a minor development cost and that "the introduction of CIL has limited impact on development viability and does not make, on its own, a viable scheme unviable".

In setting the charging schedule, a fundamental role is played by the Planning Inspectorate, which is generally accepted as the independent examiner carrying out the public examination as provided under section 212 of the 2008 Planning Act. The role of the examiner is of paramount importance because it has to verify compliance with requirements, and can make recommendations that the charging schedule be approved, rejected or modified. As of 28 March 2018, 162 charging schedules have been approved in total (The Planning Inspectorate, 2018). Along with the objective of providing funding for infrastructure, the government has introduced the CIL to achieve objectives of greater transparency, simplicity, predictability, fairness and efficiency compared to the system of negotiated planning obligations (DCLG, 2010a; Burgess *et al*., 2013). This is the result of the government's view that planning obligations delay the planning process and place a great burden on both developers and local authorities in terms of administrative and financial costs (DCLG, 2010a). The impact of CIL on these objectives, which has never before been tackled explicitly, is the specific focus of our research. The introduction of the CIL reduced the scope of planning obligation which can be sought for affordable housing and site-specific contributions to mitigate local impacts of

[1] CIL is an area-wide tariff and, unlike Section 106 agreements, charging schedules do not need to meet the linkage test (fairly and reasonably related in scale and kind to the development) but are based on infrastructure needs and viability assessments. This should lead to reduced negotiation in the planning process between the local authority and developers. Charging authorities may, however, decide to include differential rates on the basis of the economic viability of: i) development in different parts of their area; ii) types of development within their area.

development. Regulation 123(2) was amended in 2014 and prevents planning obligations from being used to fund items of infrastructure that are intended to be funded through the levy by the charging authority. A CIL should secure contributions from a wider range and larger number of developments because it will be applied to minor as well as major development sites, to fund specific items of infrastructure identified by local planning authorities (on the basis of CIL Regulations, s 123) such as school, health, sport and recreational facilities, open and green spaces, road schemes, and so on (DCLG, 2011). Items of infrastructure that are not listed in regulation 123 can therefore be provided through section 106 agreements. However, numerous changes were made to the initial CIL regulations over the years (in 2011, 2012, 2013, 2014 and 2015) which increased confusion as confirmed by answers to sub-question 3.1. Most importantly, amendments concerned pooling of contributions through planning obligations from up to five separate developments, exemptions, reliefs (PAS, 2016). Research on this specific issue (DCLG, 2017) emphasises, as we will see in the results section, that this is a major concern and disadvantage for local authorities preparing CIL charging schedules. Another element of concern, as was also found by Burgess, Crook, and Monk (2013), regards the nature of the evidence base upon which CIL charging schedules should be determined.

4. Research Design

The research design is specifically devised to understand the benefits and downsides of the CIL for local planning authorities that are to determine charging schedules and that generally represent the weak side in the planning agreement game (Healey *et al*., 1995). It is for this reason that the private developer side of the planning agreement "game" has been deliberately left out of this study, even though it is not believed to be of less importance. We seek to understand whether the CIL, through the new system of tariffs, meets the government's objectives of delivering greater transparency, certainty, speed and accountability or whether it is introducing limitations for local authorities' planning practice. The focus on these concepts is related to explicit government objectives to be achieved through the CIL (ODPM, 2005; DCLG, 2010a, DCLG, 2011).

The research is based on a survey submitted to local charging authorities between October 2015 and June 2016. We contacted all local charging authorities, independently of whether or not they had adopted the CIL, in order to obtain the largest possible number of responses, provide a nation-wide picture of the perceptions of local authorities regarding the Community Infrastructure Levy, and prevent any a-priori bias in the population. A total of 326 local charging authorities - the list of which was obtained from the planning inspectorate publication for planning appeals and from the Local Government Information Unit (The Planning Inspectorate, 2016; LGiU, 2017) - were contacted via email. We excluded 27 county councils from contacted authorities since they do not charge CIL[2]. All email addresses retrieved from the Planning Inspectorate publication were double-checked on the Web and local authorities' websites to identify planning, development control, planning admin or CIL-groups emails that were considered as more relevant and able to answer the questionnaire. Only for those authorities where no other more relevant email was found, the planning appeal email was used. In order to obtain a high response rate, we decided that a mix of multiple-choice and open-ended answers (instead of only open questions) might encourage planning authorities to answer the questions since it would be faster and easier to do so. The choice of submitting the

[2] Initially, we included county councils in the contacted authorities and received two responses from them. However, since county councils do not charge CIL, after the double-blind peer review process we decided to exclude them and their responses. We wish to thank the anonymous reviewer for highlighting this inaccuracy.

survey through Google Forms[3] also supported the aim to achieve a higher response rate. Of the 326 emails that were sent, we received 21 messages of failed email delivery, reducing the number of local authorities contacted to 305. In total we received 90 answers. However, 8 authorities did not grant consent to use their answers for academic research, thus reducing the number of useful responses to 82[4]. This represents a response rate of 27%. No useful distinction can be made between respondent and non-respondent authorities.

5. Survey Results and Discussion

We administered a survey to local authorities five/six years after CIL regulations came into force to determine how they were dealing with CIL. We asked questions regarding the introduction of CIL, reasons for not introducing CIL (if any), the advantages and disadvantages that were experienced or perceived, and any other benefits or downsides that the Local authorities could identify. Answers to question 1 show that 40 out of 82 responding local authorities had adopted CIL and 42 had not (see Figure 1). The majority of authorities with CIL had adopted the mechanism in 2015 and adoption rates seem to have slightly slowed down in 2016, as also confirmed by Carpenter (2016a).

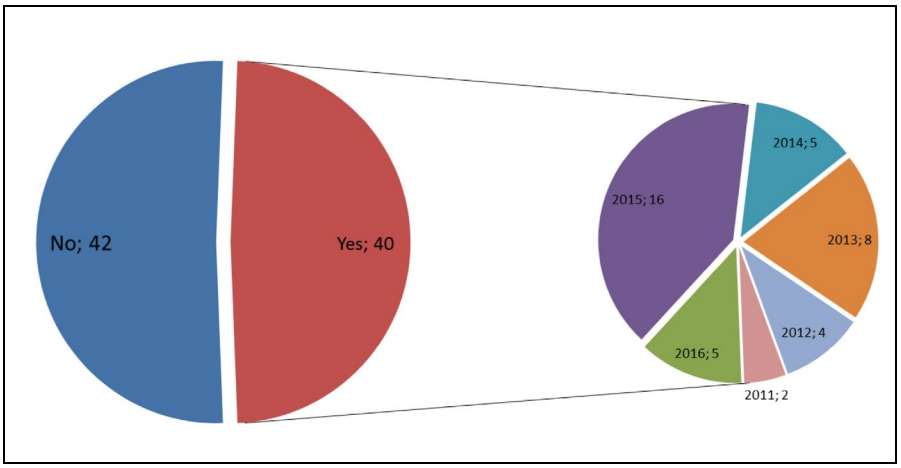

Figure 1- Has your LA adopted CIL? If yes, in which year?

In the case of a no-answer to question 1, we asked authorities to provide a reason for not adopting the CIL through an open question. Out of 42 'non-implementers', 32 authorities provided information. Of these 32, 14 were in the process of preparing the charging schedule, 12 were focusing on updating the local plan, and 6 were assessing the viability of the new mechanism and reviewing the costs and benefits of CIL against Section 106 planning obligations. As an example of feasibility assessment, one respondent stated that "*research was undertaken to assess the viability of using CIL in our authority. This highlighted that the very low levels of development would not make it worthwhile and as such we ought to continue using s106 contributions for site specific purposes and to achieve local occupancy ties for affordable housing.*"

[3] The survey can be accessed at this link: https://docs.google.com/forms/d/1pFAAtgZANCcPXJcBNX1KJ0YORDKVyDckXdFfXDZ7-u0/viewform?uiv=1&edit_requested=true.

[4] 77 answers were received through Google Forms and 5 through email since these planning officers stated that Google Forms was blocked on their Internet browsers.

In question 2 (Has the CIL increased any of the following: transparency, speed, certainty, accountability?) we tried to focus on the advantages brought about by the new mechanism and listed some of the benefits that were included in government policy documents (DCLG, 2010a; DCLG, 2011): transparency, speed, certainty, accountability. The 'none-of-the-above' option was also given in case none of these advantages was identified. As already stated, we considered answers both from authorities with and without CIL. The latter is seen as an indicator of the potential and perceived advantages of the new mechanism by those authorities who have never used it, which allows us to understand whether there is any difference in the perceived advantages between local authorities with CIL and those without. More than one answer per respondent was allowed and we thus received 142 answers from the 82 respondents (Figure 2 shows the number of answers per indicator as a percentage of the total number of answers).

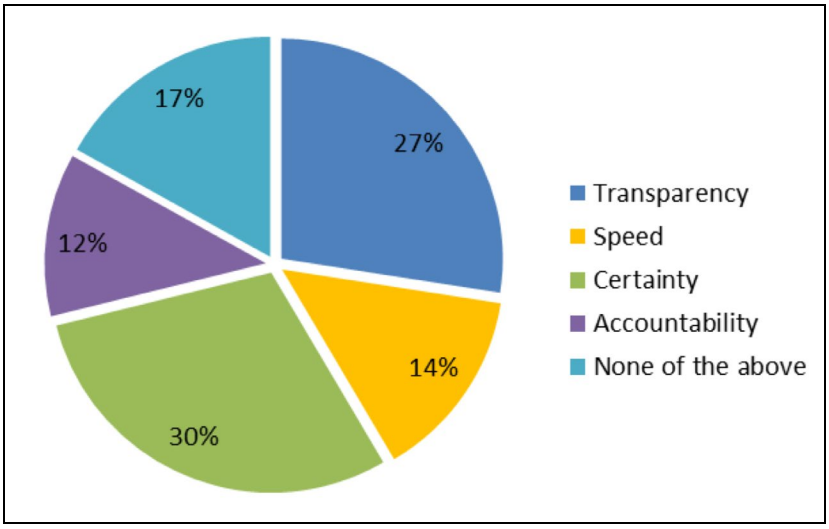

Figure 2 - Positive impact of CIL. Percentage of answers (n=142) per single advantage

The number of answers per single advantage reflects the number of authorities that ticked that option, either alone or together with other options (Table 1). As shown in Table 1, major experienced benefits relate to increased transparency and certainty for the process: about half of the respondents thought that CIL delivers increased transparency and certainty (39 and 42 respectively), with a lower impact on speed and accountability (20 and 17 respondents - see Table 1). It is interesting, however, to note that 34 answers for increased transparency and certainty came from authorities *without* CIL, highlighting a positive perceived impact of the new mechanism on planning practice. On the other hand, 24 local authorities thought that there was no advantage in terms of increased transparency, certainty, speed or accountability, but only 7 of them had adopted CIL. This finding shows that the perceived positive impacts are widespread among authorities that have implemented the CIL while 'no positive impact at all' is perceived mainly by authorities that do not have the CIL.

Indicators	**LAs with CIL**	**LAs without CIL**	**Total**
Transparency	22	17	39
Speed	17	3	20
Certainty	25	17	42
Accountability	12	5	17
None of the above	7	17	24
TOTAL	**83**	**59**	**142**

Table 1 - Number of answers given per advantage in question 2

Since one of the objectives of CIL was to reduce negotiation with developers, which was seen as a negative element of the planning obligations system (Healey *et al*., 1995; Corkindale, 2004), we also asked in sub-question 2.1 whether the objective of reducing negotiation had been achieved. We believe that it is important to differentiate between answers from authorities that had CIL and authorities that did not (Table 2).

Answer	**LAs with CIL**	**LAs without CIL**	**Total**
Yes	26	12	38
No	8	22	30
Don't know	4	7	11
No answer	2	1	3
Total	**40**	**42**	**82**

Table 2 - Has CIL reduced negotiations with developers?

Authorities that had not adopted the CIL generally had a more negative view on this matter, whilst authorities using CIL reported that it had reduced negotiation. In fact, 29 of the 41 "no" and "don't know" answers came from authorities that had not implemented CIL, whereas as regards the "yes" answer 26 out of 38 came from authorities with CIL.

In question 3 (What has been the impact of preparing CIL regulations and evidence base on planning practice?), we sought instead to explore the main downsides of the CIL. If on the one hand, as shown in question 2, advantages of CIL were experienced and were more frequent among authorities that had adopted CIL, on the other hand the answers to question 3 clearly show that the negative impacts and effects of CIL were opinions more widespread among authorities that were not currently using the mechanism. As in question 2, the none-of-the-above answer was available and authorities could select more than one answer. From 82 respondents, we received 120 answers in total (see Table 3). The majority of authorities thought that CIL is overly demanding in terms of personnel required (n=35), too time-consuming (n=34), and reduces in-kind and financial contributions (n=21) (Figure 3 shows the number of answers per indicator as a percentage of the total number of answers). However, of the 35 authorities that thought CIL was overly demanding only 13 had adopted CIL. Likewise, 21 of those authorities that thought CIL was too time-consuming had not yet adopted the mechanism. The same applies to 13 of the 21 which said that CIL reduces in-kind and financial contributions from developers. Overall, 27 authorities thought that CIL does not have any negative impact; 17 of them had adopted the CIL.

Indicators	**LAs with CIL**	**LAs without CIL**	**Total**
Overly demanding	13	22	35
Too time-consuming	13	21	34
Reduces land for develop.	1	1	2
Affects economic viability	0	1	1
Reduces developer's in-kind and financial contributions	8	13	21
None of the above	17	10	27
TOTAL	**52**	**68**	**120**

Table 3 – Number of answers per single disadvantage

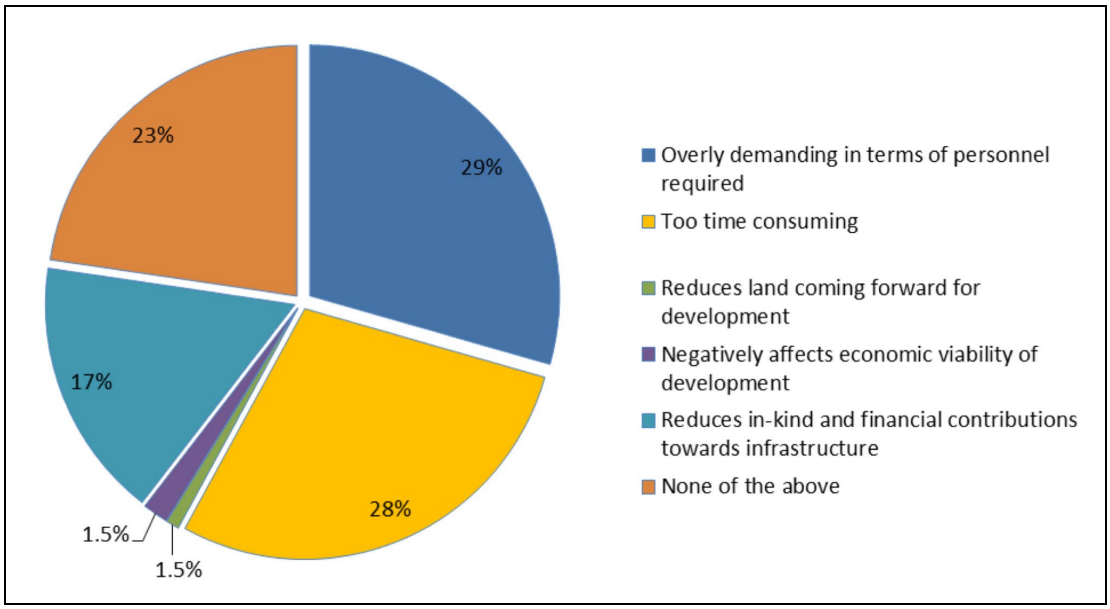

Figure 3 – What is the negative impact of CIL?

In sub-question 3.1 (Add any other advantage or disadvantage not listed above) we gave the opportunity to fill in any other disadvantage which we had not included in the multiple choice. 34 LAs used this opportunity to highlight that CIL may present disadvantages of inflexibility and complexity, requiring specialist knowledge and expertise that is not normally available in councils. Other concerns regarded the high number of exemptions (self-built housing, affordable housing, discretionary relief) that result in some developments not contributing to infrastructure and the numerous changes that were made to the regulations by the government which reduced clarity. For example, one respondent who had adopted CIL highlighted:

"*CIL significantly increases the need to plan infrastructure ahead of delivery so that you know where funding is coming from which can be difficult when you cannot predict which developments will come forward. Seems to be very complicated to administer - even with a full time CIL officer!*"

Another respondent authority without CIL emphasised that:

"In principle CIL offers a very good means of adding certainty and simplifying planning negotiations. However, there are many exemptions to CIL (e.g. self-built housing, affordable housing, discretionary relief etc). CIL can only be charged on new floor space. Linked to the limitations on S106, this results in some developments not contributing towards infrastructure that is necessary to making development acceptable in planning terms."

In the fourth question (What's your general view - as an individual or LPA - on the move from Section 106 agreements to a system of standard charges such as CIL?) we allowed respondents to express their general opinions and concerns. All 82 respondents provided an answer to this question. Interestingly, issues raised by the respondent authorities reflected the answers given to question 3.1. Concerns had to do with the complexity of the new system, difficulty in operating the dual system of CIL and Section 106, frequent changes to regulations, the high number of exemptions, and challenges in terms of where CIL money is prioritised being not earmarked for a specific location. However, in this case too, challenges and difficulties were perceived more by those authorities which do not have CIL. For example, 26 authorities felt

that regulations are poor and the system too complex. Of these 26 authorities, 18 have not adopted CIL. Interestingly, one respondent emphasises that a national tax on land value increase would be better:

"*CIL production has resulted in us looking at viability of development at a plan-wide level. This has probably resulted in making overall costs to developers more affordable to bring forward development but at the detriment of infrastructure funding. A national tax on increases in land value to fund infrastructure would be better. It would be better to tax often unearned increases in land value through speculation rather than at the development stage unless very specific site mitigation is required such as biodiversity offsetting*."

The benefits listed in answers to question 4 were generally identified by authorities that had CIL and underlined that the process is easier, more transparent, quicker, and that pooling of contributions from various developments is very helpful. For example:

"*CIL gives more certainty and allows for better planning of infrastructure projects. Costs are able to be spread better and it gives opportunity for better public awareness and council accountability."*

Question 5 was aimed at understanding the geographical location of respondents. This was asked to determine whether there was an interesting spatial/regional pattern of authorities adopting CIL, and such consideration could be made by using the updated CIL database (Carpenter, 2016b) and the Planning Inspectorate (2018) publication in relation to wider development and economic trends. This, however, is outside the scope of this paper.

6. Conclusions

The practice of requiring private developers to contribute financially or in-kind to the provision of public services or facilities is common among mature urban planning systems. However, since its inception in the 1990 Planning Act, the English system of developer contributions, also known as 'planning obligations', has attracted criticisms for causing a slow, opaque and unaccountable planning process. In 2010 a Community Infrastructure Levy (CIL) based on charging schedules per square metre of new development was introduced to provide local authorities with funding for infrastructure. The government also aimed to reform the planning obligations system and deliver a faster, more transparent, certain and accountable planning process (ODPM, 2005; DCLG, 2010a, 2010b, 2011).

Academic debate and evidence on the impact of the CIL on local authorities' planning practice has been scarce. Our study is unique in the sense of furnishing a first nation-wide illustration of local authorities' opinions regarding the CIL as the first reform of Section 106 agreements after 20 years (since the 1990 Planning Act). The main objective of this article has been to determine the perceptions of CIL by local planning authorities, in particular the perceived advantages and disadvantages that it has brought about in the planning system and process. The research was conducted by means of a short survey submitted to all English local charging authorities between October 2015 and June 2016. We received a total of 82 valid responses which accounted for 27% of all contacted authorities. While this response rate provides a reasonably good illustration of the general opinions among local authorities, we make no claim for generalisation of the results to all local authorities and spatial contexts.

The results show that local authorities that have introduced the CIL claim that they have benefited from its use. The new system of developer contributions based on standard charges seems to yield advantages in terms of transparency, speed, certainty and accountability of the process and seems to be preferred to a system of negotiated developers' contributions by local authorities that have already

introduced the CIL. Such a system of tariffs has therefore the advantage of being more accepted by local authorities, enabling them to determine more effectively the developers that are contributing and the exact amount of the contribution. Survey results show that the perception of CIL benefits is more widespread among the local authorities that have introduced and are currently using the CIL, compared to authorities that still have to introduce it. The former, in fact, also claim that CIL has reduced negotiation with private developers. As part of the resulting reduced negotiations, the new system could also potentially rule out some of the 'negotiated bribery' and concealed agreements that characterised the planning obligations system under Section 106 (see e.g. Barker, 2004; Corkindale, 2004; Healey *et al*., 1995).

However, local authorities also reported challenges and difficulties, in particular the complexity of the new system and substantial requirements in terms of both personnel and time. In some cases, local authorities claimed that contributions to infrastructure had decreased even though this finding is counterbalanced by other authorities that claimed the opposite. Other concerns relate to the lack of clarity of regulations and exemptions, which are too many and reduce the ability of authorities to charge the CIL. The aforementioned downsides of CIL are more widespread among local authorities that have not implemented the CIL. This suggests that perception and experiencing of advantages is closely linked to the implementation of CIL, whereas disadvantages tend to be perceived more by those authorities that have (deliberately) not implemented the CIL.

More and more authorities are introducing CIL, with a total of 162 charging schedules approved as of March 2018 (The Planning Inspectorate, 2018), even though the introduction rate seems to have slowed down since 2016. Future research may establish the extent to which our preliminary findings are truly representative for all English local authorities that have adopted the CIL, and more in-depth, case-study research is needed in order to thoroughly understand CIL impact on local authorities' planning practice.

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