**Planning for the Future White Paper**

**Joint Consultation response by the Charities’ Property Association, Churches’ Legislation Advisory Service and Charity Tax Group**

**29 October 2020**

**Overview**

1. The **Charities’ Property Association** **(CPA)** represents charities which own and manage properties as investments. We focus on charities that hold land to sustain their charitable purposes, which includes environmental protection, planning, taxation and conservation. We represent almost 100 charities with significant property portfolios, including charitable housing trusts, Oxford and Cambridge colleges, Anglican cathedrals and independent schools.
2. The **Churches’ Legislation Advisory Service (CLAS)** is an ecumenical charity that brings together all the major Churches in the United Kingdom (and, because the umbrella ecumenical bodies are members, many of the smaller Churches as well), together with the United Synagogue. Though it is a body composed of religious organisations its focus is not “religious” as such; rather, its primary purpose is to represent to Government its members’ views on issues of secular law as they affect their interests.
3. The **Charity Tax Group (CTG)** has over 700 members of all sizes representing all types of charitable activity. It was established in 1982 to make representations to Government on charity taxation and it has since become the leading voice for the sector on this issue.
4. On behalf of our charity members, we are making representations specifically on proposals relating to the future of the Community Infrastructure Levy (CIL), calling for a charity exemption to be retained for the consolidated Infrastructure Levy, if implemented.

**Retention of a charity exemption under the Infrastructure Levy**

1. A core proposal in Pillar Three of the White Paper is for reform of CIL and the current system of planning obligations into a nationally set, value-based flat rate charge (the ‘Infrastructure Levy’).
2. We recognise that the Community Infrastructure Levy has raised less revenue from developers than had been anticipated and the overarching aim of increasing this income while securing equivalent levels of on-site affordable housing. However, we are concerned at the commitment to extending the scope of the consolidated Infrastructure Levy and to remove exemptions from it.
3. Charitable relief is mandatory where a charity owns a material interest if the development is to be used wholly or mainly for a charitable purpose of the charity in question or of that charity and another charity (or charities). Discretionary charitable relief is also available in some circumstances.
4. While we welcome efforts to improve and simplify the current CIL rules, we are very disappointed that the consultation does not make a firm commitment to introducing an equivalent charity exemption for the consolidate Infrastructure Levy. Charities should not be penalised because the Community Infrastructure Levy has not generated the anticipated financial returns and the rationale for an exemption remains valid. Charities should not be taxed for development of land for charitable purposes (including social housing) or when leasing land to other charities.
5. In February 2017, the Government published the results of its independent review into CIL and its relationship with planning obligations. One of its recommendation was that CIL should be replaced with a system including “no or very few exemptions”. It was welcome that the [Government summary of responses document](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752183/Developer_Contributions_Government_Response.pdf) confirmed the intention to “retain current exemptions” – which include the charity exemption. That which was reassuring news for charities: in our view, **the original rationale for a charity exemption has not changed, so should be retained as part of the new Infrastructure Levy**.

**Why is a charitable exemption from development contributions important?**

1. Many charities may wish, on occasion, to develop their land. S.210 Planning Act 2008 provides an exemption from liability to pay CIL in respect of eligible developments owned by charities. We were involved in negotiations to secure this charity exemption and strongly believe that it should be maintained in its existing form as it is of vital financial importance to charities. The absence of an exemption could risk derailing many high-profile public benefit projects; for example, Francis Crick Institute, Europe’s largest biomedical research centre, could have been at risk had the exemption not been secured during its development.
2. While we are not in a position to quantify the value of the charity CIL exemption to our members, given the size of their total collective property portfolio and the number of actual and potential development sites that it includes, the value of the exemption to our member charities is very significant and certainly worth millions of pounds. As the Explanatory Memorandum to the Community Infrastructure Levy Regulations 2010 notes: “*These reliefs will minimise the impact of CIL on charities which choose to develop for their charitable purpose and potentially for other purposes*”.
3. Our members almost all use their entire property portfolio wholly for the furtherance of their charitable aims. This can be anything from tackling major health and care challenges to providing education. If the exemption were to no longer exist and charities were required to pay CIL, this would mean that they would have to reduce the funds available for the pursuit of their charitable objectives, or their charitable grants, by the amount of CIL charged.  This is an important relief for charities and reflects the fact that charities already make significant contributions to the health and welfare of the local community. Furthermore, some of the developments that charities undertake *are part of infrastructure*. If, for example, the Church of England establishes a primary school to serve a new housing development on a greenfield site, *that is surely an important part of the infrastructure of the development*: small children need primary schools within reasonable distance of where they live.
4. In brief, if the charity exemption is removed, the result will be that charities will have fewer resources to deploy for the public benefit of local communities. In our view, therefore, the arbitrary removal of exemptions under an Infrastructure Levy is not necessarily the best solution, and targeted exemptions could continue to have a role to play. The recent confirmation that First Homes will be exempt from CILis a good example of exemptions being used to make developments financially viable.
5. We recognise that there is no general exemption for charities for financial contributions obligated under s106 agreements. If plans to merge s106 agreements and CIL are progressed, we urge further consultation with the sector to determine appropriate protections for charities and when contributions may be appropriate.

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