

## Cheltenham Borough Council response to the technical consultation on the Infrastructure Levy

Questions	Response
<p><b>Question 1:</b> 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"> <li>- developments of less than 100 square metres (unless this consists of one or more dwellings and does not meet the self-build criteria) – Yes/No/Unsure</li> <li>- Buildings which people do not normally go into - Yes/No/Unsure</li> <li>- Buildings into which peoples go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery - Yes/No/Unsure</li> <li>- Structures which are not buildings, such as pylons and wind turbines. Yes/No/Unsure</li> </ul> <p>Please provide a free text response to explain your answer where necessary.</p>	<p>No. The Council disagrees with excluding developments of less than 100 sqm from the definition. They are 'development' but are exempt from CIL as 'Minor Development' in Regulation 42. The Council agrees that 'one or more dwellings' irrespective of size is chargeable development and should be chargeable. CBC do not agree that if a dwelling meets the self-build criteria it should be excluded from the definition of development. There needs to be a clear distinction between the definition of 'development' and 'chargeable development' in the legislation for the purposes of CIL and in the future Infrastructure Levy (IL).</p> <p>Yes. Buildings which people do not normally go into.</p> <p>Yes. Buildings into which peoples go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.</p> <p>Yes. Structures which are not buildings, such as pylons and wind turbines.</p>
<p><b>Question 2:</b> Do you agree that developers should continue to provide certain kinds of infrastructure, including infrastructure that is incorporated into the design of the site, outside of the Infrastructure Levy? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.</p>	<p>Yes. Consideration should be given for the continuation of S106 for 'integral infrastructure' and 'infrastructure that is necessary in planning terms' in addition to the Infrastructure Levy. Consideration should also be given to retaining affordable housing in addition to CIL as CBC have managed to deliver high rates of affordable housing as well as securing infrastructure through CIL, and the Infrastructure Levy should achieve the same (or better) outcomes.</p>
<p><b>Question 3:</b> What should be the approach for setting the distinction between integral and Levy-funded infrastructure? [see para 1.28 for options a), b), or c) or a combination of these]. Please provide a free text response to explain your answer, using case study examples if possible.</p>	<p>Consider that c) would be the best approach whereby principles and typologies are set locally by the authority through their infrastructure delivery strategy.</p>

<p><b>Question 4:</b> Do you agree that local authorities should have the flexibility to use some of their levy funding for non-infrastructure items such as service provision? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.</p>	<p>No. Caution is needed in terms of ensuring that time-limited IL funds are not used to subsidise revenue funded services which might then prove unsustainable. The IL, like CIL, should fund one-off (i.e. almost always capital) investment in communities to mitigate the impact of development.</p>
<p><b>Question 5:</b> Should local authorities be expected to prioritise infrastructure and affordable housing needs before using the Levy to pay for non-infrastructure items such as local services? [Yes/No/Unsure]. Should expectations be set through regulations or policy? Please provide a free text response to explain your answer where necessary.</p>	<p>Yes. CBC have secured CIL as well as a high percentage of affordable housing and this has not deterred development from coming forward. Therefore, CBC wish to ensure that any revisions to the Infrastructure Levy do not negatively impact on this. Local authorities should be expected to prioritise key infrastructure and affordable housing delivery (in accordance with the latest evidence of affordable housing need) before money is allocated to non-infrastructure items (e.g. social care, subsidised/free childcare schemes, free childcare services). As the Levelling Up and Regeneration Bill proposes to remove Section 106 agreements in the majority of circumstances, it is absolutely imperative that an alternative mechanism is found which secures and protects affordable housing delivery in perpetuity (at higher levels of delivery than is currently secured via Section 106), as Section 106 agreements do now.</p>
<p><b>Question 6:</b> Are there other non-infrastructure items not mentioned in this document that this element of the Levy funds could be spent on? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.</p>	<p>Yes. The Government has set a target for all affordable homes to meet EPC C by 2030, and, in view of the legal requirement for the UK to become a net-zero carbon economy by 2050, it would be sensible for a proportion of Infrastructure Levy funds to be set aside in order to upgrade existing local authority (or Registered Provider) social housing stock to higher levels of energy efficiency and insulation standards. Clearly, this consideration will need to be balanced against other funding priorities.</p>
<p><b>Question 7:</b> Do you have a favoured approach for setting the 'infrastructure in-kind' threshold? [high threshold/medium threshold/low threshold/local authority discretion/none of the above]. Please provide a free text response to explain your answer, using case study examples if possible.</p>	<p>Local authority discretion. Infrastructure requirements 'in kind' can differ according to locality. To help maximise certainty for all stakeholders (residents, local authorities, Registered Providers and developers) and to avoid creating a two tier system on schemes (i.e. some infrastructure is delivered via S.106, and some is delivered via the Infrastructure Levy) it would be pragmatic to introduce a threshold for delivering 'infrastructure in kind' via Section 106 routeways.</p>

<p><b>Question 8:</b> 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>S106 should be retained for all requirements that meet the tests in Reg 122. CBC have secured CIL as well as a high percentage of affordable housing and this has not deterred development from coming forward. Therefore, CBC wish to ensure that any revisions to the Infrastructure Levy do not negatively impact on this. A clear distinction should then be made between S106 and the Levy which is raised for the purposes of providing funding for infrastructure which arises as a result of the cumulative impact of development (all development over the plan period) and determined through the examination process/adoption of the Local Plan.</p>
<p><b>Question 9:</b> Do you agree that the Levy should capture value uplift associated with permitted development rights that create new dwellings? [Yes/No/Unsure]. Are there some types of permitted development where no Levy should be charged? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.</p>	<p>Yes. Agree that that the Levy should capture value uplift associated with permitted development rights by way of general consents and would recommend maintaining the requirement to submit a Notice of Chargeable Development in such cases. Currently permitted development (especially through conversions of office space to residential dwellings) offers developers a ‘back door’ which avoids contributions to affordable housing and other critical infrastructure which is likely to be required in order to support the implementation of the development into the wider community setting. Accordingly, should value uplift be secured through permitted development rights (that create new dwellings) this should be captured through the Infrastructure Levy and translated into money to support the delivery of affordable housing and other important infrastructure priorities.</p> <p>No: The Council does not agree there are any types of PD (less than 100 square metres) that should not be charged, on the understanding that deductions, exemptions and reliefs to be claimed will be retained.</p>
<p><b>Question 10:</b> Do you have views on the proposal to bring schemes brought forward through permitted development rights within scope of the Levy? Do you have views on an appropriate value threshold for qualifying permitted development? Do you have views on an appropriate Levy rate ‘ceiling’ for such sites, and how that might be decided?</p>	<p>The proposal to include permitted development within the scope of infrastructure levy monetary obligations is welcomed. Equally, however, it is recognised (as the University of Liverpool research paper identifies, albeit, with an admittedly small sample size) that permitted development schemes are unlikely to have a significant viability margin which would only allow the Infrastructure Levy to secure modest contributions for affordable housing (or other key infrastructure) from permitted development. Nevertheless, this is an improvement upon the current planning mechanisms related to Permitted Development, which do not allow local authorities to seek any affordable housing contributions from these development types.</p>

<p><b>Question 11:</b> 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? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary, using case studies if possible.</p>	<p>Yes but these should be set locally.</p>
<p><b>Question 12:</b> 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"> <li>- Charging the Levy on final sale GDV of a scheme [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure]</li> <li>- The use of different Levy rates and minimum thresholds on different development uses and typologies [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure]</li> <li>- Ability for local authorities to set 'stepped' Levy rates [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure]</li> <li>- 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]</li> </ul>	<p>Agree. Charging the Levy on final sale GDV of a scheme would represent a sensible way of ensuring that any uplift in the final sales values are captured within the provision of the Infrastructure Levy proceeds to local authorities, which, in turn can be used to fund key infrastructure priorities.</p> <p>Neutral in terms of the use of different Levy rates and minimum thresholds on different development uses and typologies. It is important that local authorities are able to use their discretion and that decisions can be informed by local strategies.</p> <p>Disagree in terms of 'stepped' Levy rates. Although 'stepping up' levy rates and requirements over time would, in theory, be a logical approach to avoid disrupting the overall viability balance, this may have unintended consequences. Critically, the consultation proposes that: "where LA's are setting rates under the Levy, they should be taking as their starting point how much they actually receive through the existing system, including the amount of affordable housing received." As the delivery of affordable housing has been low compared to identified affordable housing need in recent years, a 'stepping up' of Levy rates will not achieve the step change required to meet any backlog of unmet affordable housing need. Additionally, in the event that a local authority (or the Government) decided to proceed with a lower initial Levy threshold (before subsequently increasing the levy contributions over time), local authorities would require reassurance that a legal mechanism could be established to secure any uplift in affordable housing contributions via the Infrastructure Levy (at the moment, this can be secured through a clawback mechanism within a Section 106 agreement).</p> <p>Agree in terms of separate Levy rates for thresholds for existing floorspace that is subject to change of use, and floorspace that is demolished and replaced. Want local discretion. Historically (over the past decade), floor space that has been subject to a change of use, or alternatively is demolished (under the Vacant Building Credit (VBC)) has generally delivered nil or low levels of on-site affordable housing, in spite of the well documented and long-standing backlog in affordable housing need. In any event,</p>

	separate levy rates should have due regard to the past under-delivery of affordable housing via applications that have applied VBC and Change of Use applications (the latter not being subject to any affordable housing requirement at all) when establishing separate Levy rates.
<b>Question 13:</b> Please provide a free text response to explain your answers above where necessary.	See above
<b>Question 14:</b> 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.	No. The Council wish to resist uncertainty and complexity when determining levy liabilities. With larger developments, it is likely that timeframes for completion will be longer and it is noted that the local authority may need to return overpayments to the developer.
<b>Question 15:</b> 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.	No.
<b>Question 16:</b> Do you agree with the proposed application of a land charge at commencement of development and removal of a local land charge once the provisional levy payment is made? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary	Yes to 'on commencement'. However, No to removing the Local Land Charge once provisional levy payment is made as non-payment/debt collection could remain an issue until all charges are received.
<b>Question 17:</b> Will removal of the local land charge at the point the provisional Levy liability is paid prevent avoidance of Infrastructure Levy payments? [Strongly Agree/Agree/Neutral/Disagree/ Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.	No. The avoidance of payments will still occur after payment.
<b>Question 18:</b> 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.	Agree. Trigger points and phasing should be retained to align payment of the Levy prior to completion. The Infrastructure Levy, as currently proposed, enables local authorities to capture any uplift in development value prior to the completion of a phase or a scheme, which ultimately could secure a greater provision of funding to support the delivery of affordable housing (and other infrastructure). As such, Local Authorities should be given the choice, dependent on local circumstances and needs, and in collaboration with other key stakeholders (e.g. securing funds earlier to forward fund infrastructure should not be to the ultimate detriment of affordable housing provision), to require that developers make payment of a proportion of the Levy contributions prior to site completion. Whilst it is the

	<p>intention for Local Authorities to attain loans for infrastructure upfront, payment of the Levy should be made upfront to ensure the timely delivery of community infrastructure with housing growth but also to avoid interest accumulation and cost to Local Authorities.</p>
<p><b>Question 19:</b> 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.</p>	<p>The current Levy system allows for early payment where there is a breach of procedure. The retention of the ability to require early payment of the Levy is welcomed. It is envisaged that, in the scenario where a Local Authority is working in partnership with an Registered Provider (RP) or developer to regenerate land (or deliver large strategic sites), such as on publicly owned land, it may be beneficial to secure an early payment of a proportion of the Levy contributions in order to ensure that key community amenities, such as community hubs, sports facilities and play spaces are delivered in a timely manner alongside the early stages of development.</p>
<p><b>Question 20:</b> 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.</p>	<p>No. There is insufficient detail within the consultation for the council to provide a full response to this question. The intention of the proposed Levy is that it will be charged on the value of a property on completion of sale, with minimum thresholds being set locally. The rates will be set as a percentage of gross development value rather than the current CIL, which is based on floorspace. It is unclear how this will enable forecast revenue. Local Authorities will bear the risk of funding high infrastructure costs, without the certainty of fixed repayments. In areas of low development value, the Local Authority could effectively be paying for infrastructure on loan, without the certainty of how the costs would be recouped. Without further detail and certainty, a full response cannot be provided. However, the council has significant concerns in terms of how infrastructure will be funded and the potential risk of a shortfall.</p>
<p><b>Question 21:</b> 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</p>	<p>Strongly disagree. Without further detail, the authority cannot comment on this question in full. The risk of this change is significant. Local Authorities will bear the risk of front loading the cost, without certainty of repayment. Significant questions remain such as how borrowing against Levy proceeds of development will be sufficient to ensure that key infrastructure commitments are delivered, as well as how costs through borrowing will be recouped.</p>

<p><b>Question 22:</b> 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>Agree that should have discretion to do this.</p>
<p><b>Question 23:</b> 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>Section 106 payments have provided an appropriate mechanism for securing affordable housing. The proposed delivery agreements seem to largely duplicate the existing role of current S106 agreements. For on-site 'right to require' affordable housing this would be necessary but not necessarily better than the existing system that is in place.</p>
<p><b>Question 24:</b> 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>Neutral. There is a risk that negotiation on an Infrastructure Delivery Strategy will be very complex and will likely act as a drain on the public purse. Whilst recognising that the Government is trying to provide certainty in terms of affordable housing, the system should be simplified rather than becoming more complicated. The Local Plan and Infrastructure Delivery Strategy, including the strategic spending plan set the basis for charging. The Infrastructure Delivery Strategy will replace Infrastructure Delivery Plans and end of year statements. Both the former and proposed documents will be examined prior to adoption, which will aid transparency. The complexity in determining Infrastructure costs and requirements such as education, GP surgeries and NHS provision relies on third party evidence which will also need to be certain and transparent.</p>
<p><b>Question 25:</b> In the context of a streamlined document, what information do you consider is required for a local authority to identify infrastructure needs?</p>	<p>As referenced elsewhere, local authorities should have discretion to determine their own infrastructure needs, rather than this being directed by central government.</p>
<p><b>Question 26:</b> 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>Yes. Infrastructure Delivery Plans are already consulted on as part of emerging Local Plans. In some instances, baseline assessments and other data already underpin Local Plan evidence. There is already extensive consultation on Local Plans. Consultation and engagement is key to existing process of developing an IDP. However, the decision on what is needed and how it is spent should continue to be based upon proportionate evidence.</p>

<b>Question 27:</b> Do you agree that a spending plan in the Infrastructure Delivery Strategy should include:	Yes. Please see detailed response below.
- Identification of general integral infrastructure requirements	Agree. Any evidence required should be proportionate and not unduly onerous.
- Identification of infrastructure/types of infrastructure that are to be funded by the Levy- Prioritisation of infrastructure and how the Levy will be spent	Agree. Any evidence required should be proportionate and not unduly onerous.
- Approach to affordable housing including right to require proportion and tenure mix	Agree. However, it should be noted that, as the Infrastructure Delivery Strategy (IDS) will be tested at the examination stage of the local plan adoption, this will introduce an element of disparity in terms of the skills, knowledge and resources available to developers in comparison to local authority planning and housing teams. This is likely to undermine the ability of local authorities to secure both the tenures and proportion of affordable housing required during negotiations around the Infrastructure Delivery Strategy to meet the significant past backlog in affordable housing need.
- Approach to any discretionary elements for the neighbourhood share	Disagree. Should be determined at the local level.
- Proportion for administration	Agree. It is important that the Council is provided with a proportion of Infrastructure Levy funding for administration.
- The anticipated borrowing that will be required to deliver infrastructure	Please see concerns expressed in response to Q21.
- Other – please explain your answer	
- All of the above	Local authority decision making on the IDS should be given great weight and protected from constant challenge through the examination process to ensure that it is only departed from in exceptional circumstances.
<b>Question 28:</b> How can we make sure that infrastructure providers such as county councils can effectively influence the identification of Levy priorities?	Through effective partnership working. Do not consider that more statutory requirements will be helpful.
- Guidance to local authorities on which infrastructure providers need to be consulted, how to engage and when	Through effective partnership working. Do not consider that more statutory requirements will be helpful.



- Support to county councils on working collaboratively with the local authority as to what can be funded through the Levy	Support is welcomed not just to county councils but also other local authorities and to all providers.
- Use of other evidence documents when preparing the Infrastructure Delivery Strategy, such as Local Transport Plans and Local Education Strategies	Under the current system, the Infrastructure Delivery Plan and development of a Local Plan seeks to take into account all infrastructure provider's strategies. The timeframes and requirements of these strategies should be aligned as far as possible across government departments, for example the Gloucestershire County Council's School Places Strategy is for the period 2021 - 2026 whereas Drainage and Wastewater Management Plans are for at least 25 years.
- Guidance to local authorities on prioritisation of funding	Disagree. The prioritisation of funding requires engagement with various consultees, including through public consultation and examination.
- Implementation of statutory timescales for infrastructure providers to respond to local authority requests	There are already statutory timescales for infrastructure providers to respond to Local Plan consultations. The issue remains in terms of the different timeframes that are being used by different infrastructure providers. Statutory time scales should be put in place for future investment plans by infrastructure bodies.
- Other – please explain your answer	
<b>Question 29:</b> To what extent do you agree that it is possible to identify infrastructure requirements at the local plan stage? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.	Strongly agree. It is not only possible but essential that Local Plans identify, through proportionate evidence, the infrastructure requirements including the timing of delivery and costs to enable sustainable growth to come forward.
<b>Question 30:</b> 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>Neutral. Whilst in theory the 'Right to Require' will reduce the risk of affordable housing delivery being negotiated downwards through the viability process, the reality is likely to be rather more nuanced. There will still be negotiations through this system- they will just be at the front-end of the planning process.</p> <p>Agreeing a certain value of contributions to be ring-fenced specifically for the affordable housing in-kind (on-site contributions) delivery as captured within the local authorities' Infrastructure Delivery Statement (IDS) is welcomed.</p> <p>Looking at this process in isolation, agreeing the affordable housing delivery early will provides greater certainty for all stakeholders involved in the development process and should theoretically boost</p>



	<p>supply. Moreover, the ability for additional cash contributions to be received by the local authority in the event that Registered Providers bids are above the agreed affordable housing in-kind contribution will provide local authorities with greater financial resources to proactively deliver additional affordable homes on new developments.</p> <p>Nevertheless, there are a number of drawbacks associated with this approach. For instance, where affordable housing contributions are established via the 'Right to Require' within the IDS, this will be tested at public examination. Testing affordable housing contributions in this manner creates a chasm in expertise, time and resources between the LPAs and the considerable resources and technical expertise available to developers. In practice, this results in negative outcomes for local authorities in as securing certain tenures, sizes and accessibility or design requirements for new affordable homes) that are commensurate with the substantial long-standing backlog of affordable housing need. As such, whilst the Right to Require may protect affordable homes from being lost to viability, developers will focus upon using the IDS as a mechanism to erode a range of affordable housing provisions. As referenced in the response to Q27, local authority decision making on the IDS should be given great weight and protected from constant challenge through the examination process to ensure that it is only departed from in exceptional circumstances.</p> <p>The Council strongly support local decision-making in unparished as well as parished areas but believes that the governance expectations for neighbourhood forums should be high. Government could consider incentives to encourage urban unparished areas to gain representative local councils themselves, i.e. community councils equivalent to parish councils.</p>
--	---

<p><b>Question 31:</b> To what extent do you agree that local authorities should charge a highly discounted/zero-rated Infrastructure Levy rate on high percentage/100% affordable housing schemes? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary</p>	<p>Agree. Currently, registered providers who seek to deliver wholly affordable sites (100% affordable housing) can apply for a CIL exemption, which provides an exemption for affordable housing delivery from the CIL requirements. Our experience has indicated that 100% affordable housing sites tend to generally be marginally viable, and thus, it would be sensible to continue a zero-rated IL rate (or, perhaps a highly discounted IL rate) on 100% affordable housing schemes moving forwards under the new Infrastructure Levy proposals. Thus, upon further reflection, a discounted (or highly discounted) rate would be preferable.</p> <p>Taking this approach (providing a highly discounted IL rate) would allow new development delivered in the form of a wholly affordable scheme to make a modest contribution to other key infrastructure costs (play space, road networks, library contributions etc.) whilst promoting the delivery of higher levels of urgently needed affordable housing- thereby striking a reasonable balance between supporting affordable housing supply and delivering important supporting infrastructure.</p> <p>Whilst discounting IL rates on 100% affordable schemes is supported in principle, the Government should be wary of the potential unintended consequences. If delivering 100% affordable housing schemes is preferable for Registered Providers (RPs) and Local Authorities on the grounds of viability, this may result in reduced delivery via the IL for policy compliant schemes, thereby leading to the creation of large affordable housing estates with a lack of pepper-potting.</p>
<p><b>Question 32:</b> How much infrastructure is normally delivered alongside registered provider-led schemes in the existing system? Please provide examples.</p>	<p>Very little. Reviewing existing 100% affordable housing developments secured in Cheltenham Borough, the levels of infrastructure delivered under Section 106 (or CIL funding) are relatively low if non-existent, in large part due to the marginal viability of sites that tend to be delivered as wholly (100%) affordable schemes. Under the CIL regulations that have been adopted by Cheltenham Borough Council, Registered Provider-led schemes would receive a 100% exemption from CIL contributions, and, as such, no (or extremely minimal) contributions are usually made by these schemes towards the delivery of infrastructure.</p>
<p><b>Question 33:</b> 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>No. Local authorities should be granted full jurisdiction to determine the upper limit of the 'Right to Require' in light of past affordable housing delivery, current and future projected affordable housing need and the provision of other infrastructure priorities, in consultation with other key stakeholders.</p>

	<p>Yes. Local Authorities should be allowed to set their own levels of affordable housing through the 'Right to Require' in reflection of local market conditions, infrastructure needs and other local funding priorities. Clearly, in order to effectively set an appropriate upper limit for the Right to Require, local authorities will need to have both the resources and technical expertise to both understand, review and ultimately implement the selected upper limit- potentially through the normal Local Plan Review process. Accordingly, in view of the well-documented shortages in skills and expertise across local government, it would be sensible for the Government to support local authorities with a significantly enhanced training offer in this area.</p>
<p><b>Question 34:</b> Are you content that the Neighbourhood Share should be retained under the Infrastructure Levy? [Yes/No/Unsure?]</p>	<p>Yes.</p>
<p><b>Question 35:</b> 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>D. Other. Want flexibility to set the rate.</p>
<p><b>Question 36:</b> 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 such areas?</p>	<p>The current legislation for the designation of a neighbourhood plan area could be wider than or different to a parish boundary. In unparished areas, designated neighbourhood forums may exist. In unparished areas the Neighbourhood Fund is held by and administered by the collecting authority (currently Reg. 59F of the CIL Regulations).</p>
<p><b>Question 37:</b> 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.</p>	<p>D. Other. Local authorities should be given flexibility by national government to set the rate of the administrative portion of the Infrastructure Levy.</p>
<p><b>Question 38:</b> Applicants can apply for mandatory or discretionary relief for social housing under CIL. Question 31 seeks views on exempting affordable housing from the Levy.</p>	<p>Please see detailed response below</p>

<p>This question seeks views on retaining other countrywide exemptions. How strongly do you agree the following should be retained:</p>	
<p>- residential annexes and extensions; [Strongly Agree/Agree/Disagree/Strongly Disagree]</p>	<p>Agree. Where development does not lead to a net increase in dwellings, an exemption is supported.</p>
<p>- self-build housing; [Strongly Agree/Agree/Disagree/Strongly Disagree]</p>	<p>Disagree, please see the explanation above.</p>
<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>Please see suggested criteria above.</p>
<p><b>Question 39:</b> Do you consider there are other circumstances where relief from the Levy or reduced Levy rates should apply, such as for the provision of sustainable technologies? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.</p>	<p>No. The Council, working with other key stakeholders, is already delivering net-zero carbon housing in a market setting (which should ultimately be secured, in the long-term, through Building Regulations or legislation), and therefore cannot foresee any additional circumstances where a reduction or relief of the Levy would be appropriate.</p>
<p><b>Question 40:</b> 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>Disagree. Any development has the potential to impact local infrastructure requirements. This approach would mark a minor improvement over the current approach to delivering affordable housing through Section 106 contributions, where schemes falling below 10 units are not required to make any contributions to meeting affordable housing need. However, the fact that (despite setting a lower levy rate for these schemes) there is seemingly no scope to ring-fence monies to support the delivery of affordable housing (even if this is in the form of levy receipts, rather than on-site affordable housing) represents a missed opportunity to cumulatively make a individually modest, but cumulatively significant contribution to the delivery of affordable housing on other sites. The current NPPF (2021) sets a threshold for all allocations to be 10% on small sites. The introduction of this policy could mean that 10% of allocations will contribute less to infrastructure, despite a potential need, leading to a gap in provision.</p>
<p><b>Question 41:</b> 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 risk is that where rural affordable housing is in most need in high value areas, the needs will not be met.</p>
<p><b>Question 42:</b> Are there any other forms of infrastructure that should be exempted from the Levy through regulations?</p>	<p>No.</p>

<p><b>Question 43:</b> 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>Please see response to Q17 which sets out the council’s concerns relating to the removal of the local land charge at the point of payment of the Levy.</p>
<p><b>Question 44:</b> 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>Neutral. Reviewing the positive elements of this approach, in principle, a 10-year ‘test and learn’ phase is inherently sensible, and will give all stakeholders the opportunity to iron out any potential issues that could arise with the Infrastructure Levy (instead of making knee-jerk decisions in response to major media or global events), as well as giving the proposal the theoretical flexibility to adapt to ever-changing economic and policy-making conditions.</p> <p>Equally, a long implementation period for the Infrastructure Levy, as proposed will give all key stakeholders time to adapt to the radical changes following the downgrading of Section 106 agreements. Of particular importance, a long-lead period prior to national adoption should also provide the Government, working closely with local authorities with ample time to bolster the resources and resilience of local authority development management and planning policy teams, which will be a critical consideration in determining if the Infrastructure Levy will be successful in practice.</p> <p>Notwithstanding these points, and whilst recognising the positive aspects of the ‘test and learn’ approach put forwards by this consultation, this proposal is potentially undermined by our current democratic system. Under the current parliamentary terms, Governments generally have four years in office (from the date of which they began their term). It stands to reason, therefore, that a 10~ year ‘test and learn’ phase could ultimately be undone by a change in political leadership, which would leave the planning system (and whether Section 106 will be continued, or replaced by an alternative mechanism for securing key infrastructure and affordable housing) in limbo.</p>
<p><b>Question 45:</b> 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>Yes. The consultation includes proposals which will allow local authorities to clarify the tenure mix and proportion of affordable housing to be delivered in-kind (on-site) through the Infrastructure Levy. However, the consultation makes no reference to the provision of general needs or specialist wheelchair or level access housing delivery being an ‘integral’ or levy-funded requirement for developers.</p> <p>Clearly, residents who require specialist wheelchair or level access housing (irrespective of whether they are seeking market or affordable homes) would possess the protected characteristic of ‘Disability’, and, as such, due regard should be had to accommodating their needs as per the Public Sector Equality Duty.</p>



	<p>Although progress is being made on updating the Building Regulations to improve accessibility requirements on new developments, this consultation seemingly overlooks these requirements being a critical consideration on site.</p> <p>It is not clear how the needs of Gypsy and Traveller communities would be met through funding (on-site, or via cash contributions). Residents who reside within these communities would possess the Protected Characteristics of 'Race' and potentially 'Belief' under the 2010 Equality Act, and as such, due regard should be had to meeting their needs through the provision of monies and in-kind provision through the Infrastructure Levy.</p> <p>As previously mentioned, setting the initial delivery of affordable housing in reflection of past and current levels of affordable housing provision risks mapping forward the significant backlog of affordable housing delivery into future delivery. If implemented as proposed, this approach will only serve to intensify the longstanding and well documented affordable housing crisis. Even if local authorities set their in-kind contributions of affordable housing via the infrastructure levy at higher levels (presuming that this has not been undermined at local plan examination stage than secured through past delivery) this is still unlikely to create the step-change in affordable housing delivery required to meet outstanding and future affordable housing need. It is anticipated that artificially low levels of affordable housing delivery would continue to negatively affect affordable housing tenants who would likely possess one or more of the following protected characteristics: Race, Gender, Sex, Religion and Disability.</p>
--	---