

<b>Title of Report</b>	<b>RESPONSE TO GOVERNMENT CONSULTATION IN RESPECT OF PROPOSED INFRASTRUCTURE LEVY</b>	
<b>Presented by</b>	Councillor Keith Merrie Infrastructure Portfolio Holder  PH Briefed <input checked="" type="checkbox"/>	
<b>Background Papers</b>	<a href="http://www.gov.uk">Technical consultation on the Infrastructure Levy - GOV.UK (www.gov.uk)</a>	<b>Public Report:</b> Yes
		<b>Key Decision:</b> No
<b>Financial Implications</b>	If the government proceeds with the proposed Infrastructure Levy as set out in the consultation document, it is likely that it could have significant financial implications for the Council. A particular concern is the proposal for local authorities to borrow against future Levy receipts in order to pay for new infrastructure required to support development.	
	<b>Signed off by the Section 151 Officer:</b> Yes	
<b>Legal Implications</b>	Should the government proceed with the proposed Infrastructure Levy then the various legal requirements will be set out in Regulations.	
	<b>Signed off by the Monitoring Officer:</b> Yes	
<b>Staffing and Corporate Implications</b>	There are no direct staffing implications at this stage. However, if the government proceeds with the proposal to replace S106 Agreements with the Infrastructure Levy it is likely that this will have resource implications which would require additional staff capacity.	
	<b>Signed off by the Head of Paid Service:</b> Yes	
<b>Purpose of Report</b>	To report the submission of the Council's response to the government's consultation.	
<b>Reason for Decision</b>	To ensure that Cabinet is aware of the Council's response.	
<b>Recommendations</b>	<b>THAT CABINET:</b> <b>(i) NOTES THE RESPONSE AT APPENDIX 1 OF THIS REPORT WHICH WAS AGREED WITH THE PORTFOLIO HOLDERS FOR PLANNING AND INFRASTRUCTURE AND WHICH HAS BEEN SUBMITTED TO GOVERNMENT.</b>	

## 1.0 BACKGROUND

- 1.1 As part of the Levelling Up and Regeneration Bill currently going through Parliament it is proposed to introduce an Infrastructure Levy. The Infrastructure Levy would (largely)

replace the current system of planning obligations (Section 106 Agreements) and the Community Infrastructure Levy (CIL).

- 1.2 The Government consulted on various technical aspects of the proposed Infrastructure Levy between 17 March and 9 June 2023. There was no available committee to which the consultation could be reported before the closing date. Therefore, the Council's response was agreed with the Portfolio Holders for Planning and Infrastructure.

## 2.0 THE PROPOSALS

### 2.1 In summary:

- The Levy will be a single charge which is mandatory and locally determined.
- The Levy will be charged on the value of the property at completion per square metre and applied above a minimum threshold.
- The rates and minimum thresholds will be set and collected locally with local authorities being able to set different rates within their area based on certain factors (for example different rates for greenfield and brownfield sites).
- For large and complex sites (scale to be defined) S106 Agreements will be retained as these sites require specialised infrastructure to be delivered at specific times throughout the development period. The value to be provided would have to at least match that which would arise from the Levy.
- It will apply to developments that fall under permitted development rights (i.e. do not require planning permission) such as various types of changes of use which are currently exempt from Section 106's.
- It will include a new *"right to require"* which will allow local authorities to mandate the amount and type of on-site affordable housing. It will allow local authorities to set the *"percentage of the levy value delivered in-kind by developers as on-site affordable housing"*.
- It will be gradually introduced through a phased test and learn process over several years, so everyone can prepare and adapt to the change. Sites permitted before it takes effect will continue as before under CIL and Section 106 requirements.
- There are two proposed types of infrastructure: integral (on-site infrastructure needed to make a site liveable such as on-site play areas, biodiversity net gain, carbon reduction measures, flood risk migration measures, road layout etc) and levy-funded (infrastructure required as a result of the cumulative growth in the local area – improvements to education or health capacity, to the highway network or wastewater infrastructure etc). Integral would be secured using planning conditions or targeted use of S106 agreements.
- It is proposed that authorities will have some flexibility to use some of Levy funding towards non-infrastructure such as social care or service provision.
- Liabilities (i.e. payments) will be based on the Gross Development Value (GDV) at completion of the development (unlike S106 Agreements where payments are phased linked to progress of developments). To ensure that infrastructure continues to be provided when required local authorities will be able to borrow against future Levy receipts.
- The Council will be required to prepare a Charging Schedule which will be subject to consultation and Examination (as with a Local Plan) and an Infrastructure Delivery Strategy which sets out how levy receipts will be utilised.

- 2.2 A lot of the issues covered in the consultation were technical and detailed in nature regarding how it might operate in practice. Responding to all of these questions

would have been easier if the Council had experience of implementing the Community Infrastructure Levy. Therefore, the Council's response (Appendix 1) limited itself to a small number of questions dealing with key principles.

<b>Policies and other considerations, as appropriate</b>	
Council Priorities:	Our communities are safe, healthy, and connected. Local people live in high quality, affordable homes
Policy Considerations:	At this time none. Should the government decide to introduce the Infrastructure Levy it will be subject to further consultations, at which time it will be possible to provide a more detailed assessment of its implications
Safeguarding:	None identified
Equalities/Diversity:	None identified
Customer Impact:	None identified
Economic and Social Impact:	As this time none. Should the government decide to introduce the Infrastructure Levy a more detailed assessment of its implications will be required.
Environment and Climate Change:	As this time none. Should the government decide to introduce the Infrastructure Levy a more detailed assessment of its implications will be required.
Consultation/Community/Tenant Engagement:	None
Risks:	As outlined in the report, there is a potential financial implication for the Council in the event that it has to borrow against future Levy receipts to forward fund new infrastructure.
Officer Contact	Ian Nelson Planning Policy and Land Charges Team Manager 01530 454677 <a href="mailto:ian.nelson@nwleicestershire.gov.uk">ian.nelson@nwleicestershire.gov.uk</a>

**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.**

The Council supports the proposal to identify integral infrastructure to be provided at the developers' expense as a means to achieve the Council's aim of creating high quality places that people want to live in.

**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.**

The Council supports Option b and considers that integral infrastructure should be defined nationally, whether in regulations or through policy as this will avoid the need for the matter to be debated at Examinations.

**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 Council supports a medium threshold (ie no less than 2,000 dwellings). Setting the threshold as low as 500 dwellings would seem to negate the whole purpose of the Levy as it will simply result in the continued use of S106 Agreements in more cases.

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

The Council supports extending the Levy to permitted development rights that create new dwellings.

**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.**

The Council considers that there does need to be a mechanism which would allow for local authorities to require early payment of the Levy, either in total or as a proportion. The specific circumstances in which this might be necessary are difficult to predict as it will depend upon local circumstances. For example, there might be a requirement for significant off-site highway works to which a number of developments will be expected to contribute. If one or more of those developments get delayed, then this could mean a delay in provision and hence result in congestion and/or environmental issues. This could potentially be addressed if it were possible to bring forward payment from one or more other developments to address the unexpected shortfall. The payments from the delayed development would then be used to address other less crucial infrastructure issues. A further example would be

if it could be demonstrated that a school or local health centre was already at capacity or would be at capacity within the first xx number of dwellings being occupied, then the authority could require an early payment (in total or part).