

Appendix 1:

| Consultation Question | Council comments | Proposed Council Response |
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| Chapter 1 – Fundamental design choices | | |
| <p>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:</p> <ul style="list-style-type: none"> • developments of less than 100 square metres (unless this consists of one or more dwellings and does not meet the self-build criteria) – No • Buildings which people do not normally go into - No • Buildings into which peoples go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery - No • Structures which are not buildings, such as pylons and wind turbines. Yes. <p>Please provide a free text response to explain your answer where necessary.</p> | <p>This definition broadly means that structures that are buildings, and used by people, will qualify as ‘development’.</p> <p>Having no experience of the implementation and subsequent implications of a CIL it is hard to determine the impact that this would have on South Derbyshire.</p> <p>Under the proposals self-build properties will be exempt from the Infrastructure Levy. Given that the Council has a duty to support this type of development and that it creates the same level of infrastructure requirement as a standard (non-self-build) property it would appear that they should be paying the levy.</p> | <p>As all of these developments still require planning permission such as solar panels and pylons and they still have an effect and permanent change on the land.</p> <p>Developments of less than 100 square meters unless they are consisting of one or more dwellings should not be Included as it is anticipated that this will restrict the amount of development that takes place within the district.</p> <p>Buildings that people do not normally go into should still be included due to the permanent change that will take place on the landscape and the local area , for example an electricity sub-station.</p> <p>Buildings which are only entered intermittently for the purpose of inspection or maintenance should be included in the Infrastructure Levy charging should not be included as these are typically small scale and do not have an effect on the locality of the development e.g. the local highway network.</p> |

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| | | Structures which are not buildings should not be Included such as wind turbines as they will be captured by other mechanisms such as BNG for any impacts that might be generated as an effect of the development of these structures. |
| <p>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].</p> <p>Please provide a free text response to explain your answer where necessary.</p> | <p>It is anticipated that developers will cost in ‘integral’ infrastructure as part of the build cost for a scheme and for it to be delivered in addition to payments of the Levy. This will broadly ensure that Levy revenues are not used to fund infrastructure that would normally be part of the costs of development. Some examples of what ‘integral infrastructure’ might include are:</p> <ul style="list-style-type: none"> • Cycle parking areas • Electric vehicle charging points • Inclusion of sustainable urban drainage systems and flood risk mitigation • Carbon reduction design measures to meet building regulations • Biodiversity enhancements and net gain • Private amenity space • Street trees and on-site green infrastructure • On-site play areas and open space for residents | <p>Yes.</p> <p>Some infrastructure is best to be provided on-site by the developer. Some of this is integral to the development and expected to help ensure the site is designed as a well liveable community for future generations. This includes the creation of blue and green infrastructure and the requirements of Section 278 agreements.</p> <p>This is the developer delivering on site infrastructure that is critical to enable the development to take place and mitigate the potential impacts of the development that is taking place. The developer might have expertise on certain infrastructure that is required such as the construction of and the design of the infrastructure.</p> |

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| | <ul style="list-style-type: none"> The creation of safe, high quality, adoptable internal road layouts, that prioritise pedestrian movements and sustainable transport modes as well as, where appropriate, well designed agreed levels of multi-modal parking, including for disabled users, car clubs and electric vehicles | <p>It is often more viable to provide of certain integral infrastructure on-site also than it would be to contribute towards off-site provision.</p> |
| <p>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].</p> <p>Please provide a free text response to explain your answer, using case study examples if possible.</p> | <p>Options:</p> <p>a) A set of principles established in regulations or policy. For infrastructure to be considered ‘integral’, it may be that a combination of principles must be met, which could include:</p> <p>i. Design: the mitigation relates to how the site is designed or interacts physically with the wider area</p> <p>ii. Liveability: the mitigation relates to the quality of the development itself</p> <p>iii. Beneficiaries: the mitigation is primarily for the benefit of those who inhabit the development or are directly impacted by the development</p> <p>iv. Predictability: it is clear to the developer that they will be required to make this kind of contribution</p> | <p>b) (A nationally set list of types of infrastructure that are either ‘integral’ or ‘Levy-funded’ set out in regulations or policy)</p> <p>Through having principles set in national regulations or policy it will ensure a clear line is set for the different types of infrastructure that is integral and levy-funded, especially when applications are received that are for cross boundary developments.</p> |

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| | <p>v. Individuality: it is required to mitigate an individual development, rather than the pooled impacts of multiple developments</p> <p>b) A nationally set list of types of infrastructure that are either ‘integral’ or ‘Levy-funded’ set out in regulations or policy. Such typologies can never be exhaustive but can deal with many common types of infrastructure. For instance, on-site green spaces and play areas and certain environmental mitigations might be set at a national level as integral infrastructure, which developers are expected to contribute.</p> <p>c) Principles and typologies are set locally. With reference to national policies and guidance, local authorities will be able to set out any specific items that they will be seeking as integral contributions, through their infrastructure delivery strategy.</p> | |
| <p>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]</p> <p>Please provide a free text response to explain your answer where necessary.</p> | <p>Currently the use of Section 106 Agreements can only be used to fund infrastructure provision, that mitigates the impact of the development. However, in the future it should also be used to an extent towards items such as architecture fees and design costings which will go</p> | <p>Yes.</p> <p>Where it is linked to the capital infrastructure provision and evidence of service provision can be provided.</p> |

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| | <p>towards the creation of the infrastructure (e.g. a new community centre).</p> <p>Under new section 204N(5), and via regulations, we will be able to allow local authorities funding for non-infrastructure matters, such as revenue funding for services. The Levy is, in essence, a one-off payment made in relation to a development, whereas revenue funding of services is an ongoing obligation. This means that the ongoing delivery of a service cannot be funded in the long-term by levy revenues from a specific development.</p> | <p>Service provision should not include staff costs (such as salaries). As once the money from the Levy has run out the service provided will have to be stopped and no longer be provided to the residents as a mitigation of the development impacts. If service provision is paid for using the Infrastructure Levy and includes staffing costs it should include a caveat to ensure that it is ring fenced to mean that the staffing that is funded relates to specific infrastructure delivery.</p> |
| <p>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].</p> <p>Should expectations be set through regulations or policy? Please provide a free text response to explain your answer where necessary.</p> | <p>Local authorities may wish to have flexibility to provide contributions towards service funding for local priorities.</p> | <p>Yes.</p> <p>Regulations and Policy.</p> <p>This will ensure that the effects of the development benefit those that are directly impacted by the development. It will help to mean that the development will balance the pressure of new development over the need of improvements to the surrounding area.</p> <p>Otherwise, there is the risk that the Infrastructure Levy contributions will be lost to the provision of other</p> |

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| | | Council services rather than the prioritisation of the delivery that is needed the most, including the delivery of affordable housing. |
| <p>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]</p> <p>Please provide a free text response to explain your answer where necessary.</p> | | The Council reserves a right to comment following the test and learn of the Levy as it is uncertain until the Levy is implemented if there is other non-infrastructure items the Levy should fund. |
| <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].</p> <p>Please provide a free text response to explain your answer, using case study examples if possible.</p> | <p>Government proposes creating three distinct routeways for securing developer contributions:</p> <ol style="list-style-type: none"> 1. The core Levy routeway 2. Infrastructure in-kind routeway 3. S106-only routeway <p>Government propose retaining negotiated s106 planning obligations for large and complex sites. For qualifying schemes, s106 obligations will be used as a tool to secure infrastructure and affordable housing as an in-kind contribution of the Levy.</p> <p>Infrastructure in-kind is where a developer delivers required infrastructure and LPA checks costs of delivery against what</p> | <p>Medium threshold or local authority discretion.</p> <p>At South Derbyshire District Council, we do not have developments that are over the 10,000 homes or above that is proposed for the high threshold level. On average our largest developments sites are 2,000 homes at a time but often a multiple of these sites located adjoining each other with separate agreements. They are often developed as large urban extensions. By having the infrastructure in kind set at the medium threshold or at local authority discretion it would enable the largest schemes that the District</p> |

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| | <p>would be received through the levy. The outcome should equal or exceeds levy amount – otherwise developer would need to ‘top up’ with cash).</p> <ul style="list-style-type: none"> a) A high threshold. A threshold for the very largest and most complex sites e.g new settlements of 10,000 homes and above, or complex urban regeneration sites with large scale redevelopment of existing buildings. This will mean that the greatest number of sites possible are subject to the core Levy routeway. b) A medium threshold. A threshold set lower to cover urban extensions e.g. between 2,000 and 4,000 units). c) A low threshold. A threshold set far lower (e.g. sites over 500 units). This will increase the associated levels of negotiation. d) Local authority discretion. Local authorities set their own qualifying threshold. <p>The lower the threshold the more complex it will be to secure contributions as these would not be done automatically through the Levy.</p> | <p>allocates through the Local Plan to benefit from the Infrastructure in Kind route for the delivery of key infrastructure the site requires such as a new school to mitigate the impacts of the site directly.</p> |

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| | Note as a Council we would set the Levy amount | |
| <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>Where it is not possible to secure integral infrastructure through planning conditions, it will be delivered through targeted planning obligations known as ‘Delivery Agreements’. Delivery Agreements will be a constrained, narrowly targeted S106 agreement to plug gaps that planning conditions cannot secure.</p> <p>A Delivery Agreement will have wider usage than securing on-site infrastructure, to cover all purposes of planning obligations and to support the proper mitigation of the effects of development on a site, where this would not be covered by the Levy.</p> <p>In limited circumstances, Delivery Agreements could also be used to request additional money outside of Levy liabilities. Any obligations contained in a Delivery Agreement will be subject to existing CIL Regulations (regulation 122) restrictions (i.e. necessary to make the development acceptable in planning terms, directly related to the development; and fairly and reasonably related in scale and kind to the development), and additional regulatory restrictions on use.</p> | <p>The Council reserves the right to comment further on the three routeways within a further consultation.</p> |

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| | <p>Delivery Agreements will not be a means to request additional contributions from developers towards 'Levy-funded' infrastructure.</p> | |
| <p>Chapter 2: Levy rates and minimum thresholds</p> | | |

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| <p>Question 9: Do you agree that the Levy should capture value uplift associated with permitted development rights that create new dwellings? [Yes].</p> <p>Are there some types of permitted development where no Levy should be charged? [Yes].</p> <p>Please provide a free text response to explain your answer where necessary.</p> | <p>Permitted development rights are a national grant of planning permission which allow certain building works and changes of use to be carried out without having to make a full planning application. Some permitted development rights allow for the creation of new homes, for example through the change of use or upward extension of certain existing buildings.</p> <p>Expanding the chargeable scope of developer contributions through the Levy to include these schemes will need to consider the balance between collecting more value and maintaining viability, especially given these conversions constitute brownfield development.</p> <p>It is proposed that the Levy will only be charged on the revenues that the developer receives from a development brought forward under permitted development rights when the value of the square</p> | <p>Yes and Yes.</p> <p>The Levy should capture value uplift associated with permitted development rights that create new dwellings and an increase of residential floorspace including change of use from non-residential to dwellings and the creation of additional floorspace as these can then help to provide contributions towards community and social infrastructure which arises as a result of the permitted development taking place.</p> <p>Permitted development where there is no gain in residential floor space should be excluded from the infrastructure levy.</p> |
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| | <p>footage of the scheme is over a certain threshold. In that way, permitted development schemes that do not create significant uplift in land value would come forward without a charge to the Levy, but those more likely to have a transformative effect on the area will be in scope of the Levy.</p> <p>The value threshold would be set nationally in Levy regulations. The government also proposes that a maximum Levy charge would be set for permitted development schemes to protect viability. Local authorities will then retain the ability to charge the Levy at that maximum amount, or at a lower rate, if they choose to do so.</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?</p> <p>Do you have views on an appropriate value threshold for qualifying permitted development?</p> | | <p>The Council reserves the right to comment at a later stage on an appropriate value threshold.</p> |

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| <p>Do you have views on an appropriate Levy rate 'ceiling' for such sites, and how that might be decided?</p> | | |
| <p>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? [No]. Please provide a free text response to explain your answer where necessary, using case studies if possible.</p> | <p>Local authorities will be able to set different rates for different areas and typologies of development, and offset existing floorspace, and the Levy will expand the type of development upon which contributions are sought.</p> <p>The government believes that this should allow local authorities to deal with substantial amounts of variability between types of development, support the Levy in capturing more than the existing system, while providing local authorities with flexibility and tools to preserve development viability on a variety of different sites.</p> | <p>No.</p> <p>The Council agrees that variability across different areas within the district should be accounted for through the different levels of Infrastructure Levy rate setting. This includes considering the different typologies of development that take place including major and minor, residential and non-residential development. It is agreed that this will allow for the ability to account for viability across different sites across the District.</p> |
| <p>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?</p> <ul style="list-style-type: none"> Charging the Levy on final sale GDV of a scheme [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] | <p>The final GDV will be the sales value of the scheme. Basing the charge on final sale GDV means liabilities will track price changes in the development market (both up and down).</p> <p>The usage of different Levy rates and minimum threshold</p> | <p>Charging the Levy on the final sale price would be strongly supported as build costs change over time, therefore it is likely that by charging on the final value of the scheme the amount the Council would be able to collect in Infrastructure Levy would be higher. In the unlikely</p> |

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| <ul style="list-style-type: none"> • 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] | <p>rates set by the local authority will allow for a variety of factors such as the different build cost of the various typologies and development uses.</p> <p>Stepped up Levy rates are proposed to allow for rates to be set at a lower rate initially and then for them to be stepped up to a higher rate over time.</p> | <p>hood that there are negative changes to the economy then there is the assurance that it is fairer those in the development sector.</p> <p>The minimum threshold will compromise the main (non-land) construction related development costs and the current value of the land in its existing use (Existing Use Value, Fees & Finance and Construction costs). The levy would be charged on top of this rate. However, for different development uses and typologies it is agreed to charge different rates to ensure that the best possible levels of contribution is achieved from a development whilst taking account of the viability levels that will arise from the development.</p> <p>The 'Stepped' up rates will ensure that the amount received through Section 106 agreements is starting point, then for viability to be accounted for as the Levy rate is increased over time. This is whilst taking account of the</p> |
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| | | Levy capturing more contribution than Section 106 agreements whilst still ensuring the balance is achieved between the capture of land value and also allowing development land to come forward. |
| Question 13: Please provide a free text response to explain your answers above where necessary. | The aim of the Infrastructure Levy is to maximise revenues for the Local Planning Authority whilst ensuring there is still viability within a local area to mean that development will still take place and be attractive to developers. | It is agreed that having different Levy rates and minimum thresholds is essential to ensure the development is able to take place. |
| 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. | <p>Table 3: Proposed process for calculating and paying the levy</p> <p>Payment Process: Indicative liability calculation</p> <p>Planning Stage: Submitted with the planning application.</p> <p>Detail: Charging schedules will include assumed values, such as average GDV per m2 for a site in an area/typology, as well as Levy rates and thresholds.</p> | There is concern raised by the Council over the timing of the payment. With regard to the issue that the payment is to be made post-completion of the development or once the development has sold. As although this reflects the market value of the development, it means that in order for the Local Authority to be able to fund any infrastructure to mitigate the impacts of the development then they will have to borrow against |

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| | | <p>existing cash flows or borrow out of the Public Works Loan Board.</p> <p>The borrowing is something that the District Council has been reluctant to do due to the possible implications that this might cause. Any borrowing rates would have to be at favourable rates for the Council and that the process of securing the payment from the developer would need to be guaranteed so as to not leave the Council out of pocket should any issues arise. There are also concerns regarding the ability to be able to ensure that a developer will pay the Levy if it is required at the end of the development and the method of enforcement taken to ensure that payment will be made needs to be strongly enforceable to ensure that the Levy is received by the Local Planning Authority. Currently the Section 106 contributions are collected at 40% occupation of the development, which ensures that the developer still has the cash flow to be able to pay the</p> |
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| | | <p>contributions from the sales of the houses at that point within the development, however it does not impact sites coming forward and have an impact on viability. Therefore, it means that the opportunity of mitigating the impacts of the development available early enough to ensure that all of the residents are having infrastructure delivered early within the timings of the delivery of the development.</p> |
| <p>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.</p> | | <p>Payment at a certain point of occupation, this would help to ensure that the infrastructure is still deliverable early for both the residents of the surrounding area and the new residents to ensure the impacts of the development is mitigated.</p> |
| <p>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</p> | <p>Once planning permission is granted, the Levy liability will be registered against the development site as a local land charge. The local land charge and any occupation restriction linked to the Levy will be removed from the development once payment to meet the provisional Levy liability has been made.</p> | <p>A local land charge is currently applied to Section 106 agreements and remain on the land registry in perpetuity for future purchasers of the land as it binds successors in title. As the provisional Levy is due at prior to the first occupation of the scheme, if the land charge is then removed there is nothing enforceable remaining on the</p> |

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| | <p>It has been argued that liable persons may be able to escape payment of the final adjustment amount. However, retaining the land charge will inhibit the sale of new homes before completion, reduce the incentive for the provisional liability to be paid prior to completion, and potentially risks that liability for the land charge is passed on to residents.</p> <p>The lead proposal is for the land charge to be linked to the discharge of a provisional payment. To protect against any failed payments due at the final adjustment payment stage, the Bill allows for a penalty fine to be charged for unfulfilled IL liabilities. The minimum value for that penalty is higher than the equivalent provision under CIL to deter developers from seeking to avoid paying total liabilities owed.</p> | <p>land title to ensure that the final adjustment is paid post completion of the development. The Levy should remain on the title in order to hold the developer accountable for the cost of the development through the Levy. It is something that can be removed once the scheme is completed.</p> |
| <p>Question 17: Will removal of the local land charge at the point the provisional Levy liability is paid prevent avoidance</p> | <p>Within the proposed Levelling up Bill, Section 204S(10) of</p> | <p>Strongly Disagree.</p> |

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| <p>of Infrastructure Levy payments? [Strongly Agree/Agree/Neutral/Disagree/ Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.</p> | <p>the Bill allows for a penalty charge to be paid against unfulfilled Infrastructure Levy liabilities that are due</p> | <p>It will be harder to make someone accountable for the payment of the final adjustment amount of the Infrastructure Levy which is needed for essential infrastructure if it is not enforceable against them as a local land charge. If the final adjustment payment is not paid at the completion of the development, then the provisions within the Levelling Up Bill allow for a penalty fine to be issued to the landowner. However, any penalty process that takes place needs to ensure that the Council are not left out of pocket for costs that might occur.</p> |
| <p>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.</p> | | <p>Strongly Agree.</p> <p>The Council strongly agrees that payment of the Levy should be required prior to site completion to ensure that the infrastructure to mitigate the effects of the development is delivered in a timely manner for the benefit of the residents of the district. In particular the area most impacted by the development. This will help to ensure that the infrastructure can be delivered in</p> |

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| | | an efficient manner as the delivery of the site progresses. |
| 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, if it is a contribution towards a major off-site infrastructure project such as a new road network or school. |
| 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. | | Yes. |
| 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. | | Strongly Disagree. Borrowing against the Public Works Loan Board will not be a good manner to ensure that there is timely delivery of infrastructure is not advisable as there is the possibility that the amount provisionally planned to be received through the final adjustment payment is in fact lower due to changing market circumstances therefore the local authority will have to return an overpayment to the developer. This means that the Council will have to find the extra money for |

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| | | <p>this overpayment return as the PWLB money will have been spent on the capital project.</p> |
| <p>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.</p> | | <p>Strongly agree.</p> <p>The provision of infrastructure is vital in ensuring that a development is well designed into being a good environment for residents to live in the future. Therefore, it is essential that they have the key infrastructure in place for them to have a good quality of life to start with. This includes street lighting and adequate highway provision. The ability for the Council to request where required the infrastructure payments upfront in order to help bring forward key strategic items such as a school or doctor's surgery in a timely manner as part of a strategic development across multiple developments is essential.</p> |
| <p>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.</p> | | <p>Yes. It should be ensured that there are appropriate enforcement mechanisms in place against the new Infrastructure Levy.</p> |

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| <p>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.</p> | <p>The Infrastructure Delivery Strategy (IDS) sets out an understanding of the infrastructure that is required to support the development proposed by the Local plan, how this will be funded and the local authority's approach to prioritising Levy funds.</p> <p>The aim is to improve transparency over how developer contributions are spent to support the local area, and to provide relevant bodies with a significant say on the distribution of Levy receipts. This includes Affordable Housing, by making it clear what proportion of the Levy value local authorities will require as in-kind affordable housing, through the 'right to require'.</p> | <p>Yes, it is agreed that the strategic spending plan should be included in the Infrastructure Delivery Strategy. This will help to make it clear to residents, Councillors and developers what the spending priorities are and what will delivered over the course of the plan period. It is good that it will be independently tested at examination as this will ensure that it is tested in combination with the Local Plan and the charging schedule independently. However there needs to be allowances made for the IDS to have some flexibility for when there is change in circumstances either by the Council or by external infrastructure partners that might alter the spending priorities that would be set out in the IDS.</p> |
| <p>Question 25: In the context of a streamlined document, what information do you consider is required for a local authority to identify infrastructure needs?</p> | <p>It is proposed that the IDS would be split into three parts</p> <ol style="list-style-type: none"> 1) Baseline 2) Approach to funding 3) Spending plan <p>The document would set out the proposed infrastructure</p> | <p>It is considered that it is required for a local authority to have full information on the current infrastructure demands from the providers and what ideally, they would need to overcome these demands.</p> |

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| | <p>required , the current levels of provision in the area and the approach that would be taken to funding the infrastructure that is required</p> | <p>This will then help create the evidence for the LPA to have prioritisation choices over which infrastructure they choose to deliver over the course of the Local Plan period to support the delivery of housing and mitigate the potential impacts.</p> |
| <p>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.</p> | | <p>Community Consultation is key for the delivery of understanding the views of the residents to sit alongside any evidence base information that is gathered to ensure that the delivery of the correct infrastructure is prioritised for the needs of those who live in the area affected by the delivery of new developments.</p> |
| <p>Question 27: Do you agree that a spending plan in the Infrastructure Delivery Strategy should include:</p> <ul style="list-style-type: none"> • 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 | <p>Integral Infrastructure is those items of infrastructure that the developer will still be required to be deliver on site. Whilst ‘integral’ infrastructure will mitigate the impact of the development to an extent, it will not contribute to mitigating the cumulative impact of the site in the area. Examples of this include drainage,</p> | <p>It is agreed that all of the above should be included within the spending plan. This will ensure that full transparency is provided, and awareness is available to all regarding all these matters within the Infrastructure Delivery Strategy.</p> <p>This will help to make the expectations clear to developers what is expected for them to</p> |

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| <ul style="list-style-type: none"> • Proportion for administration • The anticipated borrowing that will be required to deliver infrastructure • Other – please explain your answer • All of the above | <p>highways and play area requirements.</p> <p>The Affordable Housing Mix will set out the proportion of the Levy that the LPA intends to secure through the ‘right to require’ as a standard approach, including the tenure mix of these homes, as well as whether that authority intends to take a ‘grant pot’ approach to securing affordable homes. This should align with the requirements for affordable housing set out in the local plan and its evidence base. This will be subject to further policy development to minimise risk of duplication.</p> <p>The neighbourhood share will be a reflection of national requirements a percentage of proceeds of the IL that will be allocated for spending by individual neighbourhoods.</p> | <p>provide when they are putting in a planning application for development within the district.</p> |
| <p>Question 28: How can we make sure that infrastructure providers such as county councils can effectively influence the identification of Levy priorities?</p> | <p>Clause 93 in the Levelling up Bill requires prescribed public bodies to assist the authority in relation to the preparation or revision of the relevant plan,</p> | <p>All of the above should be given to help support infrastructure providers – however, please include providers such as the NHS as they are vital for the</p> |

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| <ul style="list-style-type: none"> • 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 | <p>which includes the elements of the plan which support the Infrastructure Delivery Strategy. This includes relevant parts of the evidence base that the prescribed body will have more specialism on than the local authority.</p> | <p>delivery of infrastructure (such as GP surgeries) and often are forgotten about and delivery of their infrastructure is the hardest to do.</p> <p>This will help to ensure that all those who currently receive or might in the future need contributions from developers are engaging with the District Council effectively as the charging authority and that the infrastructure is needs are fully understood across the local plan period.</p> <p>The Council would welcome any clear guidance to local authorities on the prioritisation of funding, is key to the delivery of the funding through the Infrastructure Levy using the IDS. This would help assist our understanding to help target our resources and knowledge. The Council reserves the right to comment on this at further consultation stages.</p> |
| <p>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</p> | | <p>Agreed it is possible to identify infrastructure requirements at Local Plan stage, through the identification of the large</p> |

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| <p>Disagree/Unsure] Please provide a free text response to explain your answer where necessary.</p> | | <p>infrastructure requirements that are proposed. It is not possible to necessary agreed the finesse details of the infrastructure for over the 15 year (at minimum) Local Plan period.</p> |
| <p>Chapter 5 – Delivering affordable housing</p> | | |
| <p>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.</p> | <p>On-site affordable housing will be delivered predominantly as an in-kind payment of the Levy through a new ‘right to require’. This will see a percentage of the Levy value delivered in-kind by developers as on-site affordable housing, protecting it from the pressure of other spending priorities. The ‘right to require’ will operate on residential development.</p> <p>This can be used to secure affordable tenures such as Social Rent homes, Affordable Rent homes, Shared Ownership homes, and First Homes. The Levy has been designed to be adaptable to any potential policy changes around affordable housing tenure types in the future.</p> | <p>The ‘right to require’ will be sought as a proportion of the Levy, that must be delivered in-kind as on-site affordable dwellings by the developer.</p> <p>The amount will be expressed as a percentage of the proportion of the Levy the Local Authority will seek in on-site affordable homes and then a proportion in cash.</p> <p>The District Council will express the ‘right to require’ as a percentage, to set an expectation to all as to what proportion of the Levy they will seek in cash, and what proportion as in-kind onsite affordable homes. This will be set out clear for all to have awareness of what the Council is asking for of the Levy. This will be outlined within the charging schedule and the IDS , ensuring</p> |

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| | <p>The key principle underpinning this design is that under the 'right to require' there will be limited scope or incentive for developers to provide less affordable housing on viability grounds, or to provide affordable housing of one tenure type over another. That is because, as the Levy liability is fixed, the full amount will have to be discharged whether the Levy liability is met via cash or through a combination of cash and an in-kind contribution of affordable homes.</p> | <p>that the Council is remaining fully transparent for all.</p> <p>The overall Levy amount is linked to the GDV, therefore if the overall value of the scheme reduces from the amount calculated at the indicative liability calculation stage when the planning application was received the amount in the Levy is reduced, at this point it is anticipated that the value of the discount given</p> <p>However, if the GDV is higher than anticipated the apportionment of affordable homes is fixed in line with the increase of GDV. The Council would need confirmation the uplift would be paid in a cash value from the developer (or land owner) and would be enforceable as it would be post completion of the development.</p> |
| <p>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]</p> | <p>The government's position is that schemes comprised entirely of affordable housing will not be charged to the Levy. The government is supportive of schemes coming</p> | <p>Although the viability margins within a 100% affordable housing scheme need to be considered it is essential that local authorities still charge an Infrastructure Levy rate on these</p> |

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| <p>Please provide a free text response to explain your answer where necessary</p> | <p>forward with a high proportion of affordable housing and is seeking for the Levy to accommodate them appropriately.</p> | <p>schemes to ensure that the impacts of these developments are fully mitigated. South Derbyshire District Council considers that to be the case, this can be seen in Oak Close (DMPA/2019/1176) application that was refused at planning committee as the development was considered to be unsustainable due to the infrastructure and service requirements not being provided through developer contributions contrary to policy.</p> |
| <p>Question 32: How much infrastructure is normally delivered alongside registered provider-led schemes in the existing system? Please provide examples.</p> | <p>If a scheme is exempt from paying the Levy in cash on the basis of the affordable housing it provides onsite, the developer will still be required to deliver ‘integral’ infrastructure. Whilst ‘integral’ infrastructure will mitigate the impact of the development to an extent, it will not contribute to mitigating the cumulative impact of the site in the area.</p> | <p>There has been three S106 agreements have been provided over the last two monitoring years. However, these have not provided the full amount of infrastructure through developer contributions as required through the developer contributions SPD.</p> <p>DMPA/2019/1176 – Oak Close</p> <p>DMPA/2019/1415 – Court Street, Woodville</p> <p>DMPA/2021/0627 – Henshall Drive, Chellaston</p> |

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| <p>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.</p> | | <p>The Council considers yes there should be an upper limit of where the ‘right to require’, as this would be contrary to our Affordable Housing policy set out within our Affordable Housing SPD. This is where the Council will not support housing in clusters of no more than 10 dwellings with the exception of 100% schemes. The limit should therefore be imposed to ensure that clustering is not faced unless it is known from the planning application stage that the scheme is going 100% affordable housing development.</p> <p>By also having a upper limit cap on ‘right to require’ it also ensures that there is the cash available to provide for the other infrastructure essential to the development .</p> |
| <p>Chapter 6 – Other areas</p> | | |
| <p>Question 34: Are you content that the Neighbourhood Share should be retained under the Infrastructure Levy? [Yes/No/Unsure?]</p> | <p>Currently 25% of total CIL receipts can be allocated to parished areas with a Neighbourhood Plan in place and 15% of CIL receipts can be allocated where a NDP has not been “made”. Under the</p> | <p>The Council agrees that the Neighbourhood Share should be retained under the Infrastructure Levy. As this helps to ensure development within a specific area affected by the</p> |

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| | <p>new Levy, this will be a smaller share in percentage terms than the Neighbourhood Share as it exists under CIL. That is because the Infrastructure Levy will capture value that is currently captured through both CIL and s106.</p> | <p>development on the parish infrastructure spending priorities.</p> |
| <p>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</p> | | <p>The Council reserves a right to comment as currently the Council currently operates under a Section 106 system therefore has no experience of CIL Neighbourhood Share and the amount of funding this generates.</p> |
| <p>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?</p> | | <p>The Council believes that there should be flexibility to ensure that the appropriate body as designated by the Council should be entitled to the neighbourhood share. This might vary from area to area but could include South Derbyshire Community Voluntary Support or other appropriate community organisations who operate in areas where there is no Parish Council (or no active Parish Council).</p> |
| <p>Question 37: Should the administrative portion for the new Levy A) reflect the 5% level which exists under CIL B) be</p> | | <p>The administrative portion for the new Levy should be b) be</p> |

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| <p>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.</p> | | <p>higher than this equivalent amount due to the increase resource pressure faced upon the Council, which includes the resourcing implications on current staff who work upon Section 106 agreements and the further implications this will have them due to the lack current knowledge that is faced within planning departments for valuation and the charging of contributions</p> |
| <p>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:</p> <ul style="list-style-type: none"> residential annexes and extensions; [Strongly Agree/Agree/ Neutral/Disagree/Strongly Disagree] self-build housing; [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree] <p>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?</p> | <p>DLHUC at present have several existing exemptions to CIL. We have replicated the existing CIL charitable relief exemption (contained in section 210 of the Planning Act 2008), at section 204F in the Bill; and new sections 204D(5)(h) and 204G also provides powers for further exemptions or reduced rates to be set out in regulations. The government could therefore, via regulations, set out other national exemptions or reduced rates for the Levy.</p> | <p>The Council agrees that for residential annexes and extensions should continue to be maintain the exemption from the Infrastructure Levy as they do not normally result in an increase in the Council's housing stock.</p> <p>The Council disagrees that self-build housing should be exempt from the Infrastructure Levy as they are still class as a increase in the housing provision across the District.</p> |
| <p>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?</p> | | <p>The Council reserves a right to comment at a later date/</p> |

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| <p>[Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.</p> | | |
| <p>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.</p> | <p>At present the approach to small sites, is that they shall only be sought on sites above 11 dwellings and 15 dwellings or more in terms of affordable housing for Section 106 contributions. This helps maintain the incentive for SMEs to develop such sites, whilst making sure CIL contributions can still be sought on these sites and keeping them viable.</p> <p>In rural areas, Local Authorities</p> | <p>It is proposed that to help maintain the incentive for SMEs to develop small sites there will be reduced Levy rates charged on small sites. This is something that is agreed with by the Council in order to ensure that development is still brought forward on a variety of developments whilst maintaining the diversity in developers that do so.</p> |
| <p>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.</p> | | <p>The Council anticipates this poses the risk that if the development takes a long time to construct then there will be an increase financial risk if there is a sudden change in the economic circumstances for the developer.</p> |
| <p>Question 42: Are there any other forms of infrastructure that should be exempted from the Levy through regulations?</p> | <p>It is the government's position that government or publicly funded infrastructure be exempt from the Levy through regulations, to create a</p> | <p>No. The Council believes that all infrastructure where needed should mitigated with developer contributions where appropriate.</p> |

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| | <p>consistent approach across local authorities, given these types of projects can often be cross-boundary. Section 106 agreements may need to continue to be used alongside the exemption to ensure site specific mitigation is provided.</p> | |
| <p>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.</p> | <p>The issuance of Stop Notices will be permitted to prevent development commencing when no assumption of Infrastructure Levy liability is in place. We will also impose restrictions on occupation unless and until the provisional Levy liability is paid for a development or phase of development.</p> <p>Failure to pay Infrastructure Levy liabilities will be met with financial penalties.</p> | <p>Stop notices are a good deterrent to ensure that development will not commence until the Infrastructure Levy liability assumed.</p> <p>However, restrictions on occupations many Councils does not have the resourcing to ensure that this is complied with as the enforcement teams have a heavy workload and are continually busy.</p> <p>The Council will issue financial penalties however strict guidance and legislation needs to be in place to stop developers taking avoidance to the financial penalties that are issued upon them and any interest that might occur.</p> |
| <p>Chapter 7 – Introducing the Levy</p> | | |

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| <p>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</p> | <p>The proposed ‘test and learn’ rollout will see the Levy introduced in a representative of local authorities prior to a nationwide rollout across England. It is envisaged that it will encompass a range of LPA and capture a variety of planning and development settings across the country.</p> | <p>The District Council agrees that this will help to deliver an effective system as it will help highlight any issues that might arise with the proposals before they are rolled out nationally. However it will be required that all local authorities will need support from DLUHC to ensure that the transition from the current system of both Section 106 and CIL to Infrastructure Levy is managed effectively with the limited resources that authorities currently have for managing Section 106 and CIL.</p> |
| <p>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.</p> | | <p>No.</p> |