

WEST NORTHAMPTONSHIRE COUNCIL PLANNING POLICY COMMITTEE

26 June 2023

Rebecca Breese, Strategic Planning, Built Environment & Rural Affairs

Report Title	Response to Government consultation on the Infrastructure Levy, which is a reform to the existing system of developer contributions.
Report Author	James Willoughby, Head of Planning Enforcement James.willoughby@westnorthants.gov.uk

Contributors / Checkers / Approvers		
S151	Martin Henry	
Other Director/SME	Stuart Timmiss	
Legal (Solicitor)	Theresa Boyd	
Communications Lead/Head of Communications	Becky Hutson	

List of Appendices

1. **Appendix A** – Responses to the Infrastructure Levy technical consultation questions

1. Purpose of Report

- 1.1 For members to consider suggested responses to the current Government consultations on:
- Technical aspects of the design of the Infrastructure Levy.
 - Responses will inform the preparation and content of regulations, which will themselves be consulted on, should Parliament grant the necessary powers set out in the Levelling Up and Regeneration Bill.

2. Executive Summary

- 2.1 The report summarises the government's proposed changes to the existing developer contributions system and suggests responses from this Council.

3. Recommendations

- 3.1 It is recommended that Planning Policy Committee:
- a) Agrees the suggested response to the consultations on proposed changes to the existing developer contributions system.

4. Reason for Recommendations

- 4.1 To ensure that Government is aware of this Council's views on proposed changes to the existing developer contributions system and in some cases to seek to persuade government to revise its proposed changes.

5. Report Background

- 5.1 The Government is seeking a view on technical aspects relating to proposed changes to the developer contributions system and exploring the potential effects of the proposed Infrastructure Levy. Responses will inform the preparation and content of regulations, which will themselves be consulted on.
- 5.2 The consultation document summarises the changes as follows:
- The Levy is designed to capture more revenue using a fairer and simpler system of developer contributions.
 - It seeks to replace the current system of developer contributions with a mandatory, locally determined Infrastructure Levy.
 - The proposed levy will largely replace Section 106 planning obligations but they will be retained for restricted purposes.
 - The Levy will be charged on the value of the property at completion per square metre and applied above a minimum threshold. Levy rates and minimum thresholds will be set and collected locally.

This will allow developers to price the value of contributions into the value of the land and for Levy liabilities to reflect market conditions.

- Local authorities will be able to set different rates within their areas varied by type of developments (including browfield and greenfield) and zones.
- There will be a process of examination of the charges in the charging schedule, the DLUHC can intervene in the preparation of the schedules in certain situations.
- The Levy seeks securing at least as much affordable housing as developer contributions do now.
- A new 'right to require' will enable local authorities to set out what proportion of the Levy they want delivered as affordable homes and what proportion they want delivered as cash. The developer will be obliged to deliver these apportionments.
- Levy will be based on GDV at the point of site sale or completion. The consultation seeks views on where circumstances may warrant payment of the Levy at an earlier stage of development.
- Basing the Levy on GDV requires a novel proposal around Levy payments. Indicative liabilities will be calculated using Levy charging schedules. These will set out expectations of Levy liabilities that reflect assumed values of a site. A provisional payment of the Levy will be made close to scheme completion. A final adjustment payment can be used on completion incorporating final values to ensure correct liabilities are discharged.
- Borrowing against future Levy proceeds will be permitted. Cash reserves can also be built up across sites.
- Through a new Infrastructure Delivery Strategy, local authorities will be able to take a more strategic and unified approach to infrastructure planning and delivery.
- Imitating the existing Community Infrastructure Levy legislation, neighbourhood and administrative shares of the new Levy will be able to be retained to support funding of local community and Levy administration.
- The Levy will replicate some existing exemptions from CIL. With perhaps new exemptions or reduced rates, including a proposal for exemptions on qualifying small sites and publicly funded infrastructure.
- The Levy will be charged by local authorities, based on the GDV of a development upon its completion. What is meant by 'completion' in this context will be a matter for regulations.
- Once regulations are introduced, Authorities subject to a 'test and learn' will introduce charging schedules from late 2024/25 and operating the Levy from 2025/26. National rollout will occur over the course of a decade and the current system will remain in place in areas which have not adopted CIL.

6.1 The purpose of this report is to suggest responses from this Council to the Government on its proposed changes to the existing system of developer contributions. Members could decide to submit amended responses.

6.2 An alternative approach would be to not respond to the consultation.

7 Implications (including financial implications)

7.1 Resources and Financial

7.1.1 There are no financial implications arising specifically from this report. Implications only arise if or when the Infrastructure Levy is required to be implemented.

7.2 Legal

7.2.1 There are no legal implications arising specifically from this report.

7.3 Risk

7.12.1 There are no risks arising from the recommendations in this report.

7.4 Consultation

7.4.1 Responding to the Government's consultation enables the Council to ensure that Government is aware of its views on proposed changes to the planning system. There are no direct implications for the Council's own local consultation activities arising from this report.

7.5 Consideration by Overview and Scrutiny

7.5.1 Not applicable

7.6 Climate Impact

7.6.1 There are no climate change impacts arising specifically from this report.

7.7 Community Impact

7.7.1 There are no community impacts arising specifically from this report.

7.8 Communications

7.8.1 None directly arising from this report.

8 Background Papers

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

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1144482/Exploring the potential effects of the proposed Infrastructure Levy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1144482/Exploring_the_potential_effects_of_the_proposed_Infrastructure_Levy.pdf)

Appendix A

Chapter 1 – Fundamental design choices

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:** Yes.

The Council has no objection to the existing CIL definition of ‘development’ being maintained under the Infrastructure Levy.

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/No/Unsure]. Please provide a free text response to explain your answer where necessary.

Yes, the Council suggest that developers may wish to retain the option to provide infrastructure outside of IL as it could be key in some aspects such as Affordable Housing Provision. The current Section 106 rules enable infrastructure to be provided as a non-financial contribution and, in principle, there is no reason to disallow this in the IL system. Further information will, therefore, be needed as to what types of infrastructure would be covered by this category. Developers will need to know what they can deliver as part of their build costs, and for local authorities to be able to account for such costs at the point of setting IL charging rates.

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.

There should be scope for a mix of national and locally defined ‘integral infrastructure’; what works on one site may not be applicable to another and the Council could be challenged by a developer where it asks them to provide something which it believes to be integral to the functioning of a specific site where it is not on the nationally defined list.

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? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.

Unsure. CIL and S106 have never enabled this, as any unspent funds must be returned to developers by the expiry of a spend deadline NB this sentence does not currently apply to CIL there is no clawback facility of CIL to developers. The Council would consider this must remain a mandatory part of IL. The main purpose is in the name ‘Infrastructure Levy’. It is not clear why this was proposed in the 2020 White Paper and why this has been carried through into the IL consultation. Neither explain the Government’s rationale behind this proposal.

Given that IL should fund affordable housing and other infrastructure, the question is raised as to whether there will be the scope of funding to address other matters identified by the Council. Also, some developers could look to explore legal action to prevent any payment over and above the levels of providing the necessary infrastructure, unless regulations or future legislation shuts down the ability to do as the consultation makes clear, any excess amount beyond the cost of infrastructure would not be refunded as present, but under IL it could be retained by the LA to help reduce Council Tax bills, leisure centre entry fees, etc. Developers may wish to ask questions as to why that is the case.

Enabling councils to use Levy receipts to fund non-infrastructure items sets a very dangerous precedent and it could potentially be seen as a funding stream for other non-infrastructure areas at every opportunity where there are no effective controls in place (particularly when other sources of funding are diminishing...) For example, given in the consultation of social care and free childcare places are not an appropriate use of infrastructure funding and could leave councils vulnerable. Any non-infrastructure funding should be limited and linked directly to development as under the current system. This is not a 'get out' for the Government to use to avoid funding social care properly. I would resist this proposal wherever possible, however if it continues to be pursued by govt then it should only be in exceptional circumstances and where doing so would not jeopardise delivery of AH / other infrastructure identified in the IDS (and perhaps a limit set?).

Agree we should seek to resist this – it is unlikely we would ever be in a position where all AH and infrastructure is funded by the proposed levy.

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? [Yes/No/Unsure]. Should expectations be set through regulations or policy? Please provide a free text response to explain your answer where necessary.

Yes, the IL should be used to pay for infrastructure and affordable housing, i.e., 'infrastructure', and fulfil the roles of current Section 106 and CIL.

Although occasionally a developer and Council may agree there are mutual benefits if and where some service functions are funded using IL, the Council would prefer if IL funds were not used for purposes beyond infrastructure provision, as the case has not really been made for such a significant change in process. If the spending of IL could be more flexible towards service provision, after prioritising affordable housing and infrastructure. This may not only result in increasing the spending of IL. As well as, potentially improving the social, economic, cultural, and natural environments for the wider community.

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 monitoring implications for IL appear to be more onerous than is the case with current CIL and S106 agreements. Regular, programmed updates will be required from the developer to the Council on key schemes, making it more resource intensive than it is currently because of the need to keep track of construction timetables, and the issues around timing and completion of valuation exercises. Therefore, there will be a need for some IL monies to be used to fund monitoring.

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.

The Test and Learn Pilots may, in due course be able to identify what threshold works best in practice. Currently this Council would prefer the threshold to be set at a medium or low threshold in order that a range of development sites can provide their infrastructure in kind.

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.

There is a comprehensive list at 1.22

Chapter 2: Levy rates and minimum thresholds

Question 9: Do you agree that the Levy should capture value uplift associated with permitted development rights that create new dwellings? [Yes/No/Unsure]. 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, one of the main advantages of the new IL system is that residential properties delivered under permitted development will also be liable. The Government's proposal to set national minimum and maximum levy rates for permitted development neglects to recognise that viability varies across the country, and this approach might make this type of development unviable in areas with lower land values. Local authorities should therefore be allowed to set their own permitted development levy rates based on local viability.

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?

Agree that consideration should be given to bringing some permitted development rights within the scope of the levy.

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? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary, using case studies if possible.

Agree that it is important that the new levy does not act as impediment to brownfield development, so consideration should be given to what offsets can be used.

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 - Neutral
- 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, the offset allowances should be retained as it minimises the impact of viability on certain developments that are not increasing the GIA but are only a change of use. That said the current offset allowances can, in some cases, be complex and need to be clearly defined.

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

- Charging the Levy on final sale GDV of a scheme
This has the potential to increase receipts, but there is no guarantee as the market can go down as well as up.
- The use of different Levy rates and minimum thresholds on different development uses and typologies.
This has the potential to increase receipts as more development would be 'caught'.

Chapter 3 – Charging and paying the Levy

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.

Yes, The Council agrees that indicative liability should be calculated upon submission of the planning application based on IL rates in the Charging schedule, which broadly replicates the current CIL procedures.

However, the Council does not agree that payment should be made upon completion prior to first occupation, but should be made upon commencement, like the current CIL. However, this will make the administration more onerous and needs to be resourced correctly. Final adjustment payments based on the sales price will be made after the development has been sold, in which adjustments to the indicative liability payment are made to reflect the actual market value of the development.

it is highly unlikely that developers will be able to pay their interim liability in full prior to commencement / 1st occupation – we are often asked to push s106 payments back to reduce the upfront infrastructure burden on viability grounds, so this seems to be counter to that issue. They simply will not have the cashflow and lenders will not want to take the risk. Staged payments throughout delivery of a site would be a preferred approach.

Question 15: Is there an alternative payment mechanism that would be more suitable for the Infrastructure Levy? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.

Yes. If the procedure for settling IL charges closely resembled the current Section 106 process, this may resolve some issues that have arisen from these proposals.

If significant interim payments are required before any property sales have occurred, this could cause financial issues for smaller developers. Flexibility should therefore be given to councils to determine when and where it will seek an IL payment up front, as infrastructure demands are inherently different in different areas.

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/No/Unsure] Please provide a free text response to explain your answer where necessary.

Yes. Although this is fundamentally a land charge question. The council recognises that having the charge upon the land until discharged is an effective tool to support enforcement action. Early removal would put the council at risk of recovery of funding.

Question 17: Will removal of the local land charge at the point the provisional Levy liability is paid prevent avoidance of Infrastructure Levy payments? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.

Strongly agree the charge should remain on the register until it is fully discharged.

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? Please explain your answer.

Agree. This requirement will be needed to help facilitate the timely delivery of infrastructure. Payment should be upon commencement, similar to the current CIL, to reduce the risk of councils borrowing against future IL receipts.

Ensuring that IL is paid at various stages throughout the build process gives greater certainty of the scheme completing. This would, however, then begin to resemble the current S106 payment arrangements which could be a better model for IL.

If borrowing is necessary, the payment of some IL funds at an earlier stage of construction may provide some certainty or reassurance, helping to mitigate any concerns which Members have about a particular scheme.

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

Yes. Payment should be upon commencement, similar to the current CIL. As per Question 18, in the unlikely event of a Council voting to borrow money for infrastructure provision against future IL receipts, the Council would then be a debtor, and would need to make regular payments to its lender to service any loans - including interest.

A mechanism to secure early IL payments will be useful, particularly from larger schemes with the greatest infrastructure needs.

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/No/Unsure]. Please provide a free text response to explain your answer where necessary.

The Levy seems to introduce a never-ending cycle of valuations which will place a very significant resource burden (financial and capacity) on the council to deliver. Councils may become reliant on consultancy to provide valuation support, which is likely to result in conflict of interest (there are only so many specialists in a very small field!). Also, it is unlikely that a Council would want to waive its right to carry out an individual assessment of a site; these will be key tools to demonstrate that we have done due diligence and achieved maximum potential from a site. There is however often a lag in land registry information being loaded and made available which needs to be addressed so that authorities have the opportunity to review sales prices achieved.

Chapter 4 – Delivering infrastructure

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? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure]. Please provide a free text response to explain your answer where necessary.

whilst borrowing might be a positive solution in principle, It, may be of limited value if Councils do not want to take the risk (and additional cost of interest). Also, it places all the burden on the council and not the developer. If pursued, it should only be done in limited and exceptional circumstances and subject to all necessary due diligence. Borrowing against 'IL proceeds' is not favourable in case the development does not commence and/or the permission falls away and no IL receipts are received.

This is similar to tax increment funding and is a high-risk approach. While it may deliver infrastructure more quickly, there are risks to local authority finances if developments stall (e.g. due to market downturns) and a balance to be struck between additional interest costs versus inflationary effects of slightly later infrastructure development. It also ties up an element of the revenue yields from council tax/business rates of those developments in interest payments on any borrowing rather than service delivery. Overall, it is questionable whether the benefits outweigh the risks.

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/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.

Strongly agree with the need to go further. If some monies are received at an early point of the process or are required as a condition of granting planning permission this will alleviate some of the concerns that arise from demanding payment upon occupation.

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? [Yes/No/Unsure] Please provide free text response to explain your answer where necessary.

No, the payment structure should resemble the current arrangements under Section 106, with the option for instalments and payments becoming due upon certain triggers being reached. This will provide councils with the necessary funding and flexibility to ensure the timely delivery of infrastructure, while at the same time acting as an incentive for developers to complete their development.

The enforcement powers currently within the CIL regulations are effective, albeit a bit of a cut and paste of planning enforcement in parts. A wide range of enforcement powers would be appropriate and welcomed.

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? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree] Please provide a free text response to explain your answer where necessary.

The production of the IDS should provide a high degree of transparency and certainty.

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

This will depend on what is being proposed in the local plan. The local authority is best placed to determine this as the plan develops. Robust Infrastructure Development Plans and a Developer contribution / IL Guidance should be implemented to outline local infrastructure needs and feed into individual IL agreements; taking into account local priorities to ensure 'deliverable infrastructure' to mitigate the impact of designated development sites.

Question 26: Do you agree that views of the local community should be integrated into the drafting of an Infrastructure Delivery Strategy? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.

It will be helpful to have community input into the Plan, however it is important that expectations are managed, as not all desires for infrastructure will be realised. Local Town and Parish Councils, Health providers, Highways, Leisure providers etc have sound knowledge of their respective areas; as such full engagement should be considered. However, there will be opportunity for feedback during consultation stages of any DRAFT IDS.

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
- Other – please explain your answer
- All of the above

In principle this list appears acceptable. If any element of the levy is to be used for non-infrastructure/revenue costs this should be included in the Delivery Strategy.

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**
- **Other – please explain your answer**

There would need to be guidance and support on who needs to be engaged with, however this would vary between authorities based on infrastructure needs.

Question 29: To what extent do you agree that it is possible to identify infrastructure requirements at the local plan stage? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.

It should be possible to identify the vast majority of infrastructure requirements during plan preparation. However, it is often the case that there is not full information available when a plan is prepared and some additional/different items may be identified when subsequent planning applications are submitted. One benefit of the current system is that the IDP is as living document and can therefore adapt to changing circumstances -that doesn't seem possible under the proposed system.

Chapter 5 – Delivering affordable housing

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.

The right to require should have the effect of reducing the risk of negotiating down, however the unintended consequence of this is that the starting point for the 'right to require' is likely to be lower than it otherwise would be.

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? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.

Unsure, it is not possible to say if a zero-rated, or highly discounted rate should be set for 100% affordable housing schemes. Currently the CIL regulations allow for full relief on affordable housing, regardless of the rates in the area, that meets the criteria, and do not require a viability assessment. This works well as it keeps the majority of the burden on developers. Full viability evidence for each of the three areas(Daventry area, Northampton and South Area) within West Northamptonshire Council would be required before being able to provide an answer in the manner sought by the question. All residential development creates infrastructure needs.

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

Registered Provider-led schemes should be treated like any other proposal.

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? [Yes/No/unsure] Alternatively, do you think where the 'right to require' is set should be left to the discretion of the local authority? [Yes/No/unsure]. Please provide a free text response to explain your answer where necessary.

No, the upper limit should not be introduced by the government.

Yes, the right to require should be left to the discretion of local authorities to set.

Chapter 6 – Other areas

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

Yes. There is no reason why this should change from current CIL 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.

Approach (A) should be retained as the current portion percentages are acceptable. Also, the uplift will mean they will receive more than they currently do and sometimes parishes struggle with knowing how to use the portions they currently receive.

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?

All West Northamptonshire has either a parish council or a parish meeting. However, a process whereby the funds are held in an earmarked reserve and spent in the area local to the development in consultation with parish meetings could be viable.

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 current CIL regulations cap the administrative costs at 5%. There must always be provision to recoup administrative costs from processing and securing developer contributions. So either (B) or perhaps (D) if councils incur significant administrative costs implementing a mandatory new levy.

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 countrywide 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?

Strongly agree to residential annexes exemptions being retained due to claw back periods and disqualifying events. However, residential exemptions regardless of size, due to changes in CIL legislation, having no clawback periods, disqualifying events apart from not being claimed before commencement nor subject to surcharges if a commencement notice is not submitted. This exemption appears to be an unnecessary form filling process.

Also, where a smaller house is extended to become a larger unit, there may not be a net increase in dwellings, but there may still be implications on infrastructure.

Strongly agree that self-build housing exemptions should be retained. It ensures they are actual self-build projects and prevents loopholes for developers who have no real intention to build for themselves. There are several obligations upon developers that ensure self-build house are such and these obligations should remain with the developers and be retained in the legislation.

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.

If it could be demonstrated that the sustainable technology being used reduced the requirement for infrastructure, then it would be sensible to introduce an offset.

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.

Strongly disagree. Where a scheme meets this threshold (i.e. fewer than ten units) a reduced Levy rate would be set, and local authorities will not be able to require that a proportion of receipts are paid in the value of affordable homes.

There is a risk that developers would therefore submit multiple applications on the same site to be under the threshold and to therefore pay lower IL charges while avoiding the need for an affordable housing contribution altogether.

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 smaller the scheme, the more difficult it is to deliver a development that is viable. Daventry in particular deliver a lot of exception sites, and these are very difficult to stack up financially with the

majority of the units being affordable. If there was some flexibility to reduce the IF levy where there are viability issues, rather than the affordable, that would be very welcome.

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

None have been identified by this council.

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.

Neutral on the enforcement mechanisms associated with securing Levy payment. However, the Council should have flexibility in enforcing liable applications/developments on a case by case (fact and degree) basis and as they see fit.

Chapter 7 – Introducing the Levy

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.

It is sensible to adopt a ‘Test and Learn’ approach with a range of Local Authorities before this is rolled out nationwide. This will enable any teething issues or unexpected consequences to be addressed before all local authorities across the country have to expend resources on this new approach.

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.

It appears likely that IL would have potential negative effects on members of protected characteristic groups who cannot afford market housing and would require an affordable home. It is uncertain if the proposed IL will deliver more affordable housing than the current S106 system. This may need further scrutiny.