



Infrastructure Levy

Response by The Chartered Institute of Logistics and Transport to the Department for Levelling Up, Housing & Communities Consultation

June 2023

Contact: Daniel.parker-klein@ciltuk.org.uk

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/No/Unsure
- Buildings which people do not normally go into - Yes/No/Unsure
- Buildings into which peoples go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery - Yes/No/Unsure
- Structures which are not buildings, such as pylons and wind turbines. Yes/No/Unsure

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

YES

We agree with the proposed definition of development and to all exclusions

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

We believe that a base level of connectivity in a development can only be achieved if infrastructure for bus services is provided, to include bus stops, shelters, bus priority and other traffic management to assist bus services, and where necessary terminus or layover parking, including driver facilities. This is a distinct contribution separate to Levy funded bus services and both types of funding, on site physical infrastructure, and off site service funding for an agreed time period, are required to achieve sustainable travel goals.

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.

We see integral infrastructure as fixed physical infrastructure, either highway based (bus gates, laybys, turning circles, bus priority, traffic signals, pedestrian crossings, and traffic management including kerbside loading and parking control) or street furniture (stop signs, shelters, seating, lighting). For the largest developments this could include bus stations or interchanges and possibly depot or overnight parking facilities. We would expect the regulations to confirm the categories of infrastructure as integral (on site physical) or Levy funded (primarily services and off site physical infrastructure), which is updated regularly as new requirements arise through new technologies, for example.

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.

YES

We strongly agree that revenue funding of services is essential. For example we have evidence of the value of providing local bus links from the outset of development, as this improves long term mode share, and discourages residents or site users from committing to car use in the absence of a sustainable travel choice. High quality on site infrastructure, while valuable, is usually insufficient in itself to encourage bus patronage; a good level of initial service is needed to create a pathway to commercial bus service provision to a site.

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.

NO

If on site funding was prioritised we could see a worsening position for local bus support, if all Levy funding is committed to physical infrastructure which alone is of insufficient benefit to potential bus passengers and service operators in the absence of revenue support funding for bus services. At the minimum we hope that there would be transparency on how funding is allocated to the two categories, both in general and on specific sites, and the opportunity for bus service providers to contribute to developing the policy on funding prioritisation.

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.

UNSURE

The items listed include at a high level bus services as “Additions to local bus services” and “Enhancements to public transport routes”, which we believe describes the bus service requirement. With “Improvements to road and highway infrastructure” we would expect this to include the potential for funding off site bus infrastructure as follows:

- **highway based (bus gates, laybys, turning circles, bus priority, traffic signals, pedestrian crossings, and traffic management including kerbside loading and**

<p>parking control) which assist the efficient operation of bus links to the development site</p> <ul style="list-style-type: none"> • street furniture (stop signs, shelters, seating, lighting) nearby but outside the site which is used by residents or occupiers/users of non-residential sites • for the largest developments this could also include contributions to bus stations or interchanges and possibly depot or overnight parking facilities
<p>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.</p>
<p>LOCAL AUTHORITY DISCRETION</p> <p>We believe that while the process should transparent local circumstances should allow thresholds to be set by those that understand local context and needs the best.</p>
<p>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.</p>
<p>We agree with the three routeways approach and the ability to utilise Delivery Agreements, however our key criteria is to achieve transparency, certainty and early delivery without protracted negotiations or failure to deliver as can occur now under S106 – so the default should primarily be a formula based Levy within an Infrastructure Delivery Strategy agreed at examination in public and non-negotiable.</p> <p>If a developer chooses to bring forward an unallocated site for development in a location, or an allocated site in a form or way, which places additional resource or funding requirements for infrastructure, including bus services, that the planning authority and the transport authority could not have reasonably anticipated when they prepared their Infrastructure Delivery Strategy, the developer should be expected to make additional contributions in-kind or as a payment additional to the Levy to reflect its decision as a developer. In this way, developers can be discouraged from bringing forward development that imposes more onerous infrastructure and service requirements safe in the knowledge that they have to pay only the standard Levy.</p>
<p>Chapter 2: Levy rates and minimum thresholds</p> <p>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.</p>
<p>YES and YES – dependent on scale of development</p> <p>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?</p>
<p>NO COMMENT</p>

Question 11: Is there 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.

UNSURE

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 [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure]
- The use of different Levy rates and minimum thresholds on different development uses and typologies [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure]
- Ability for local authorities to set 'stepped' Levy rates [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure]
- Separate Levy rates for thresholds for existing floorspace that is subject to change of use, and floorspace that is demolished and replaced [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure]

Responses shown above in bold.

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

NO COMMENT

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

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.

UNSURE

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

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.

UNSURE

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/Agree/Neutral/Disagree/Strongly Disagree/Unsure]. Please explain your answer.

STRONGLY AGREE

We believe the payment on or after site completion is counterproductive in that facilities and services need to be fully funded and in place as early as possible to ensure sustainable travel becomes the default mode choice. The Infrastructure Delivery Strategy should set out a formula for calculating stage payments due at different stages of site progress from first occupation to completion.

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

We would expect that the need for local bus services to be operating from the first occupation or use of a development is ideal, to encourage mode shift, but recognise the commercial impacts of slow site build out and low patronage services can impact negatively on the perception of services.

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.

UNSURE

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.

DISAGREE

Our concern is that local authorities will be risk averse in terms of borrowing on anticipated receipts and this may impact on the scale, scope and timing of infrastructure investments or Levy funded services.

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

We believe that strengthening local authorities powers and enforcement in the use of conditions is essential, for both physical infrastructure and services.

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.

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

AGREE

We fully support the Infrastructure Delivery Strategy approach and a robust spending plan is essential to secure the appropriate levels of funding, as well as key stakeholder buy in

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

A prime concern will be avoiding a wish list of previously unsuccessful or unfunded schemes to be promoted without challenge or evidence based analysis. The approach described, with significant stakeholder participation, should achieve the goal of a balanced IDS which is aligned with the strategic goals of the Local Plan and with the goals of related policy and plans including the Local Transport Plan, Bus Service Improvement Plan and other transport strategies.

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.

YES

Our only concern will be, as in our response to Q25, to avoid a wish list approach not based on sound evidence. As an example when consulted on local public transport needs communities often cite direct links to hospitals, albeit that use of public transport can be for much of the population will be occasional (and in the case of emergencies, bus use is usually disregarded), and is provided at the expense of bus links to other trip attractors which would contribute more to achievement of transport policy goals. Therefore sensitivities to understanding real needs and demand, against perceived needs and demands, especially from non-users, needs to be built into the development of the 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

ALL OF THE ABOVE

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

ALL OF THE ABOVE

We are concerned that in two tier authority structures that there will be tension between County Council (Local Transport Authority) and District Council (Local Planning Authority) policy objectives, priorities and programmes. This is particularly important in two tier authorities where the Local Planning Authority objectives (social housing, community facilities, parking, etc.) could take precedence over Local Transport Authority goals of increasing sustainable mode share through support for buses and active travel, for example. Therefore clear guidance and enforceable regulations requiring the LPA to create an IDS in accord with the policy goals and implementation plans of the higher tier authority, e.g. the LTA, including the ability to arbitrate where there is a dispute, will be essential.

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.

AGREE

A good local plan should already have a clear evidence base to future infrastructure priorities, with and without specific developments, and should be a core starting point for the development of the IDS.

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.

UNSURE

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

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

UNSURE

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.

UNSURE

Chapter 6 – Other areas

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

YES

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

UNSURE

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 in 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.

B

Our view is that particularly in the early stages of adoption of the Levy approach that there will be considerable resource pressure, in gathering evidence and engaging with stakeholders, and although at a later stage as matters are settled 5% may be reasonable we anticipate significant initial resource impacts on LPAs.

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/Neutral/Disagree/Strongly Disagree]
- self-build housing; [Strongly Agree/Agree/Neutral/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?

NO COMMENT

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.

YES

We would support reduced levy in the case of development which supports our push towards net zero goals.

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.

UNSURE

We do have concerns with very small sites, when numerous in a community, adding to infrastructure and service stresses, without funding contributions to ameliorate impacts.

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.

UNSURE

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

UNSURE

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.

AGREE

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

AGREE

As we are supportive of the Infrastructure Levy approach we would welcome a shorter test and learn period and an earlier transition to the new system.

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