

**REPORT FROM: ASSISTANT DIRECTOR PLANNING, BUILDING CONTROL AND REGULATORY SERVICES**

**TO: EXECUTIVE**

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## **TECHNICAL CONSULTATION ON THE COMMUNITY INFRASTRUCTURE LEVY**

### **PURPOSE OF REPORT:**

To consider amendments to the Constitution and the Scheme of Delegation for the central Planning Committee.

### **RECOMMENDATION**

That the Executive note the content of the consultation and agree the response as set out in Appendix 1.

### **REASON FOR RECOMMENDATION**

In order that Pendle contributes to the development of national planning policy.

## **Background**

- 1 The Government consultation seeks views on the reform of the Community Infrastructure Levy. This Levy currently operates on a voluntary basis. It is only introduced where it will not affect the viability of development. It should be noted that it has not been introduced anywhere across Pennine Lancashire as it would affect overall viability to an unacceptable degree.
- 2 The current levy operates where developers are charged an amount for development they are undertaking which is transferred to the Local Authority who must use it to provide infrastructure for their area. The Levy can only be charged after a levy schedule has been set after an examination. The Levy must not make development unviable. This consultation runs until 9<sup>th</sup> June 2023.

- 3 The consultation sets out that the aim is to ensure that Local Authorities receive a fairer contribution of money that accrues to landowners and developers who get profit from their developments.
- 4 The proposal is to replace the Levy as it currently operates with a mandatory locally determined levy. This will be set on the value of a property upon its completion above a minimum threshold level. The details of how it would work will not be set out now under the current consultation but will come via Regulations.
- 5 Collection of the Levy would be locally so the Council will have to put systems in place for collecting it and for taking any enforcement action arising. The Council would also be expected to have a delivery team in place to bring the infrastructure forward. Delivery would be via a combination of direct delivery of some infrastructure together with outside organisations such as the Local Highways Authority delivering items under their jurisdiction. The Local Planning Authority would administer the fund and pay outside organisations to deliver their infrastructure.
- 6 The requirement will be for Local Authorities to prepare an Infrastructure Delivery Strategy (“IDS”) to give certainty to existing and new residents as to what infrastructure will accompany development. The IDS will set out what percentage of new homes will be affordable and what percentage will be delivered as a monetary contribution. A keystone to the proposals is that the Levy will be non-negotiable and once set will not be allowed to be watered down by developers.
- 7 Local Authorities will be charging authorities and will set the rates taking into account such factors as viability. The levy will be subject to an examination in public in order for any rate to be adopted.
- 8 The process will be mandatory. Even in areas such as Pennine Lancashire where development value is marginal in many locations every Council will have to have a levy in place.
- 9 The consultation sets out three routes that infrastructure will come forward in:
  - The Core Route: A cash based system where rates and thresholds will apply. A developer will pay the levy charge which will be paid to the Local Planning Authority who will then administer that to provide infrastructure proposed in the Infrastructure Delivery Plan.
  - Infrastructure In-Kind: On large and complex sites where s106 agreements will be used to ensure infrastructure is delivered even though that development will also be subject to Core route funding.. There will be a limit on the size so as not to exceed Levy liabilities.
  - 106 Only: Where Gross Development Value (“GDV”) per m<sup>2</sup> cannot be calculated.
- 10 The new system will have within it a neighbourhood share which will retain an amount for spend in the location of the development. That will be set with regard to local priorities.
- 11 The final GDV will reflect the value of the development above a threshold level. Any valuation above that will be charged for but equally, if the development does not reach a threshold level, then there would be less of a charge.
- 12 The Levy is to be mandatory for ever Local Authority. This has two main implications. First is that for those Councils without a CIL schedule currently (about half of Councils do not charge

CIL) there will be a requirement to employ more staff with resultant costs. The Regulations need to ensure that LPAs can use some of the funding to operate the Levy.

- 13 Second, and critical for areas such as Pendle, the Levy needs to assist and not hinder development by making them unviable. It is understood that there are low value areas of the country where CIL has not been taken up as it would result in development becoming unviable. With charges for the Fire Regulator and Biodiversity Net Gain costs being incurred there is a danger that development will become unviable and that there would be pressure to build on green field land before brownfield due to the economics of actually delivering a site.
- 14 The draft response below addresses the questions asked in the consultation. The consultation does not ask any question as to whether the Levy is appropriate per se nor does it seek to ask any questions about the resources required to deliver the levy. There is a question (37) about resourcing the levy post adoption but nothing about staff resources, cost of the examination or development costs.

## IMPLICATIONS

**Policy:** The proposal would force the Council into taking a policy of requiring developers to fund infrastructure regardless of whether the policy would be appropriate for a low demand area such as Pendle.

**Financial:** Pendle does not have a CIL team in place nor the inhouse skills to deliver a fully funded infrastructure delivery plan and then defend its position to an Examination in Public. If the level of levy is likely to be low there would also be a cost of operating the system.

**Legal:** None arising directly from the report.

**Risk Management:** None arising directly from the report.

**Health and Safety:** None arising directly from the report.

**Sustainability:** A fully financed infrastructure plan would enable a more sustainable way of development coming forward in Pendle.

**Community Safety:** None arising directly from the report.

**Equality and Diversity:** None arising directly from the report.

## APPENDICES

Terms of reference and officer scheme of delegation

## LIST OF BACKGROUND PAPERS

<https://www.gov.uk/government/consultations/technical-consultation-on-the-infrastructure-levy/technical-consultation-on-the-infrastructure-levy>

**Question 1:** Do you agree that the existing CIL definition of ‘development’ should be maintained under the Infrastructure Levy, with the following excluded from the definition:

- developments of less than 100 square metres (unless this consists of one or more dwellings and does not meet the self-build criteria) – Yes
- Buildings which people do not normally go into - Yes
- Buildings into which peoples go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery – Yes
- Structures which are not buildings, such as pylons and wind turbines. No.

If development is related to a commercially viable and profitable sector there is no reason to exclude them as for example excluding wind turbines.

**Question 2:** Do you agree that developers should continue to provide certain kinds of infrastructure, including infrastructure that is incorporated into the design of the site, outside of the Infrastructure Levy?

Yes

The development of a site requires several layers of infrastructure. There is on site provision that will be required and these can be established using planning polices as a basis for assessing the quantum. There will also be situations though where provision cannot be made on site for those matters contained in the Integral Infrastructure list such as biodiversity net gains or recreation spaces.

Being prescriptive about the needs of development on a specific site often requires very detailed analysis that would not be feasible to carry out as part of an Infrastructure Delivery Strategy. That would include issues arising from windfall sites that may not be known to come forward and that cannot therefore be catered for. What can and cannot be asked for therefore has to have flexibility.

For example both the Integral and Levy funded infrastructure refers to improvements to road and highway infrastructure. The only difference being that the Integral funding states that this must be within or directly adjacent to a site. It is not unusual for specific requirements to emerge for things such as a crossing point, traffic signals to be required that are not directly adjacent but which are necessary to make the development safe and sustainable. It is difficult to see how these will be able to be anticipated in an IDS particularly on windfall sites.

This would be exacerbated if the GDV of a scheme does not trigger the threshold for payments of the Levy and the legislation excluded such infrastructure from being able to be delivered by anything other than Levy payments. A development and the LPA would in those circumstances be in legal limbo.

**Question 3:** What should be the approach for setting the distinction between integral and Levy-funded infrastructure? [ see para 1.28 for options a), b), or c) or a combination of these]. Please provide a free text response to explain your answer, using case study examples if possible.

Providing rigidity in legislation itself brings with it rigidity in application of policy. The issue in reality revolves not around Integral and Levy infrastructure distinctions but predictable infrastructure and infrastructure that is not able to be predicted. For example if a number of sites come forward that are not predicted to come forward in the infrastructure strategy there must be scope to have flexibility to provide that.

There will also be situations where one development would require different infrastructure to be provided whilst a similar development elsewhere may have different requirements. Any rigidity in the Regulations could prevent some infrastructure coming forward. There should be a caveat about exceptions in any Regulations.

The other issue is that of what will and will not be infrastructure that will be maintained by the developer and what will be infrastructure that will become part of the public estate. Some things will be clear such as highway infrastructure but open space is often not adopted due to the ongoing revenue costs associated with the public purse financing it. If that infrastructure has to be provided there would also have to be long term revenue provision.

**Question 4:** Do you agree that local authorities should have the flexibility to use some of their levy funding for non-infrastructure items such as service provision? Please provide a free text response to explain your answer where necessary.

Yes. However this needs to be withing a strict set of parameters otherwise the provision could be used for matters not related to the development itself. Were that to happen the whole purpose of the levy and providing the infrastructure needed to support growth would be undermined.

**Question 5:** Should local authorities be expected to prioritise infrastructure and affordable housing needs before using the Levy to pay for non-infrastructure items such as local services? Should expectations be set through regulations or policy? Please provide a free text response to explain your answer where necessary.

If the purpose of the Levy is to provide the infrastructure necessary to make a development acceptable then it would be hard to justify using it for other purposes and not providing that infrastructure.

**Question 6:** Are there other non-infrastructure items not mentioned in this document that this element of the Levy funds could be spent on? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.

The list covers those anticipated forms of infrastructure.

**Question 7:** Do you have a favoured approach for setting the 'infrastructure in-kind' threshold? [high threshold/medium threshold/low threshold/local authority discretion/none of the above]. Please provide a free text response to explain your answer, using case study examples if possible.

This seems to be a particularly contrived proposal and one that is fraught with difficulty. Take the example given of the delivery of a GP surgery and the expectation that there will be a policy for delivery in a Local Plan. The scale of development needed to require the provision of a school or new surgery, taken in isolation would be significant. The need for new infrastructure is not calculated normally based on the requirements of a single scheme. They are cumulative and they are a mixture of population growth and delivery of new housing, the latter of which is not easy to predict in terms of phasing of delivery. It is also subject often to how the economy is performing and the risk developers will take to deliver housing. What is being proposed supposes that there will be a predictable population growth and a known phasing and delivery of development.

Population growth predictions are partly assessed in terms of delivery of schemes base on predicted development growth or yields from sites. ONS population growth predictions also vary significantly from year to year which makes assessing the requirements for infrastructure based around them difficult and inaccurate.

The threshold level should be set at a high level. The likely need for large infrastructure in kind on a site of 500 units is minimal. Setting a bar too low will make what is going to be an extremely complicated and costly regime even more difficult.

How will the calculations be made for in kind contributions? This seems to undermine the whole point of the non-negotiable levy. The Levy Backstop Amount will be the process where developers challenge the amount of contribution.

**Question 8:** Is there anything else you feel the government should consider in defining the use of s106 within the three routeways, including the role of delivery agreements to secure matters that cannot be secured via a planning condition? Please provide a free text response to explain your answer.

No comment.

**Question 9:** Do you agree that the Levy should capture value uplift associated with permitted development rights that create new dwellings? Are there some types of permitted development where no Levy should be charged? Please provide a free text response to explain your answer where necessary.

Yes. The key issue here though is viability. There are low demand areas of the country where affordable housing contributions for development is set at zero due to extremely low values. Regenerating areas through conversations is preferable to levy costs putting developers off regeneration schemes.

**Question 10:** Do you have views on the proposal to bring schemes brought forward through permitted development rights within scope of the Levy? Do you have views on an appropriate value threshold for qualifying permitted development? Do you have views on an appropriate Levy rate 'ceiling' for such sites, and how that might be decided?

The value of the levy and any ceiling can only be set when carrying out specific assessments on development viability which will vary spatially across the UK.

**Question 11:** Is there is a case for additional offsets from the Levy, beyond those identified in the paragraphs above to facilitate marginal brownfield development coming forward? Please provide a free text response to explain your answer where necessary, using case studies if possible.

The proposals demonstrate the complexity of assessing values. The variety of exiting brownfield sites, their uses, the costs involved in redeveloping, the areas they are in and the values makes this potentially a process where sites are assessed on a site by site basis. It is suggested that only where there is clear evidence of high value areas and of high viability should levies on brownfield land be charged.

**Question 12:** The government wants the Infrastructure Levy to collect more than the existing system, whilst minimising the impact on viability. How strongly do you agree that the following components of Levy design will help achieve these aims?

- Charging the Levy on final sale GDV of a scheme Agree
- The use of different Levy rates and minimum thresholds on different development uses and typologies Agree
- Ability for local authorities to set 'stepped' Levy rates Agree
- Separate Levy rates for thresholds for existing floorspace that is subject to change of use, and floorspace that is demolished and replaced

Agree

**Question 13:** Please provide a free text response to explain your answers above where necessary.

The issue that has not been discussed in any of the discussion is whether there is a capacity for a levy in any area. In other words should there be a levy or not. Whatever the levy proposals it must not make development unviable. There are areas in the UK where there are Local Plans which do not have any affordable housing contribution requirements due to viability. The setting of any rate must not prevent development from coming forward.

**Question 14:** Do you agree that the process outlined in Table 3 is an effective way of calculating and paying the levy? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.

No.

The purpose of the levy is to provide a simple and uniform way of bringing forward a payment for the uplift in value generated by the development. It is supposed to be a move away from a site by site valuation to a method of simply agreeing a value via a pre[ovulated set of data and a GDV based on sales.

What is being proposed is the worst of both worlds. There would have been an examination into the levy rate which is likely to be complex, contested by developers and which will involve Councils in deploying significant staff time and resources. What is being proposed here is to require further valuation work together with an assessment of what a registered provider would pay which will only be able to be assessed on a site by site basis. The assumption is also that a Council will carry with it a valuation team dedicated to this process which is a cost and skill set that most planning teams do not readily carry.

**Question 15:** Is there an alternative payment mechanism that would be more suitable for the Infrastructure Levy.

Please provide a free text response to explain your answer where necessary.

Yes. The valuation should be agreed as part of the examination process for a development type. The variation in GDV then should be calculated based on an agreed cost which would vary at a set market rate. This would allow a simple calculation to be made to set the development value and hence contribution.

If valuations at the end of a development are to be the basis of payment the question arises as to why a levy would be set in the way proposed. It would be simpler to use an agreed method of calculating value at then end of a development to calculate the payment and avoid the need to go through a levy charging process which will be lengthy and extremely costly.

**Question 16:** Do you agree with the proposed application of a land charge at commencement of development and removal of a local land charge once the provisional levy payment is made?

Yes.

**Question 17:** Will removal of the local land charge at the point the provisional Levy liability is paid prevent avoidance of Infrastructure Levy payments?

Agree.



**Question 18:** To what extent do you agree that a local authority should be able to require that payment of the Levy (or a proportion of the Levy liability) is made prior to site completion?

Strongly Agree

This should depend on the scale of development. If a development is phased over a number of years and the developer is receiving value from sold units then there should be payment each year.

**Question 19:** Are there circumstances when a local authority should be able to require an early payment of the Levy or a proportion of the Levy?

If a development is phased over a number of years and the developer is receiving value from sold units then there should be payment each year.

**Question 20:** Do you agree that the proposed role for valuations of GDV is proportionate and necessary in the context of creating a Levy that is responsive to market conditions.

Yes.

**Question 21:** To what extent do you agree that the borrowing against Infrastructure Levy proceeds will be sufficient to ensure the timely delivery of infrastructure?

Neutral.

Borrowing against the proposed Levy proceeds will depend on the nature of what is being provided, the economic forecasts of the area and the scale of risk to a Council. It is not a substitute to having the money already available.

**Question 22:** To what extent do you agree that the government should look to go further, and enable specified upfront payments for items of infrastructure to be a condition for the granting of planning permission?

Strongly Agree.

The purpose of the Levy is being missed somewhat here. The purpose is to pool resources to make it possible for a pipeline of infrastructure to come forward as well as increasing the revenues that can be achieved in a development. The provision of necessary infrastructure to make a development acceptable is already in the planning system and development should not come forward if that infrastructure is necessary to make that development acceptable but is not provided.

A condition that the infrastructure must come forward first is a foundation of the planning system and should always be able to be imposed if the circumstances require that infrastructure to make the development work.

**Question 23:** Are there other mechanisms for ensuring infrastructure is delivered in a timely fashion that the government should consider for the new Infrastructure Levy?

Unsure.

**Question 24:** To what extent do you agree that the strategic spending plan included in the Infrastructure Delivery Strategy will provide transparency and certainty on how the Levy will be spent?



Neutral.

The plan will detail the key pieces of infrastructure needed as far as can be reasonably identified. It will also deal with the type of infrastructure that can come forward. Plans will not however get down to the finer detail of how individual redevelopment sites will have infrastructure provided as this is only work that can come forward through

**Question 25:** In the context of a streamlined document, what information do you consider is required for a local authority to identify infrastructure needs?

The main components of additionality in infrastructure arising out of developments are generally:

- Health
- Education
- Open space
- Transport
- Utilities

The information needed will comprise of demographic data (ONS figures can change significantly in short periods of time) as well as information relating to physical capacity of for example highway junctions or sewage treatment works capacities.

Obtaining data from utility companies about capacity is generally straightforward. However highway capacity generally requires direct data collection and modelling. This takes time and costs money to do.

In 2 tier areas collecting that data is often not possible for the Borough Councils who are reliant on the expertise and resources that would be available from upper tier Councils.

**Question 26:** Do you agree that views of the local community should be integrated into the drafting of an Infrastructure Delivery Strategy? Please provide a free text response to explain your answer where necessary.

Yes. The evidence needed to support that though needs to be proportionate and the expectations of the community need to relate to the impacts that development would create.

**Question 27:** Do you agree that a spending plan in the Infrastructure Delivery Strategy should include:

- Identification of general integral infrastructure requirements
- Identification of infrastructure/types of infrastructure that are to be funded by the Levy
- Prioritisation of infrastructure and how the Levy will be spent
- Approach to affordable housing including right to require proportion and tenure mix
- Approach to any discretionary elements for the neighbourhood share
- Proportion for administration
- The anticipated borrowing that will be required to deliver infrastructure

All of these elements should be included.

**Question 28:** How can we make sure that infrastructure providers such as county councils can effectively influence the identification of Levy priorities?

- Guidance to local authorities on which infrastructure providers need to be consulted, how to

engage and when

- Support to county councils on working collaboratively with the local authority as to what can be funded through the Levy
- Use of other evidence documents when preparing the Infrastructure Delivery Strategy, such as Local Transport Plans and Local Education Strategies
- Guidance to local authorities on prioritisation of funding
- Implementation of statutory timescales for infrastructure providers to respond to local authority requests

There are two elements to this. First is that County Councils should be made statutory consultees in the process with a duty to co-operate imposed on both tiers of Councils.

Having a duty to co-operate will also deal with situations where a County Council may be reluctant to provide information that is required to put the Infrastructure Plan together,

**Question 29:** To what extent do you agree that it is possible to identify infrastructure requirements at the local plan stage?

Neutral.

There will be some infrastructure requirements that can be readily identified at the LP stage such as levels of sewage capacity that needs to be increased for a given level of development.

However Plans are made over a 15 year timeframe and assessing things such as detailed transport infrastructure over such a timeframe would be difficult to pull together. They would also be out of date quickly.

The overwhelming issue here though is that instead of simplifying a LP process passing in a complex infrastructure delivery plan as part of that will significantly complicate the process and will add a significant amount of time to producing the Plan. It would also add to the ever increasing level of resources that are having to be allocated to LP making.

It is not a good idea to add this to the LP process. If it is Government should expect to have longer delays than we currently have in LP preparation.

**Question 30:** To what extent do you agree that the 'right to require' will reduce the risk that affordable housing contributions are negotiated down on viability grounds? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.

Disagree.

The whole concept of Local Plans currently is that they go through a viability appraisal which sets out values and thresholds of delivery of affordable housing that a given set of sites can achieve. This, as the constitution indicates, is often challenged and contributions watered down.

What the consultation however seems to be illuding to is that this "watering down" is a developer putting viability grounds together to say that a development will not be profitable enough for them to continue with developing.

Assuming that any negotiations are properly assessed by the LPA, and that the level of contribution is reduced, the approach to not being able to negotiate will result in development not coming forward. The fluctuations we have for example seen in the last few years on prices and

build costs demonstrate that the market can and does move very quickly. An intractable system that has no flexibility would not be responsive enough in a reasonable timeframe to variations in the market.

This could also leave half finished sites and developers potentially going into receivership if they are not able to move the financial goalposts in order to avoid unsustainable financial trading conditions.

The CIL regulations need to have some flexibility. A key set of costs data could be used to set triggers of when some greater flexibility may need to be taken to keep development flowing.

**Question 31:** To what extent do you agree that local authorities should charge a highly discounted/zero-rated Infrastructure Levy rate on high percentage/100% affordable housing schemes?

Affordable schemes will by definition not have the funding to be able to pay the full levy. A discount would be needed or risk any delivery at all.

**Question 32:** How much infrastructure is normally delivered alongside registered provider-led schemes in the existing system? Please provide examples.

The question should be refined more than it is. The question should relate to infrastructure that is provided in high value and high demand locations and that provided in low demand areas.

Unfortunately we see many examples of consultations where there is no recognition that a one size fits all approach to planning is not the right approach. There are areas where for example there is a zero target for affordable homes in Local Plans due to there being a lack of viability, particularly when there are Government prescribed minimum levels of profit a developer is expected to be allowed.

Our experience is that in low demand areas only the minimum infrastructure required to make a development function is delivered on sites and that often special developer vehicles using profit levels of 6-8% are the only mechanisms available to bring development forward.

**Question 33:** As per paragraph 5.13, do you think that an upper limit of where the 'right to require' could be set should be introduced by the government?

Unsure. This would have to be modelled before an accurate response could be given.

**Question 34:** Are you content that the Neighbourhood Share should be retained under the Infrastructure Levy? [Yes/No/Unsure?]

The question is predicated on the assumption that there would be sufficient funds available to achieve the provision of all infrastructure.

Giving a proportion to the community to provide necessary infrastructure would always be supported unless that meant that other necessary infrastructure could not be funded i.e. school, GP surgery, highway infrastructure.

Funds should be used to pay for key infrastructure that would be needed to support the wider community and for essential infrastructure i.e. new roundabout, before funds are given for more generic community projects. There should not be a minimum proportion set automatically. That should be determined through the EIP process.

**Question 35:** In calculating the value of the Neighbourhood Share, do you think this should A) reflect the amount secured under CIL in parished areas (noting this will be a smaller proportion of total revenues), B) be higher than this equivalent amount C) be lower than this equivalent amount D) Other (please specify) or E) unsure. Please provide a free text response to explain your answer where necessary

Funds should be used to pay for key infrastructure that would be needed to support the wider community and for essential infrastructure i.e. new roundabout, before funds are given for more generic community projects. There should not be a minimum proportion set automatically. That should be determined through the EIP process.

Funding wider projects should be supported but not if other infrastructure cannot then be provided so for example a new link road cannot be afforded which leads to significant congestion but the local community can provide infrastructure not related to the development. There needs to be priorities for where the funding is spent in areas where there would not be enough funding to do both.

**Question 36:** The government is interested in views on arrangements for spending the neighbourhood share in unparished areas. What other bodies do you think could be in receipt of a Neighbourhood Share such areas?

No comment.

**Question 37:** Should the administrative portion for the new Levy A) reflect the 5% level which exists under CIL B) be higher than this equivalent amount, C) be lower than this equivalent amount, D) Other, (please specify), or E) unsure. Please provide a free text response to explain your answer where necessary.

The administrative support should cover 2 things and not be set at any level.

It should pay for undertaking the compiling of the schedule and the EIP. The costs of undertaking this new requirement will be significant and there will be a major amount of time needed to be devoted to it in planning teams that do not currently have that capacity.

The administrative portion should cover the whole of the costs of administering the process whether this be at 5% or 15%. The reason is that 5% of a £10m levy in one Council would bring in a considerable amount more than 5% of a £1m levy but the tasks needed to be undertaken would be the same.

**Question 38:** Applicants can apply for mandatory or discretionary relief for social housing under CIL. Question 31 seeks views on exempting affordable housing from the Levy. This question seeks views on retaining other countryside exemptions. How strongly do you agree the following should be retained:

- residential annexes and extensions; [Strongly Agree/Agree/Disagree/Strongly Disagree]
- self-build housing; [Strongly Agree/Agree/Disagree/Strongly Disagree]

If you strongly agree/agree, should there be any further criteria that are applied to these exemptions, for example in relation to the size of the development?

The levy should be based on value derived from a development and the uplift in value. Residential annexes and self build housing both will bring in profit, although that would not usually be realised immediately as the developments would not be sold. However they still place additional

requirements on infrastructure and should not be exempt as the whole purpose of the levy is to provide for the infrastructure needed as a result of development.

**Question 39:** Do you consider there are other circumstances where relief from the Levy or reduced Levy rates should apply, such as for the provision of sustainable technologies? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.

No.

**Question 40:** To what extent do you agree with our proposed approach to small sites? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.

Disagree.

It is often small sites that are those developed in rural areas. These sites are normally of high value and highly profitable. It is only on these sites that affordable homes can be brought forward in areas of high value where many local people are priced out of the market. There should not be an exemption for small sites as they are often the ones where affordable homes are most needed.

**Question 41:** What risks will this approach pose, if any, to SME housebuilders, or to the delivery of affordable housing in rural areas? Please provide a free text response using case study examples where appropriate.

The proposal is to have a reduced levy in rural areas. These are normally sites in high demand and the risks of not selling are smaller than in urban areas.

**Question 42:** Are there any other forms of infrastructure that should be exempted from the Levy through regulations?

No.

**Question 43:** Do you agree that these enforcement mechanisms will be sufficient to secure Levy payments? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.

Disagree.

Companies in receipt of levy payments can go into insolvency and may choose to fight penalties. If ownership transfers to individuals they will also become liable. The easiest way of ensuring payment would be to make payment part of the transaction to be paid when buying a property.

**Question 44:** Do you agree that the proposed 'test and learn' approach to transitioning to the new Infrastructure Levy will help deliver an effective system? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary

If the levy is to be introduced despite it not being appropriate to be introduced ubiquitously across all areas of the country then it would be appropriate to have a test and learn approach.

Nothing in the consultation however talks about skill in the planning system and capacity to deliver. This is a fundamental flaw and one that needs to be considered and addressed before rolling this out.

LPAAs should also be fully funded to undertake this significant additional burden.

**Question 45:** Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.

No.