

Report of	Meeting	Date
Chief Executive	Central Lancashire Strategic Planning Joint Advisory Committee	Tuesday, 20 June 2023

## Technical Consultation on the Infrastructure Levy

Is this report confidential?	No
------------------------------	----

Is this decision key?	No
-----------------------	----

### Purpose of the Report

- To provide Members with a summary of the Government consultation on the Infrastructure Levy, which ran for a 12-week period until 9<sup>th</sup> June 2023.

### Recommendations

- To note the contents of this report.

### Reasons for recommendations

- For information only.

### Other options considered and rejected

- None.

### Corporate priorities

- The report relates to the following corporate priorities:

<b>Housing where residents can live well</b>	<b>A green and sustainable borough</b>
<b>An enterprising economy with vibrant local centres in urban and rural areas</b>	<b>Healthy, safe and engaged communities</b>

### Background to the report

- The Government consulted on a proposed Infrastructure Levy for a period of 12 weeks until 9<sup>th</sup> June 2023. The Infrastructure Levy is the government's proposed new system for securing contributions from developers towards the cost of infrastructure and

affordable housing. It is a reform to the existing system of developer contributions which includes Section 106 planning obligations and the Community Infrastructure Levy, in England and forms part of proposals in the wider Levelling Up and Regeneration Bill that is currently going through Parliament.

7. Section 106 planning obligations (s106) are negotiated on an application by application basis. Community Infrastructure Levy (CIL) is set by individual local authorities and is voluntary. Chorley is a CIL charging local authority. Between s106 and CIL, the Council secures contributions towards a range of infrastructure including open space, education, highways, as well as affordable housing.
8. The proposed Infrastructure Levy would largely replace these systems through the introduction of a mandatory levy charged on the final value of the completed development.
9. The Government intends the new system to be more efficient and transparent, as there will be no need for lengthy s106 negotiations, and the value of the expected contributions will be clear up-front. It is also intended to make clear to residents what new infrastructure will accompany development and to developers what infrastructure will be required to make development acceptable. The new system is intended to raise at least as much developer contributions as the existing one.

#### **How infrastructure would be funded**

10. Infrastructure integral to the successful functioning of a site such as on-site play areas, site access and internal highway network or drainage systems will be delivered by developers secured through planning conditions. This infrastructure will be delivered in addition to payment of the Levy.
11. All other forms of infrastructure will be Levy funded and paid for through Levy revenues. Levy funded infrastructure will be infrastructure that is required because of planned growth that will have a cumulative impact on an area and creates the need for new infrastructure to mitigate its impact. Levy receipts can also be passed to third parties such as County Councils if they are best placed to deliver the infrastructure.
12. It is proposed that a nationally set list of types of infrastructure that are integral, or levy funded will be set out in regulations or policy.
13. This approach is similar to the current planning system.

#### **Routeways for securing developer contributions**

14. It is proposed that there will be three Levy routeways for securing developer contributions. It is accepted that s106 agreements will still be required in some cases, but these will only be used in limited circumstances. How infrastructure is secured and how s106 agreements operate in each routeway will vary.
15. The first is the core Levy routeway which the majority of development will be subject to. The Levy will be paid in cash by developers with integral infrastructure provided on-site and secured through planning conditions. Where it is not possible to secure integral infrastructure through planning conditions, they will be secured through targeted planning obligations known as Delivery Agreements which are similar to s106 agreements.

16. The second is the infrastructure in-kind routeway which will only apply to sites that fall over a certain threshold. The threshold has not yet been set but options are consulted on. S106 agreements will be retained for these more large and complex sites and will be used as a tool to secure infrastructure and affordable housing as an in-kind contribution of the Levy. The value of any in-kind contributions towards infrastructure will have to equal or exceed the value of what otherwise would be secured through a calculation of the Levy.
17. The third is the s106 only route which will only apply to a minority of developments that do not meet the definition of development such as minerals and waste sites and therefore will not be charged the Levy.

### **How the Infrastructure Levy would operate**

18. There are three main elements to operating the Levy: (i) setting the Levy; (ii) charging and collecting the Levy; and (iii) spending the Levy.

#### **(i) Setting the Levy**

19. Local Authorities would be in charge of setting a local rate and a minimum threshold below which the Levy will not be charged. Local authorities would be able to set different rates and/or thresholds for different development uses and land typologies in their local area. The Levy would apply to most types of development, but certain types may be exempt or subject to reduced rates. Local Authorities would have to consider a range of prescribed factors in setting rates. The rate would be set on the gross development value of the development rather than floor space although an estimation of the final value would be required at an earlier stage.

#### **(ii) Charging and Collecting the Levy**

20. The Levy would be charged by local authorities, based on the gross development value of a development upon its completion.

#### **(iii) Spending the Levy**

21. Local Authorities would be required to prepare a new document, called an Infrastructure Delivery Strategy, in order to identify and plan for infrastructure priorities. This would support consideration of infrastructure requirements arising from planned development in the area and would set out how Levy receipts will be directed to the affordable housing and infrastructure needed to support it. In that manner, it would be a tool for local authorities to set out their spending priorities and for local people to understand what infrastructure, such as GP surgeries, sustainable transport or schools, will be delivered to accommodate the new needs of the community. The Infrastructure Delivery Strategy would require an examination.
22. The intention is that infrastructure would be better planned for and delivered ahead of acute need, rather than the more ad hoc nature of s106 contributions. Local authorities would be able to view developer contributions as an ongoing revenue stream and borrow against this to deliver infrastructure alongside development. The consultation document does not go into detail about how this would work in practise.

### **Delivering affordable housing**

23. On-site affordable housing as part of market schemes would be delivered through the Infrastructure Levy as an in-kind payment of the Levy through a new 'right to require'. Local authorities will set a proportion of the Levy that must be delivered in-kind as on-

site affordable housing and developers will be obliged to provide that in-kind contribution. To calculate how many affordable dwellings can be provided by the monetary value of the affordable housing proportion of the Levy, the value of discount of the relevant tenure of affordable housing from the open market would need to be calculated. For example, if the monetary value of the 'right to require' proportion of the Levy is £480,000 and the discount of an affordable dwellings is £48,000 from the market price then 10 affordable dwellings must be provided on site.

24. The key principle of the 'right to require' is that there will be limited scope or incentive for developers to provide less affordable housing on viability grounds because the Levy is fixed.

### **Implementation of the Infrastructure Levy**

25. The Government recognises that the introduction of the Levy would be a significant change to the current system and proposes that the system would be introduced through a 'test and learn' approach. This would see the Levy introduced in a representative minority of local authorities in the first instance, prior to a nationwide rollout to all English authorities. In the intervening period, the government would work closely with local authorities operating the Levy to monitor, evaluate, and improve its operation.
26. The prospective timeline as set out in the consultation document is that the introduction of the Infrastructure Levy would be undertaken over the course of a decade, with the test and learn period starting some time in 2025 and an expansion to national roll out some time in 2030.

### **Consultation Response**

27. A formal consultation response was submitted by each authority.

### **Climate change and air quality**

28. The work noted in this report does not impact on the Councils Carbon emissions and the wider Climate Emergency and sustainability targets of the Council.

### **Equality and diversity**

29. No impact.

### **Risk**

30. None.

### **Comments of the Statutory Finance Officer**

31. There are no direct financial implications arising from this report, but the implications of any proposed changes could be significant to the way the Council receives and spends developer contributions. Full implications will only be known when the final proposals are published but as the Council does not commit contributions in advance, there is no current risk to existing schemes.

### **Comments of the Monitoring Officer**

32. At this stage we are considering proposed changes to legislation – nothing definite has yet happened. Hence there are no immediate legal implications arising. If these changes

are indeed introduced, then that will represent a major change in how councils ensure that when development comes forward that the consequences of such development is properly addressed and that affordable houses are brought forward. The current Section 106 procedure (and its predecessor provisions) have been in force since 1971. Moving forward we must ensure that we set any Levy at an appropriate level.

### **Background documents**

There are no background papers to this report

Report Author:	Email:	Telephone:	Date:
Katherine Greenwood (Principal Planning Officer)	katherine.greenwood@chorley.gov.uk		09/06/23