

Public questions to General Overview & Scrutiny Committee – 4 May 2016

Task and Finish Group Report: Community Infrastructure Levy

Question from Mr J Crippin

Given the large number and scale of Intensive Animal Husbandry Units in Herefordshire, their impact on the environment and their continuing proliferation I and others expressed the proposal during the recent consultation that such developments should be subject to the levy. I now understand that this proposal which would in some way help to offset the impact of these developments is not even to be considered by the Committee.

Given the concern and disquiet amongst rural residents over this form of agricultural activity what justification can there be for our elected representatives to not even debate and consider the issue?

It is well known that Herefordshire Council is desperate for additional income, if for no other reason, to help repair our disintegrating roads which can only be further damaged by the volume and weight of HGV's generated by intensive agriculture.

I would formally request that this matter be brought to the Committee's attention at its meeting next week as part of their considerations of this matter.

Question from Ms M Scott

Why are Intensive Livestock Units (they are not farms) exempt from the Community Infrastructure Levy? Unlike factory units this size who do pay rates this is a very unfair disadvantage. They make no financial contribution to the Community and as we can see from the increased number of these units going up there is more traffic on the roads – again making no contribution at all! No wonder Northern Herefordshire is becoming awash with these units.

Question from Mrs E Tucker

I would like to enquire why there will be no levy on intensive livestock units in Herefordshire. They are the biggest, most intrusive and numerous planning applications in the county which only favour a few with wealth but have a much more detrimental effect on the majority of the population which is clearly recorded in the number of objections and complaints these units stimulate. They provide little if any new employment, have been shown to inhibit the development of more diverse and sustainable businesses and are killing off the small farms so much admired in the country as well as communities and the counties biggest industry, tourism.

If any business in the county needs a levy this is it. The council is already being criticised for its close relationship with the companies responsible for these developments. It seems they have had a free hand to develop when and where they wish and the tax payer is questioning how this could possibly benefit them – could an inability to act impartially explain why the country is now over saturated with intensive units and how this elitist policy is failing the majority of the community who now find it harder to earn a living or experience a good quality of living?

As there is little transparency on this issue with an unwillingness for the council to justify its actions it is not surprising how these matter never makes it through any debate. A perfect example of this is the recent rejection of the council to develop a much more specific planning structure in regards to intensive units as not surprisingly none has been built into the new planning policy.

If the wider community are forced to have these units through what appears to be an undemocratic process then surely they should get at least some return to make up for the devastating effect it has on their investments and lifestyle. In fact I propose you also request a set aside fund to support

those who are living with the awful effects of these buildings and compensate them for the devastating loss in their own property values which prevents them from moving away.

Question from Mr C Westhead

There have been many comments put forward at consultation for the CIL that Intensive livestock units are exempt from the CIL. The comments made are in agreement that this is an outrage because these units contribute nothing to the communities in which they are placed; quite the contrary. Making them pay a sensible amount to the parishes, via the CIL, has simply got to be introduced. All other business pay the levy - why not them?

Yet, these views are not even considered in the recommendations to the committee.

There seems therefore, a case for the Council to answer. Why consult with the public if their views are not being considered?

Should the Scrutiny Committee be turning their attention to the Council's practices?

Question from Mr A Tucker

Despite several proposals to include intensive livestock projects in the Community Infrastructure Levy, why has the Council deemed that such projects should be exempt from CIL, business rates and council tax?

Intensive farming units have a serious detrimental impact on the community, environment and infrastructure. Should the council be irresponsible enough to agree to such development then the local communities should benefit in a positive way.

Not only should the developer pay the levy, in line with any other developments, a substantial contingency sum should be held, for a period of time, in order to correct any deficiencies that might arise.

Question from Ms P Johnson

Please can you give me an explanation as to why livestock units are exempt from any levy? They are a business and use all the utilities etc

Question from the Herefordshire Branch of the Campaign to Protect Rural England (CPRE), relating to its response to the Council's recent CIL consultation

Failure to charge CIL on intensive livestock units

The development of intensive livestock units imposes significant costs on Herefordshire Council as the highways authority. These costs arise from the detrimental impact on the local highways network caused by the volume and weight of HGV movements generated by each unit.

So why is Herefordshire Council failing to charge CIL on intensive livestock units, which means that no contribution to these significant and additional public highways costs is being made by private developers?

**Herefordshire CPRE response to CIL Consultation
CIL preliminary draft charging schedule consultation Thursday 17 March to Thursday 28
April 2016**

In 2011 DCLG confirmed that the purpose of CIL is to create "...a fairer system, with all but the smallest building projects making a contribution towards additional infrastructure that is needed as a result of their development."

Herefordshire CPRE therefore requests that CIL is charged on intensive livestock units, in view of the significant detrimental impact these units have on the surrounding highways network, which is due to the volume and weight of HGV movements generated.

Yours sincerely,
Ben Nash
For CPRE Herefordshire

Answer:

The Community Infrastructure Levy (CIL) is a tool for local authorities in England and Wales to help deliver infrastructure to support the development of the area. CIL is charged on the basis of ability to pay, as measured by the viability evidence. CIL is predicated on there being a meaningful uplift in land values which will be realised at the time of granting of planning permission.

New agricultural and forestry buildings are not specifically amongst the types of buildings exempted from CIL by DCLG¹ unless they fall into the specified types of development which local authorities have decided should be subject to a 'zero' rate and specified as such in their charging schedules.

Charging authorities are obliged set a rate which does not threaten the ability to viably develop the sites and scale of development identified in the Local Plan and should strike an appropriate balance between the desirability of funding infrastructure from the levy and the potential impact upon the economic viability of development across their area.

The National Planning Policy Framework (NPPF) states that viability should consider "competitive returns to a willing landowner and willing developer to enable the development to be deliverable." A charging authority must use 'appropriate available evidence' to inform their draft charging schedule.

The regulations allow charging authorities to apply differential rates in a flexible way, and differences in rates need to be justified by reference to the economic viability of development. Differential rates should not be used as a means to deliver policy objectives². If the evidence shows that the area includes low viability for particular types and/or scales of development the charging authority should consider setting a low or zero levy rate.

There is no national evidence of other charging authorities having applied CIL on agricultural and forestry buildings. However the exception to the rule is South Norfolk Council who impose a CIL of £5/sqm for 'all other uses' and agricultural buildings are not exempt³, with separate clarification that includes reference to agricultural buildings⁴. That charging schedule was based upon 2010 viability evidence, but it notably did not specifically test agricultural buildings, but concluded that office and industrial uses were able to support a modest CIL of £5/sq m. In the 2012 examination this was considered a nominal charge averaging 0.5% of average build costs for office and industrial uses with no specific consideration given to agricultural building viability⁵.

How does this apply to agricultural and forestry buildings in Herefordshire?

The context above sets out that in order to support a CIL charge a development type would need to be able to pay CIL and remain viable. As part of the CIL viability research, transactional evidence for a range of uses, was considered but none was available for agricultural and forestry buildings by themselves (although there was evidence of values for complete farms for sale or rent) as they are

¹ Agricultural buildings are not exempt from CL as generally they would be regarded as buildings that people will normally go (i.e. not exempt under regulation 6(2)(a))

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/397586/2015-01-21_-_redaction.pdf

² Planning Practice Guidance Paragraph: 021 Reference ID: 25-021-20140612

³ http://www.south-norfolk.gov.uk/planning/media/Charging_schedule_updated.pdf

⁴ http://www.south-norfolk.gov.uk/planning/media/Guidance_Note_1_Do_I_need_to_pay_CIL.pdf

⁵ <http://www.south-norfolk.gov.uk/CARMS/meetings/cou2014-02-24ag10app3.pdf>

generally an integral part of the wider enterprise, and are therefore not (commonly) sold separately as standalone developments.

In order to charge CIL on agricultural and forestry buildings it would be necessary to use evidence about their values and costs (currently not available as discussed above) and then check to see whether there is sufficient viability headroom to support a CIL.

The closest comparison for agricultural and forestry buildings was industrial and warehouse buildings, and here the evidence suggested that there was insufficient viability to support a CIL.

Without this evidence a separate CIL for agricultural buildings would not comply with the Regulations governing CIL and run the risk of being challenged at Examination.