

Central London Forward response - Technical Consultation on the Infrastructure Levy

Are you replying as an individual or submitting a response on behalf of an organisation?

- Individual
- Developer
- Planning consultancy
- Construction company/housebuilder
- Housing Associations
- Local Planning Authority (CIL charging)
- Local Planning Authority (non-CIL charging)
- County Council
- Town Council
- Parish Council
- Statutory consultee
- Professional organisation
- Lawyer
- Architect
- Charity or Voluntary Organisation
- Community Group, including resident's associations
- Other

If applicable, what is the name of your organisation?

Central London Forward

1. 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:

	Yes	No	Unsure
a) Developments of less than 100 square metres (unless this consists of one or more dwellings and does not meet the self-build criteria)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Buildings which people do not normally go into	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant of machinery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

d) Structures which are not buildings, such as pylons and wind turbines	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Please explain your answer where necessary.

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

- Yes
- No
- Unsure

Please explain

Yes. Developers should continue to be required to provide such infrastructure to make a development acceptable in planning terms, as under the current system.

Question 3: What should be the approach for setting the distinction between 'integral' and 'Levy-funded' infrastructure (Options a), b), or c) above, or a combination of these)? Please provide a free text response to explain your answer, using case study examples if possible.

- Option a)
- Option b)
- Option c)
- A combination

Please explain

We would support a combination of these options. Some direction from government set out in regulations or policy, whether principles or a list of types of infrastructure which are integral, or levy funded, would provide some direction. This should be accompanied by a local element, which recognises differences in local areas and variances in what infrastructure is required locally, with space for local areas to be able to set some principles and typologies.

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

- Yes
- No
- Unsure

Please explain

Local authorities should have flexibility to use Infrastructure Levy (IL) receipts to fund affordable housing, and the additional infrastructure – including social infrastructure – that they deem necessary to enable and serve new developments.

However, after a long squeeze on local authority funding, the Infrastructure Levy must not be seen as a mechanism for funding core local government services.

Local government has seen amongst the largest reductions in funding of any part of the public sector over the last decade. Local authorities in London have been particularly hard hit, seeing a larger decline in both funding and spending per capita than in any other region ([IFS, 2019](#)). Continued funding cuts have resulted in the considerable reduction of local technical planning and architecture teams.

If government was to allow significant flexibility on how IL funds are used and continue to under-fund local government, local authorities in central London and elsewhere would be faced with the choice of using funds to deliver the affordable housing and infrastructure that we need, or using funds to cover growing service budget pressures. This would put both affordable housing and infrastructure delivery at risk.

Central London local authorities are concerned that the IL is perceived as the solution to the very real and long-term challenge of inadequate and unsustainable funding for local government. IL receipts and revenue cannot be expected to replace nor top up core government funding in order to fund service provision. The IL should be considered as developer contributions have, and be able to fund social and core infrastructure which local authorities deem essential for new development.

Government must provide a fair and sustainable long-term funding settlement for local government, so that local authorities are able to deliver essential services, and to meet the needs of residents, communities and businesses. The IL cannot act as a replacement for this funding.

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? Should expectations be set through regulations or policy? Please provide a free text response to explain your answer where necessary.

- Yes
- No
- Unsure

- Regulations
- Policy

Please explain

Question 6: Are there other non-infrastructure items not mentioned in this document that this element of the Levy funds could be spent on? Please provide a free text response to explain your answer where necessary.

- Yes
- No
- Unsure

Please explain

Central London local authorities would support the levy being used to fund skills and employment opportunities. Local authorities regularly use S106 agreements to ensure local residents are able to benefit from employment and training opportunities as a result of development taking place locally. Common obligations for developers include hiring apprentices, requiring a percentage of workers to be local residents, or for developers to fund local skills and employment initiatives.

Over the years, central London councils have been able to use S106 contributions to undertake significant community value projects, not all of which are linked to capital projects. For example:

- The London Borough of Haringey had 30 sites which were obligated to have 20% of their peak workforce be Haringey residents, and provide 1 apprenticeship per £1 million of development cost.
- In Camden, S106 spend on local employment initiatives such as King's Cross Recruit and King's Cross Construction Skills helped in 2018/19 to support 228 local people into apprenticeships, and a further 128 local people into construction jobs.
- The Elephant Park development in Southwark employed over 1500 local people, and a Construction Skills Centre established jointly by developer's Lendlease and Southwark trained over 2000 people per year. Southwark require one new apprentice or in-work NVQ per each 2000sqm on developments 5000sqm or more.
- Since Lambeth's adoption of their new Employment and Skills SPD in 2018, Lambeth residents have secured 403 job starts, 44 apprenticeships, and 80 work placements on Lambeth development sites. Their S106 employment and skills commitments have facilitated strong connections with schools, providing essential careers advice and routes into construction opportunities.

Ten out of twelve central London local authorities utilise S106 funding to fund their local employment services, which is an increase from 2021/22. Local employment services offer essential support to residents including funding support to access funds and benefits, in-work support, careers advice and employment advisors.

The use of Section 106 as a tool for contributing to skills and employment is invaluable and helps local authorities harness the social value of new developments. Enabling continued use of developer contributions to secure such opportunities is important to ensuring that local residents benefit from developments happening in their local area.

Question 7: Do you have a favoured approach for setting the 'infrastructure in-kind' threshold? Please provide a free text response to explain your answer, using case study examples if possible.

- High threshold
- Medium threshold
- Low threshold
- Local authority discretion
- None of the above

Please explain

Local authorities should have the flexibility to set a qualifying threshold to what is appropriate and proportionate to their area, and this will vary considerably across the country, so should be locally determined.

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.

The government's ambition to mostly do away with lengthy developer and planning authority negotiations is recognised. However the proposed system of three routeways, with differing levels of S106 usage, necessitates some level of negotiation, and brings additional complexity to the system, going against the government's overarching aims to create a simpler and streamlined system.

Whilst local authorities welcome retaining use of S106 and the flexibility that S106 agreements provide, this dual-system approach replicates the similar approach in the current system whereby planning authorities utilise CIL and S106 alongside one another, determining which is more appropriate for certain developments, and negotiating with developers to achieve the best outcome.

Further clarity is needed on the role of delivery agreements and how these differ from S106 agreements. Introducing a second form of agreement into the system adds complexity and additional administrative burden on local planning teams.

Enabling a financial contribution to be secured through a delivery agreement and deducted from the final IL liability would provide some level of certainty in terms of revenue for local authorities. However, this makes it difficult to distinguish delivery agreements and the core levy routeway from the current system.

Question 9: Do you agree that the Levy should capture value uplift associated with permitted development rights that create new dwellings? Are there some types of permitted development where no Levy should be charged? Please provide a free text response to explain your answer where necessary. Should the Levy capture value uplift associated with permitted development rights that create new dwellings? (Required)

- Yes
- No
- Unsure

Are there types of permitted development where no Levy should be charged? (Required)

- Yes
- No
- Unsure

Please explain

Central London local authorities are opposed to Permitted Development Rights (PDR) to create new dwellings. This approach to change of use undermines local plan-making, it can lead to the loss of important commercial space, it contributes little to the affordable housing that we need, and it can lead to the creation of poor quality homes.

However, if the government is intent on retaining this form of change of use, the scope of the Infrastructure Levy should capture changes of use developments through permitted

development rights including to create new dwellings. These developments are currently captured under CIL in certain circumstances, so it is right that this be captured under the IL to both ensure these developments continue to contribute to the need for local core and social infrastructure.

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?

Views on the proposal to capture PDR schemes

Central London local authorities support inclusion of schemes brought forward through permitted development rights within the scope of the levy.

Views on an appropriate PDR value threshold

Views on an appropriate Levy rate 'ceiling'

Question 11: Is there a case for additional offsets from the Levy to facilitate marginal brownfield development coming forward? Please provide a free text response to explain your answer where necessary, using case studies if possible.

- Yes
- No
- Unsure

Please explain

We echo the concerns highlighted in the consultation document with regards to brownfield sites and viability. Delivering developments on brownfield land is not straightforward, and viability is a common issue.

The current S106 process has built in flexibility in order to provide viability analysis to accompany planning applications which enables consideration of regeneration benefits of delivering the brownfield site. Ensuring this flexibility going forward through any reform is essential.

The consultation document allows for some variability in terms of setting rates for different types of development. If the Infrastructure Levy is to reform the current process then it needs to enable a case-by-case approach whereby the positive outcomes of a redevelopment in terms of environmental quality, property values in the local area, and concentration of direct and indirect investment, can be realised.

Government should work with local government to ensure sufficient flexibility is retained in any planned reforms, to ensure that the developer contributions system works for planning authorities and for all types of developments. Without this, there is a risk that some brownfield sites may not create sufficient value to incentivise their redevelopment.

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?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	Unsure
Charging the Levy on final sale GDV of a scheme	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
The use of different Levy rates and minimum thresholds on different development uses and typologies	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ability for local authorities to set 'stepped' Levy rates	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Separate Levy rates for thresholds for existing floorspace that is subject to change of use, and floorspace that is demolished and replaced	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Central London local authorities highlight several issues with the proposed Infrastructure Levy in terms of collecting more revenue and its effect on viability.

Movement from a system whereby development costs are fixed and calculable at the start of a project to a system where development costs are based on recovering a percentage of a development's GDV, above a minimum threshold, is a significant shift. Under the current system, developments provide the infrastructure necessary to make a development acceptable in planning terms whether in-kind or in cash. This has been calculated as a development cost, not a share of GDV. Development costs are fixed and calculable at the start of a project whereas GDV is not, it is highly market dependent. And this places greater risk on both local authorities and developers.

Whilst there is potential to raise more revenue from the IL approach compared to the existing CIL and S106 methods, whether this can be realised and what can be raised in practice compared with the existing S106 and CIL system depends critically on the minimum threshold and the attitude of lenders; factors which themselves are highly market dependent.

The minimum threshold is based on the cost of development in a particular location and the value of land being developed in its existing use, both of which are highly market sensitive and exposed to volatility. If the minimum threshold is not sufficiently responsive, then it is

possible this will not have an impact on the necessity for site specific viability assessments ([Irwin Mitchell, 2023](#)).

Consideration needs to be given to how developers and landowners will respond and behave under the new system, and the price at which landowners will sell under the new arrangements, as these factors could all affect viability ([RTPI, 2023](#)).

Navigating these uncertainties and variables will create greater administrative burden on local authorities.

We welcome recognition in the consultation document that removing site specific negotiations and replacing this with a single mechanism to secure value, could lead to the IL charging schedule examinations becoming much more challenging than existing CIL examinations, and that disputes which currently occur in the s106 viability system will be imported into the Levy.

We also welcome reassurance that government intends to ensure that proposed rates will not be argued down to lowest common denominator rates. Development viability, property prices, and land costs differ within local areas and across different types of development. Fixing a rate and threshold across a whole local authority area risks it being set at a 'lowest common denominator' level for fear of making certain sites unviable.

Local authorities must be provided flexibility to set multiple rates and threshold levels, and negotiations do form a part of this. This includes agreeing areas and sites that see the potential for the largest uplifts in land value, particularly greenfield sites, would see rates that ensured they are contributing the most. While brownfield sites, which may have high remediation costs, are not discouraged ([Place North West, Nexus Planning and BXB Land Solutions, 2023](#)). We understand government's intention to achieve a simpler and more streamlined system, but this should not come at the cost of viability of developments.

Reviews of local authority charging schedules should be limited. We understand why it may be necessary to ensure that charging schedules are kept up to date, but the timescales should be for local determination, and reviews by the Secretary of State should be in only when necessary. It is important to provide a benchmark against the current CIL system in order to assess the infrastructure levy against current arrangements.

Question 14: Do you agree that the process outlined in Table 3 is an effective way of calculating and paying the Levy? Please provide a free text response to explain your answer where necessary.

- Yes
- No
- Unsure

Please explain

We recognise the government's aim of basing the levy on GDV at completion in order to reflect market conditions, remove the need for obligations to be renegotiated if the GDV is lower than expected and allow local authorities to share in the uplift if GDV is higher than anticipated.

However, the IL represents a fundamental shift in the process by which developer contributions would be sought and managed. We are concerned that application of the levy at or near to completion of a development will place an increased burden on local

authorities. The mitigation that government has put forward by way of local authorities being able to take out loans against future IL receipts is significantly different to the present system where CIL and most S106 monies are paid on the initiation of the development, and it provides inadequate protection.

We recognise the current system of timing of CIL on commencement can be a challenge for small and medium sized developers in terms of cash flow. However, central London local authorities do not believe this warrants a wholesale change in timing of the levy to completion which will then apply to all developments.

By shifting to a system where local authorities must take out loans to mitigate the impact of the development, councils will be forced to take on unnecessary financial risk. Threats of financial risk to the local authority include delays to the development, and lack of confidence about the exact value of receipts.

The sequencing of infrastructure is crucial, and the infrastructure needed to accommodate developments would not be in place when needed, instead dependent on confirmation of development value and IL receipts.

If local authorities wanted to deliver the infrastructure necessary up front, so that it is in place when needed, they would need to borrow against future IL receipts. The value of these receipts would be uncertain, and they may also need to repay the value of receipts if the development value is lower than expected.

Alternatively, if local authorities wanted to wait until the value of receipts was confirmed before delivering the new health facilities, schools and nurseries, or public transport required to accommodate new development, they may face greater opposition from residents to developments. There would also be greater disruption and strain on existing local services should the infrastructure needed for a new development be pushed back, for the local authority to have confirmation of IL receipts. These challenges would be exacerbated when attempting to deliver large scale sites.

The proposed arrangements effectively transfer risk from developers to local authorities, who have already experienced a significant squeeze on resourcing.

Local authorities are keen to provide this necessary infrastructure early on to reassure residents that there will not be a lengthy transition phase whereby the provision of infrastructure lags behind developments and results in additional pressure on existing resources. The sequencing of infrastructure is really important ([Baroness Taylor of Stevenage, 2023](#)). Residents' concerns about development as well as any environmental impacts are concentrated around the pressure that these put on services and facilities that meet local and strategic needs and contribute towards a good quality of life, such as health provision, education, community, play, youth services, recreation, sports, faith and emergency services facilities ([Baroness Taylor of Stevenage, 2023](#)).

Whilst government intends to use the 'test and learn' stage to assist with mitigations, the burden on councils to determine value of a property is a significant additional resource which cannot be ignored. The impacts on viability will be considerable and complex for planning teams to navigate internally, likely requiring substantial external consultancy which will be very costly.

Central London local authorities have been delivering CIL and S106 for a considerable amount of time, and whilst the system is not perfect, it has been working well in the capital. This new system risks losing trust of Planning Committee members as many elements of infrastructure delivery will be unknown at the time of committee stage approval for

developments including the sale price, valuation estimation, and potentially timing of infrastructure delivery.

We recommend government revisit this schedule of payment so as to reduce the risk on local authorities. We recommend instead central government work with local authorities on improving the existing system.

Question 15: Is there an alternative payment mechanism that would be more suitable for the Infrastructure Levy? Please provide a free text response to explain your answer where necessary.

- Yes
- No
- Unsure

Please explain

We understand that the current system whereby CIL is paid upon commencement of a development can be challenging for some developers, particularly small and medium sized developers in terms of cash flow.

However, for local authorities, certainty is crucial. We would encourage government to work with local authorities on the payment schedule to determine the most appropriate approach and time for payment. Enabling levy payments earlier in the process, or upfront will enable infrastructure necessary for a development to be in place, and protect local authorities from financial risk and non-payment. For example, government could explore a hybrid approach whereby a portion of payment is payable on commencement and a portion of payment is payable at completion, based on the final GDV per sqm.

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

- Yes
- No
- Unsure

Please explain

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

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree
- Unsure

Please explain

Question 18: To what extent do you agree that a local authority should be able to require that payment of the Levy (or a proportion of the Levy liability) is made prior to site completion? Please explain your answer.

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree
- Unsure

Please explain

We are concerned that application of the levy at or near to completion of a development will place an increased burden and risk on local authorities. Although timing of the IL is intended to support developer cashflow and allow local authorities to capture greater land value, this places unnecessary financial risk on local authorities.

Should a development prove more valuable than anticipated, the Levy will capture a fair share of the additional value for local authorities and communities. Where a development is worth less than expected, developers will contribute less, but without the need to renegotiate their obligations.

This is the potential to cause significant uncertainty for local authorities and their budgets. Councils will likely have to hold back funds in case of lower levy receipts, particularly for larger sites, which could leave substantial holes in local authority budgets should developments not be forthcoming, or in the event of non-payment.

Local authorities should have the flexibility to require levy payments, or a proportion of the levy liability, at or near commencement, or at least prior to a scheme being completed. Local authorities need certainty of payment in order to proceed with local infrastructure in a timely manner, and to be protected from a developer defaulting. Further, local authorities should be protected from borrowing to mitigate the impact of a development, at a time of high borrowing rates, causing unnecessary financial risk.

Under current systems there are often delays in the delivery of infrastructure and remediation and failures to deliver the affordable housing needed in an area, and it takes a long time to negotiate and renegotiate the terms of CIL or S106 ([Lord Shipley, 2023](#)). Enabling payment of the IL, or a proportion of the IL, earlier in the process has the potential to speed up development, concentrate the minds of the developers, bring clarity to the contractual status of the infrastructure levy, and have a positive impact on the development process ([Lord Shipley, 2023](#)).

We therefore agree that local authorities should be able to require payment of the Levy, or a proportion of the Levy liability, prior to site 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.

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

- Yes
- No
- Unsure

Please explain

We welcome the acknowledgement from government that charging a Levy on GDV is a significant change from the current system. We also welcome mention in the proposal that valuations creates additional administrative burden on local authorities.

Whilst government intends to use the 'test and learn' process to assist with mitigations, determining the value of a property will require significant additional resource for councils. Impacts on viability will be considerable and complex for planning teams to navigate internally, likely requiring substantial external consultancy which will be very costly.

If valuations of GDV are to be retained in the IL system, we urge government to work with local authorities to make this as least burdensome as possible.

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

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree
- Unsure

Please explain

The mitigation that government has put forward by way of local authorities being able to take out loans against future IL receipts is significantly different to the present system where CIL and most S106 monies are paid on the initiation of a development. In our view, this does not provide sufficient protection for councils from financial risk.

By shifting to a system where local authorities must take out loans to deliver infrastructure, councils will be forced to take on unnecessary financial risk. Threats of financial risk to the local authority include delays to the development, uncertainty over the exact value of receipts, and potentially being left with a deficit if the value of receipts is lower than expected.

We are concerned that there could be instances where levy payments that councils have borrowed against are not forthcoming. This would then lead to councils holding back proportions of funds in the event of lower levy receipts, or receipts that are not forthcoming, leaving substantial holes in budgets. The proposed arrangements effectively transfer risk from developers to councils, which are already under significant financial strain as a result of cuts to funding and increased demand.

Government should explore different approaches that would provide sufficient certainty for local authorities without reliance on borrowing. The approach in the proposal of allowing financial contribution secured through a delivery agreement with the amount being offset against the total levy liability owed does introduce some flexibility. However, as this appears

to be similar to S106 agreements, introducing another type of developer negotiation agreements adds complexity to the system.

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

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree
- Unsure

Please explain

Central London local authorities are concerned that the timing of levy payments will have negative knock-on effects on delivering infrastructure required for new developments when it is needed. There is a risk that the infrastructure required to accommodate developments, such as new health centres, schools and nurseries, or public transport, would not be in place when needed. The sequencing of infrastructure is crucial and if this isn't timed correctly, this could lead to increased opposition to developments from local residents.

Flexibility in the charging schedule, including enabling specified upfront payments for infrastructure earlier in the levy process would provide some certainty for councils, enable upfront funding for infrastructure, and facilitate proper sequencing of development and infrastructure so as to reassure both residents and planning committees.

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

- Yes
- No
- Unsure

Please explain

As stated above, the charging schedule needs to be flexible to provide certainty for local authorities. This should include payments earlier in the process or upfront. We urge government to consider proposals put forward by our member authorities in their individual responses and work together with central London local authorities to agree the best approach to ensuring infrastructure is delivered in a timely fashion.

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

- Strongly agree
- Agree
- Neutral

- Disagree
- Strongly disagree
- Unsure

Please explain

We welcome the offer from government to work closely with local authorities to make the design and content of the infrastructure delivery strategy (IDS) as clear and streamlined as possible. Further clarity is needed on how IDS' differ from current Infrastructure Delivery Plans and whether this new requirement will work differently with local plans than current delivery plans.

Whilst we recognise the need for transparency on how levy receipts will be spent and invested locally, there is a need to strike balance between specifying what infrastructure will be developed throughout the lifetime of the plan, and allowing for sufficient flexibility for not only development outcomes, but changes in revenue raised from developments due to GDV changes, and the possibility of developments not coming forward and the impact on spending and investment. There is a risk that in achieving such flexibility, delivery plans may need to be updated more often which places additional administrative burden on local authorities.

Further, engagement with the community and residents as part of developing the IDS will be resource intensive. Balancing the needs of infrastructure providers and other stakeholders will be challenging to navigate and will add considerably to the timeframes in drafting and development of the IDS.

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

Question 26: Do you agree that views of the local community should be integrated into the drafting of an Infrastructure Delivery Strategy? Please provide a free text response to explain your answer where necessary.

- Yes
- No
- Unsure

Please explain

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

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

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

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree
- Unsure

Please explain

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

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree
- Unsure

Please explain

The capital faces an acute housing crisis. Affordability is increasingly challenging in London; average private rents have risen rapidly, increasing by 15.6% between 2022 and 2023 ([Zoopla and BBC, 2023](#)). One in four adult children are living with their parents in London, the largest proportion of any region in England, with the fastest rate of increase between 2011 and 2021 ([ONS, 2023](#)). Following rapid increases in private rents, fewer than one in ten private rented properties listed in London are now affordable for households on benefits ([London Councils, 2022](#)). Additionally, there are significant supply and demand pressures, with demand for property growing and rental stock remaining low.

In the medium term, delivering more affordable and social homes is essential to addressing the housing crisis. Central London boroughs are determined to build more homes, and last year saw almost 19,000 affordable homes started across the capital ([DLUHC, 2022](#)).

However, central London local authorities are concerned that the new right to require may risk delivery of affordable housing in the capital. The site negotiations that the government wants to do away with are potentially more likely to maximise affordable housing delivery. S106 agreements currently enable the delivery of affordable and social housing which plays a crucial role in helping to address housing need. According to research commissioned by the Ministry of Housing, Communities and Local Government in 2020, 78% of Section 106 funds were spent on affordable housing in 2018/19.

It is likely that in the long-term there will continue to be a need to secure affordable housing provision through S106 or delivery agreements in order to ensure suitable securitisation provisions. Much of the current negotiation of affordable housing provisions in s106 agreements is not in fact around the quantum or tenure mix but around broader provisions including mortgagee exemptions and there is nothing in the consultation document that indicates that this will not continue ([Ward Hadaway, 2023](#)).

Additionally, there is a real concern about how local authorities balance funding priorities. By including affordable housing directly alongside determining what infrastructure to be delivered, this spreads the funding pot more thinly, resulting in increased difficulty in prioritising investment.

Including affordable housing within the scope of the IL may require rates to be set many times higher than CIL, as this is currently only used to fund infrastructure. Setting rates at the level needed to maintain current levels of affordable housing has the potential to make less viable developments undeliverable, whilst setting lower rates would reduce contributions and benefits to the community ([London Assembly, 2022](#))

Whilst we recognise the aim of the IL is to deliver at least as much affordable housing as under the current system, we are of the view that further work needs to be done to ensure this is possible in practice. The current system has proven effectiveness in delivering the housing the capital needs, and this should not be risked with implementation of a new system which cannot guarantee the same, if not greater, outcomes.

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

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree
- Unsure

Please explain

Local authorities support a highly discounted or zero-rated infrastructure levy rate on high percentage or 100% affordable housing schemes in principle on viability grounds. However, such schemes will continue to need to deliver 'integral' infrastructure and therefore they will still likely be subject to negotiations in respect of a Delivery Agreement. The practicalities of this will need to be worked out, particularly if the proposals are to reduce complexity in the system.

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

Question 33: Do you think that an upper limit of where the 'right to require' could be set should be introduced by the government? Alternatively, do you think where the 'right to require' is set should be left to the discretion of the local authority? Please provide a free text response to explain your answer where necessary.

Should a 'right to require' upper limited be introduced?

- Yes
- No
- Unsure

Introducing an upper limit to the right to require set by government would be difficult to be set in practice. A national, flat rate approach would not sufficiently take into account geographical differences and needs of different areas. The IL will only achieve the aim of delivering as much or more affordable housing if it is set at a sufficiently ambitious rate. A nationally set upper limit may result in a cap that is set far too low to be meaningful in practice in many areas.

Where the 'right to require' is set, should this be left to the discretion of the local authority?

- Yes
- No
- Unsure

Please explain

If an upper limit to the right to require is set, local authorities should be able to determine the proportion of affordable housing and have the flexibility in order to deliver on this. A nationally set rate risks not being appropriate for different areas, by not taking into account geographical and economical variances, and requirements of affordable housing needed.

Question 34: Are you content that the Neighbourhood Share should be retained under the Infrastructure Levy?

- Yes
- No
- Unsure

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

- A) Reflect the amount secured under CIL in parished areas
- B) Be higher than this equivalent amount
- C) Be lower than this equivalent amount
- D) Other (please specify)
- E) Unsure

Please explain

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?

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.

- 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)
- E) unsure.

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

The consultation sets out expectations of local authorities to develop a detailed Infrastructure Delivery Strategy which will be resource intensive, including considerable community and stakeholder consultation. Additional to this is the requirement to set out a detailed charging schedule which could be subject to public examination. Public examinations will likely be very costly for councils which are already experiencing financial difficulties. Therefore, the administrative portion of the IL should be set higher than the existing CIL level to reflect this additional administrative burden on local government.

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:

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	Unsure
Retain exemption for self-build housing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Retain exemption for residential annexes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If you strongly agree/agree - should there be further criteria that are applied to these exemptions, for example in relation to the size of the development?

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

- Yes

- No
- Unsure

Question 40: To what extent do you agree with our proposed approach to small sites? Please provide a free text response to explain your answer where necessary.

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree
- Unsure

Please explain

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.

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

Question 43: Do you agree that these enforcement mechanisms will be sufficient to secure Levy payments? Please provide a free text response to explain your answer where necessary.

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree
- Unsure

Please explain

Protecting local authorities' income is crucial to avoid placing them at greater financial risk. There is potential under the IL system for greater impact on local government revenue with levy payment due on completion, and local authorities directed to borrow against future levy receipts to fund infrastructure earlier on. Whilst government is suggesting a land charge be applied at planning permission stage, this does not necessarily prevent non-payment by developers on completion. There is a risk that developers resist completion of sites in order to avoid payment of the levy.

There are also questions around how local planning authorities can deal with non-payment when developments complete, particularly what proposed restrictions on occupation look like in practice and whether this will be sufficient to prevent non-payment.

Under the current system, local authorities have a range of enforcement powers including surcharges, interest, stop notices and in extreme cases asset seizure and committal to prison. Government must ensure robust enforcement measures are in place under a potential IL system which provide sufficient security for local authorities, given the increased risk. The proposals set out currently do not go far enough to do so.

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

- Strongly agree
- Agree
- Neutral
- Disagree
- Strongly disagree
- Unsure

Please explain

We welcome the government's ambition to create a more streamlined system. We also welcome recognition in the proposals that a reform of this scale represents a substantial change for local authorities, and the government's aim to provide sufficient time for local government, developers and others to prepare and adapt to the change through the test and learn process over several years.

We recognise that developer contributions are potentially not being maximised under the current arrangements, partly due to viability assessments, with affordable housing and other community benefits not being fully realised as a result ([London Councils, 2020](#)). However, there are several issues with the proposed IL system which will make its implementation challenging, and on the face of it, it is difficult to see how this reform will significantly improve on the current approach.

Whilst the test and learn phase will implement the IL over several years, this does put at risk what is already being achieved via existing s106 and CIL arrangements. CIL has taken several years to implement and refine in London. Transitioning to the new system will require transparency, clarity and guidance on how the two systems will operate side by side until full implementation of the IL.

The IL system appears to be particularly complex, and implementation will have potentially significant and long-term implications on future development proposals. It is a fundamental shift in terms of how developer contributions are secured, and a more complex system may cause delays for developments and consequently a slowdown in delivery.

Even if done quickly, without obstacle and with all necessary resource, the transition process will be highly disruptive for both councils and developers as they work to build, implement and understand the new system. The new approaches will require significant resource and upskilling of staff and high degrees of uncertainty in the short to medium term for developers. The proposals in this paper could in the short to medium term reduce much needed investment as developers pause planning applications to ensure they understand and can work within the current system.

Additionally, it is difficult to see how the new IL system will be more streamlined. With a continued role for S106 agreements, and additional delivery agreements for many sites, developer negotiations will continue to be a key part of contributions going forward.

Central government should work with local authorities in central London and beyond to explore whether reforms to the existing system could achieve the same intended results, before considering further whether introducing a wholly new system is the right approach. For example this could include requiring CIL to be mandatory, and introduce regulations or

guidelines to formalise the S106 agreement process in an attempt to avoid lengthy negotiations and delays to infrastructure.

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

- Yes
- No
- Unsure

Please explain