



The  
**London Forum**  
of Amenity & Civic Societies

## **Response to Government consultation on a proposed London Emergency Housing Package**

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

**Question 1: What is your name?** Michael Jubb

**Question 2: What is your email address?** chair@londonforum.org.uk

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

On behalf of the London Forum of Amenity and Civic Societies

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

Yes. In inner London boroughs in particular, almost all development is on brownfield sites, where the costs are highest. We see no reason to make the relief available on greenfield sites.

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

We agree that relief should be restricted to C3 housing, and not available to any other use classes.

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

The high threshold proposed would certainly disadvantage SME builders and developers as against the large-scale developers. This runs contrary to the Government's aim of supporting SME builders as part of a diverse and resilient housing market. The imbalance between SMEs and large-scale developers would be exacerbated, and the scope for investment by SMEs reduced. The threshold should be reduced.

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

A threshold could create an artificial incentive to increase the size of developments, however slightly, to reach the £500,000 threshold.

A lower threshold should be applied to the development as a whole, otherwise SMEs will again be disadvantaged as compared with large-scale developers. Also, at a level where it would not distort incentives.

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

We acknowledge the evidence that the average affordable housing level of referable applications that have been approved through the viability tested route was 20 per cent between 2022-2024, and that it almost certainly has fallen since. We are also aware of s73 applications to reduce affordable housing levels previously agreed, and also of the hundreds of consented schemes that remain to be built out. Nevertheless, we have strong concerns about such a drastic reduction in the threshold for the Fast Track Route (FTR).

There is obviously a risk that reducing the threshold from 35% to 20% for the fast track route without any need for a viability assessment will lead to an increase in s73 applications and deeds of variation to reduce the levels of affordable housing. Further delays will thus be built into what is already a highly bureaucratic and lengthy set of processes.

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

We have strong reservations that these criteria will achieve the levels of affordable housing that the London SHMA will specify. The 20% threshold combined with the high rates of relief from CIL will significantly reduce the funds available to boroughs to meet the costs of much-needed improvements to the infrastructure, and also to contribute towards the costs of social housing.

There could be a significant loss of potential affordable housing development. No developer will have an incentive to propose more than 20% of affordable units, even if the scheme could support 35%, as many schemes still can.

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

Simple arithmetic indicates that there would have to be an unprecedented and wholly unlikely increase in housebuilding if the proposals here were to make more than the smallest dent in the need for 70,000 homes for social rent in London annually. As a result of the Government's proposals for only 60% to be social rent in a reduced percentage of affordable housing, the current high levels of homelessness will not fall, nor will the wholly-unsustainable costs (£5.5m a day in 2024-25) to boroughs in providing temporary accommodation for homeless people.

The CIL relief is likely to result in more market housing using up scarce land even though the requirement for such homes has fallen.

CIL is an inefficient method of providing support across London, because CIL rates vary by borough and the relief will be highly uneven.

This change is unlikely to result in a reduction of more than 5% in development costs for schemes, which will probably make little difference to housing delivery in the current market environment.

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

There must be a higher percentage of homes for social rent (especially for families) in all developments that are allowed any relief from CIL.

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

The reduction in CIL will reduce council funding at a time of great financial stress and will impact the ability of boroughs to make necessary infrastructure investments. The effect on economic growth of an increase in construction will be offset by lower investment in public works. This must be assessed.

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

The proposed arrangements involve complex interactions between boroughs, developers and the GLA. Much further thought needs to be given to how to reduce that complexity.

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

The fee should be set pro rata to the scale of the development and the value of the relief. See our answers to questions 6 and 7 on the need to lower the threshold for the scale of the development.

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

If the proposed relief is to be implemented, we agree that there should be a fixed amount of relief.

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

The rise from 50% to 80% is very steep, and we have strong reservations as to whether such a steep curve is necessary.

The consultation seems to take no account of the fact that developers profit levels are at 15%-20% of Gross Development Value; there are 300,000 permitted homes not built; there are high interest rates, construction and labour costs and demanding new regulations that have led to a stalling of applications.

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

“Exceptional Circumstances Relief” (ECR) is already designed to allow LPAs to give relief from CIL if it would have an unacceptable impact on viability. The proposal to provide the 50-80% relief after ECR and other existing reliefs have been applied seems to weight the balance firmly in favour of developers. It is likely also to reduce the number of cases where LPAs will provide ECR relief.

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

The proposals will reduce the funds currently available to boroughs and make for a significant restriction in local decision making. It would ameliorate to a small extent the worst effects of the proposals if boroughs were to have some discretion in implementing the proposed relief scheme.

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

The proposals in 4.4 are unclear as to whether the summary appraisal should be based on residual land value or “residual valuation of the proposed scheme” (and what the latter might mean). That needs urgent clarification.

The Government should amend the CIL Regs to require specified, key information relating to viability to form part of the application for relief.

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

Recent experience indicates that enforcement mechanisms under the Perjury Act are not effective, especially when processes are ‘streamlined’; and we are not aware of any prosecutions under the CIL Regs. This suggests that further enforcement mechanisms will be required.

If viability were to improve as a development proceeds due to a reduction in costs - such as the “high interest rates, spiralling construction costs, regulatory blockers and wider economic conditions” described in the first paragraph of the ‘Introduction’ to this consultation - then consideration should be given to requiring more affordable housing in the scheme, preferably social rent housing.

**Question 21: The Government is interested in obtaining views on the suitability of the proposed process for securing the relief. The process is intended to provide consistent, timely and proportionate decision-making, whilst ensuring that applications for relief are robust and honest. We welcome feedback on whether these steps are practical and effective in supporting the intended outcome.**

The planning system is already being “undermined through certain forms of structuring and phasing”. The rules on phasing need to be carefully and strictly framed.

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

The Government will need to clarify the definition of “commence” and “commenced” in the first paragraph of 4.5 in the consultation. It could mean the land has been cleared ready for development or building has commenced.

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

The date at which “the relief is in force in the CIL Regs” could be a problem in the light of delays in bringing into force recently other regulations. A date within “the first half of 2026” must be achieved.

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

If the sale prices anticipated in the viability assessment are exceeded, the developer should provide more affordable housing or fund the provision of it elsewhere.

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

As we noted in answer to Question 13, the proposed administrative arrangements involve complex interactions between boroughs, developers and the GLA. Much further thought needs to be given to how to reduce that complexity.

Time-limits should be introduced for developers in dealing with any queries by local authorities.

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

The interactions between CIL relief and the GLA’s concurrent scheme of Support for Housebuilding, and the rules relating to them, need to be thought through with great care to avoid needless complexity.

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

The secondary legislation required must be introduced within the next three months.

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

Developments stalled for specified periods of time should be subject to the Government's intended "Use-It-or-Lose-It" proposal. Many large schemes do not "expire" after three years, but become "permanent" by claiming that a "material start" has been made. This secures the land values for the site, but defers indefinitely the implementation of the scheme.

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

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

The threshold of 50 homes is absurdly low. In a city of 3.5 million households, such a low threshold would cover large numbers of applications that could in no way be reasonably termed strategic, or risk having a significant impact on the implementation of the London Plan.

The proposal would represent a major transfer of power from the boroughs to the Mayor. Also, we doubt that the GLA has the capacity or the capability to handle the significant increase in its workload.

The threshold for the proposed new PSI category with its slimmed down process should be at least 100 homes.

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

Even the 'streamlined process' will in effect transfer power from the boroughs to the Mayor, and will introduce delays into the handling of applications.

Moreover, it will increase uncertainty for both developers and the boroughs as to the finality of decisions and complicate the inquiry process.

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

We agree that the Mayor should have greater powers of intervention relating to strategic developments affecting the Green Belt and MOL.

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

Transfer of responsibility to the GLA will reduce the ability of affected groups to use their statutory rights.

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

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