

## Sevenoaks District Council's response to the 'Technical Consultation on the Infrastructure Levy' – 6 June 2023

Sections highlighted in yellow are the Council's responses.

<https://www.gov.uk/government/consultations/technical-consultation-on-the-infrastructure-levy>

### Chapter 1 – Fundamental design choices

**Question 1:** Do you agree that the existing CIL definition of 'development' should be maintained under the Infrastructure Levy, with the following excluded from the definition:

- developments of less than 100 square metres (unless this consists of one or more dwellings and does not meet the self-build criteria) – Yes/No/Unsure
- Buildings which people do not normally go into – Yes/No/Unsure
- Buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery – Yes/No/Unsure
- Structures which are not buildings, such as pylons and wind turbines.  
Yes/No/Unsure

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

We agree that the above should all be excluded from the definition of 'development'.

However, in addition, we would also request that the definition excludes (from being liable for the levy) all householder extensions, annexes, conversions and replacement dwellings of the same size. These types of applications require administration that is disproportionate to the CIL gain, as the liability notices result in £0. Officer time is spent on follow up queries and there is little financial penalty for householders if the process is not followed correctly.

**Question 2:** Do you agree that developers should continue to provide certain kinds of infrastructure, including infrastructure that is incorporated into the design of the site, outside of the Infrastructure Levy? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.

There will be cases where, particularly on smaller sites, localised infrastructure will need to be delivered in order to make the development acceptable. Currently this type of infrastructure is secured via S106 agreements and it is crucial the ability to do this is retained. In most cases the developer is best placed to deliver this localised

infrastructure, and can deliver it more quickly and efficiently than if it were to be delivered using Infrastructure Levy receipts.

**Question 3:** What should be the approach for setting the distinction between 'integral' and 'Levy-funded' infrastructure? [see para 1.28 for options a), b), or c) or a combination of these]. Please provide a free text response to explain your answer, using case study examples if possible.

A clearly set distinction between 'integral' and 'levy funded' infrastructure is crucial, in order to provide clarity to the District Council, the County Council, the infrastructure providers and to developers. Our experience as a lower tier authority highlights the competing infrastructure priorities between the District and the County Council, and there is currently no ready made solution to this.

It is considered that if the distinction were to be set nationally this would provide clarity and set clear expectations to all parties involved. However, different local authorities have different demands and so nationally set distinctions may be too restrictive in some cases. Alternatively, whilst a locally set distinction would help the District Council achieve its infrastructure priorities, for the reasons set out above this could be contentious with the County Council, as there may be disagreement on what constitutes 'integral' and 'levy funded' infrastructure owing to differing and competing priorities. Therefore it is considered that there are significant challenges in setting the distinction locally as well.

Options A and B are preferred, where the distinction between 'integral' and 'levy funded' infrastructure is set out nationally.

**Question 4:** Do you agree that local authorities should have the flexibility to use some of their Levy funding for non-infrastructure items such as service provision? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.

It is the Council's view that funds secured through the Infrastructure Levy should only be used for infrastructure. It is clear that the funding secured through the levy will not be sufficient to fund all infrastructure demands, and therefore it is imperative that all levy proceeds are directed towards delivering and improving much needed infrastructure that mitigates the impact of development, rather than on non-infrastructure items such as services, which may be revenue generating.

**Question 5:** Should local authorities be expected to prioritise infrastructure and affordable housing needs before using the Levy to pay for non-infrastructure items such as local services? [Yes/No/Unsure]. Should expectations be set through regulations or policy? Please provide a free text response to explain your answer where necessary.

See response to Question 4. Sevenoaks District Council has a significant need for affordable housing and as such it is considered that meeting affordable housing need over the Local Plan period should always be prioritised over non-infrastructure items.

However it is acknowledged that this may not be the situation in all local authorities. Therefore the expectation for prioritisation could be set out in regulations to ensure this process is complied with.

**Question 6:** Are there other non-infrastructure items not mentioned in this document that this element of the Levy funds could be spent on? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.

It is the Council's view that the Infrastructure Levy should be used to fund the necessary infrastructure to support growth. In light of this view, it is not considered there are further non-infrastructure items not mentioned in the consultation document for a portion of Levy funds to be spent on.

**Question 7:** Do you have a favoured approach for setting the 'infrastructure in-kind' threshold? [high threshold/medium threshold/low threshold/local authority discretion/none of the above]. Please provide a free text response to explain your answer, using case study examples if possible.

Historically, S106 agreements have worked well to deliver new and improved infrastructure in Sevenoaks District. Given the competing infrastructure priorities that exist between the District and County Council it is considered that a lower threshold would be beneficial to help deliver identified infrastructure more quickly and efficiently. However, the example given of 500 units still remains far too high for Sevenoaks District Council. Over the financial year 2022-23 only 2% of planning decisions were for major development. We would therefore require discretion in setting a threshold specific to our local circumstances if we are to benefit from infrastructure in-kind.

**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.

No further comment.

## Chapter 2: Levy rates and minimum thresholds

**Question 9:** Do you agree that the Levy should capture value uplift associated with permitted development rights that create new dwellings? [Yes/No/Unsure]. Are there some types of permitted development where no Levy should be charged? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.

Whilst noted there will be a cumulative impact from permitted development rights that create new dwellings, in practice we have not received a significant amount of CIL through these types of development since becoming a CIL charging authority in 2014. It is difficult to receive the paperwork relating to these as it is not required after a lawful development certificate is issued. In any case, as expressed later

through our consultation response, it is considered that new dwellings created through conversion and/or replacement dwellings have little financial benefit to the Council. These types of applications require administration that is disproportionate to the CIL gain, as an exemption will be applied for or the CIL liability is predominantly £0. Officer time is spent on follow up queries and there is little financial penalty for applicants if the process is not followed correctly.

**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?

See response to Question 9. No further comment.

**Question 11:** Is there is a case for additional offsets from the Levy, beyond those identified in the paragraphs above to facilitate marginal brownfield development coming forward? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary, using case studies if possible.

The development strategy set out in the District Council's emerging Local Plan priorities the reuse of brownfield land in sustainable locations. Ensuring these sites remain viable is key to their chances of redevelopment. Our latest viability evidence suggests that allowances may need to be made (e.g. a lower amount of affordable housing) on such sites. It would therefore make sense for the levy to make allowances to allow otherwise unviable brownfield development to come forward, however it is currently unclear as to how this would operate.

**Question 12:** The government wants the Infrastructure Levy to collect more than the existing system, whilst minimising the impact on viability. How strongly do you agree that the following components of Levy design will help achieve these aims?

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

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

It is considered that the strongest part of the Infrastructure Levy proposal is to link the charge to the final sales value – this has the most potential to minimise viability issues and to capture more money for infrastructure. The ability to set different rates and minimum thresholds locally will also help.

It is not considered that the introduction of 'stepped' levy rates will have a significant impact on the amount of money captured or on viability in Sevenoaks District. See response to Question 9 with regards change of use, conversions etc.

### Chapter 3 – Charging and paying the Levy

**Question 14:** Do you agree that the process outlined in Table 3 is an effective way of calculating and paying the Levy? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.

It is understood that the process outlined in table 3 aims to capture the value and allow a process for either additional funds to be paid to the local authority or refunded to the developer. It is agreed in principle this captures land value and ensures it is reflected in the levy. However, we have concerns that the three-stepped approach would have a significant additional draw on team time and resources and may be difficult to implement, monitor and enforce in practice.

At present under the CIL Regulations, parish councils are paid their CIL allocation for qualifying development in their area twice a year (by 28 April and by 28 October). There would need to be clarity in the Infrastructure Levy regulations at which point of the payment process the neighbourhood portion is expected to be passed over. Whilst there is no issue with passing along additional levy funds from development, in the case where the final payment is less than anticipated, it would be detrimental to ongoing projects with committed spends to request some of the levy to be refunded once the final adjustment payment has been made. At present SDC commits 59.5% of its CIL portion through a CIL Spending Board, a Member led committee. Similarly, there may be potential uncertainty on the CIL funds awarded through the Boards, should this process of levy allocation be retained if the Infrastructure Levy is implemented, if there are final adjustment payments which are less than anticipated.

**Question 15:** Is there an alternative payment mechanism that would be more suitable for the Infrastructure Levy? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.

The three-stepped approach proposed seems likely to cause confusion and uncertainty when the levy isn't paid and discharged under one payment. Even with the existing CIL process there can be confusion among developers, particularly smaller ones, and applicants not understanding the process. This leads to queries and frustration regarding the CIL charge taking up officer time and resources.

**Question 16:** Do you agree with the proposed application of a land charge at commencement of development and removal of a local land charge once the

provisional Levy payment is made? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary

The proposal to register the levy liability against the development site as a local land charge seems sensible. However, we have concerns about the practicalities of this, and the proposed removal of the local land charge once the provisional levy payment has been made.

Our experience is that, quite understandably, the average house buyer doesn't understand or chooses to ignore a local land charge of £0, as it would seem that no money is owed. Therefore how will local authorities ensure that buyers follow this up and are made aware that there may be an additional levy to be paid and that the 'provisional payment' is only the first stage of payment?

If a property is sold with two to three years following completion, the District Council would not be made aware of this and the local land charge would show as £0. The regulations need to pick up on these nuanced situations e.g. local land charge to remain for three years following completion.

**Question 17:** Will removal of the local land charge at the point the provisional Levy liability is paid prevent avoidance of Infrastructure Levy payments? [Strongly Agree/Agree/Neutral/Disagree/ Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.

See response to Question 16.

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

Our experience as a CIL charging authority is that if CIL is not paid within six weeks of commencement as required, it will be paid at some point, and typically during contract exchange. In particular in the cases of smaller developers, they find themselves needing to sell the first house to acquire enough cash to build the next one and so on. It is not expedient to pursue enforcement action to recoup CIL funds in these circumstances.

**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.

The way in which the Infrastructure Levy is proposed to work means that local authorities will not be in receipt of the full payment until after the property or development is completed. Whilst this benefits developer cashflow it makes it difficult to plan for and secure infrastructure in advance and means that infrastructure won't be delivered until after the property or development is completed, to the detriment of the local community, unless such infrastructure is

secured through the 'in-kind' routeway. Therefore the ability for local authorities to require an early payment of the levy is welcomed.

**Question 20:** Do you agree that the proposed role for valuations of GDV is proportionate and necessary in the context of creating a Levy that is responsive to market conditions [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.

Whilst it is acknowledged and supported that the strongest part of the Infrastructure Levy proposal is to link the charge to the final sales value, creating the most potential to minimise viability issues and to capture more money for infrastructure, essentially the viability negotiations are just being moved to the end of the process and there is a concern that developers will downplay the value of completed homes to reduce payments.

#### Chapter 4 – Delivering infrastructure

**Question 21:** To what extent do you agree that the borrowing against Infrastructure Levy proceeds will be sufficient to ensure the timely delivery of infrastructure? [Strongly Agree/Agree/Neutral/ Disagree/Strongly Disagree/Unsure]. Please provide a free text response to explain your answer where necessary.

District Councils are risk averse when it comes to borrowing money. They have procedures in place to ensure members have the evidence to guarantee returns and it is difficult to see how this can realistically be done for levy proceeds.

Further, borrowing against infrastructure proceeds may put a local authority in an unfavourable position if the levy receipts are not as significant as forecasted or if there is an economic downturn. There are also potential complications in two tier authorities in terms of who can or is responsible for borrowing and distributing the funds.

**Question 22:** To what extent do you agree that the government should look to go further, and enable specified upfront payments for items of infrastructure to be a condition for the granting of planning permission? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.

We have made clear in our response to Question 21 that borrowing against levy proceeds is entirely unrealistic for District Councils. We have also set out our concerns in our response to Question 19, that under these proposals infrastructure won't be delivered until after development is completed owing to the proposed 3 stage payment process. Further, we have also set out our positive experiences in using S106 agreements to secure much needed new and improved infrastructure on or as part of development sites in our response to Question 7. Therefore, it seems entirely reasonable for the government to enable specified upfront payments for specific items of infrastructure. It is suggested that these payments should be linked

to specific planned infrastructure needs set out in the Local Plan and Infrastructure Delivery Plan.

**Question 23:** Are there other mechanisms for ensuring infrastructure is delivered in a timely fashion that the government should consider for the new Infrastructure Levy? [Yes/No/Unsure] Please provide free text response to explain your answer where necessary.

**Question 24:** To what extent do you agree that the strategic spending plan included in the Infrastructure Delivery Strategy will provide transparency and certainty on how the Levy will be spent? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree] Please provide a free text response to explain your answer where necessary.

The Infrastructure Delivery Strategy will set out a local authority's intentions and plans for infrastructure provision for developers and the community. However, it should be noted that the contents of the strategy will be dependent on effective engagement and participation with infrastructure providers and public bodies. It can be difficult to ascertain certainty on funding amounts from infrastructure providers as well as align timescales.

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

Ultimately, local planning authorities need an up to date Local Plan based on up to date evidence, which defines the quantum and location of development proposed in order to be able to engage constructively with infrastructure providers and public bodies, to be able to draft an accurate and comprehensive IDS.

**Question 26:** Do you agree that views of the local community should be integrated into the drafting of an Infrastructure Delivery Strategy? [Yes/No/Unsure] Please provide a free text response to explain your answer where necessary.

Community involvement and participation is integral to an effective planning process. As stated in our Statement of Community Involvement in Planning 2020, our aim is to improve opportunities for the community to get involved in shaping the planning policies in our District and to ensure that our residents have a greater sense of ownership in planning decisions and outcomes. We consult the local community, infrastructure providers and public bodies throughout the Local Plan process and provide an opportunity through this to comment on infrastructure provision, constraint and demands.

It would seem overly onerous and add additional time onto the strategy's adoption to consult on the Infrastructure Delivery Strategy (IDS). The IDS is based on the existing Infrastructure Delivery Plan (IDP) and Infrastructure Funding Statement. The IDP is an evidence-based document formulated with the assistance from infrastructure providers and public bodies based on their forecasts and anticipated demands and constraints from forthcoming Local Plan allocations. Whilst the views of the community are valued, the purpose of this strategy is inherently a consideration of

supply and demand of infrastructure based on development demands where infrastructure providers and public bodies would be best placed to advise on. It would be more appropriate to formally consult the community on the neighbourhood portion where local input would be best placed.

**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: The approach to any discretionary elements for the neighbourhood share and proportion for administration are points of reporting, rather than spending, therefore it is our view that it is not necessary to include these in the IDS. Instead they should be reported in the annual Infrastructure Funding Statement or its successor.
- 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: Effective partnership working with infrastructure providers and public bodies, including county councils, is a necessity to ensure infrastructure is delivered. We regularly engage with providers through Duty to Co-operate discussions and are committed to working with infrastructure providers and public bodies to ensure that the necessary infrastructure is in place to support new growth. However, and as set out in our response to Question 3, our experience as a lower tier authority highlights the competing infrastructure priorities between the District and the County Council, and at this stage, the

Infrastructure Levy proposals do not set out a process for dealing with this situation.

**Question 29:** To what extent do you agree that it is possible to identify infrastructure requirements at the local plan stage? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.

Gaining an understanding of what infrastructure is required to support development proposed in a Local Plan is key. As a District Council, we cannot deliver infrastructure on our own and so we have to engage constructively with infrastructure providers and public bodies to fully understand the need, costings and timescales. These are generally detailed in the Infrastructure Delivery Plan.

There are challenges with infrastructure planning, most notably differing timescales and priorities between the District Council and infrastructure providers / public bodies, and we would welcome further guidance to encourage active and meaningful engagement moving forward.

## Chapter 5 – Delivering affordable housing

**Question 30:** To what extent do you agree that the 'right to require' will reduce the risk that affordable housing contributions are negotiated down on viability grounds? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.

Providing Affordable Housing is a major challenge in Sevenoaks District, where land prices are ever-increasing and the median house prices in the District are almost £100,000 higher than in the South-East. In particular, this makes it exceedingly difficult for first-time buyers and young families to remain in the District. Therefore, the Council welcomes the *Right to Require* proposal which offers less flexibility for Developers to 'negotiate down' levels of Affordable Housing for Viability reasons.

However, without further guidance, it is currently unclear how this requirement will be enforced. Further guidance is also required regarding how the 'Cumulative Discount' for Affordable units will be calculated and agreed – will this be set by the Local Planning Authority through the IDS, or by Developers through Market Research. This could potentially leave scope for data to be misconstrued to suit a lower level of affordable housing contribution.

Given the major challenge in providing affordable housing in Sevenoaks District, the Council would highlight that the ability to set the *Right to Require* at 100% of the Levy, in certain circumstances, would be welcomed, where the demand for Affordable Housing outweighed or is far greater than the local need for infrastructure. Paragraph B6 in Annex B sets out that 'Different thresholds and levy rates could apply across a local authority's area according to development type,

location and previous uses' and the Council would highlight that in some locations, it may be suitable to set a higher percentage for *Right to Require*

Therefore, providing that the percentage can be evidenced, it is considered that this decision should be made by the Local Authority in considering the locally specific circumstances. For this reason, the Council opposes the proposal for a potential cap on the *Right to Require* percentage.

**Question 31:** To what extent do you agree that local authorities should charge a highly discounted/zero-rated Infrastructure Levy rate on high percentage/100% affordable housing schemes? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary

The Council agrees that this would be a sensible approach for 100% affordable schemes. Further guidance is required on the remits of 'integral' infrastructure but it is acknowledged that a zero-rated infrastructure levy for 100% affordable sites could provide further flexibility for the provision of additional affordable units on-site. This exemption could also encourage schemes to come forward for 100% affordable housing.

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

Registered provider-led schemes in Sevenoaks District have been limited to rural exceptions housing and the remodelling of existing stock by West Kent Housing Association and Moat in recent years. Generally speaking, infrastructure does not tend to be delivered on these types of schemes as it negatively impacts the overall viability, however we are starting to see requests for education contributions from the County Council. These requests are considered on a case by case basis but are a serious concern for rural exceptions sites in particular, where such a contribution would render the scheme unviable.

**Question 33:** As per paragraph 5.13, do you think that an upper limit of where the 'right to require' could be set should be introduced by the government? [Yes/No/unsure] Alternatively, do you think where the 'right to require' is set should be left to the discretion of the local authority? [Yes/No/unsure]. Please provide a free text response to explain your answer where necessary.

As highlighted in our response to Question 30, providing affordable housing presents a major challenge in Sevenoaks District, and therefore the ability to set the *Right to Require* at 100% of the Levy, in certain circumstances, would be welcomed by the Council.

Paragraph B6 in Annex B sets out that 'Different thresholds and levy rates could apply across a local authority's area according to development type, location and previous uses' and the Council would highlight that in some locations, it may be

suitable to set a higher percentage for *Right to Require*, where the demand for Affordable Housing outweighed or is far greater than the local need for infrastructure.

Therefore, providing that the percentage can be evidenced, it is considered that this decision should be made by the Local Authority in considering the locally specific circumstances. For this reason, the Council opposes the proposal for a potential cap on the *Right to Require* percentage.

## Chapter 6 – Other areas

**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

The existing CIL Regulations state that the charging authority must pass a proportion of the CIL receipts from the development to the parish council. Parish councils without a neighbourhood development plan are eligible for up to 15% of CIL receipts collected in their parish area. Parish councils with a made neighbourhood plan are eligible for 25% of CIL receipts collected in their parish area.

The Council recognises that not all Town/Parish Councils are in a position to make neighbourhood plans and the district's two charging rates (Charging Area A: £125 per m<sup>2</sup> and Charging Area B: £75 per m<sup>2</sup>) mean the amount of receipts passed over vary.

In November 2014, the Council's Cabinet therefore agreed, despite the guidance in Legislation, that all Town/Parish Councils would receive 25% of CIL contributions collected in their area. This would be regardless of which charging area the town/parish council is in or whether a neighbourhood plan is in place. In addition, all payments are calculated against the higher rate of CIL (£125).

It is considered that the Neighbourhood Share should be retained to enable parished areas to benefit from development.

**Question 36:** The government is interested in views on arrangements for spending the neighbourhood share in unparished areas. What other bodies do you think could be in receipt of a Neighbourhood Share in such areas?

No comment - Sevenoaks District is a fully parished area.

**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.

As set out in our response to Question 14, we have concerns that the three-stepped approach to the Infrastructure Levy would have a significant additional draw on team time and resources, over and above that currently required to manage the day to day running of CIL. As such, the administration portion for the levy needs to reflect this.

**Question 38:** Applicants can apply for mandatory or discretionary relief for social housing under CIL. Question 31 seeks views on exempting affordable housing from the Levy. This question seeks views on retaining other countrywide exemptions. How strongly do you agree the following should be retained:

- residential annexes and extensions; [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree]
- self-build housing; [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree]

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

As set out in our response to Questions 1 and 9, under the current CIL system, applications for householder extensions, annexes, conversions and replacement dwellings of the same size require administration that is disproportionate to the CIL gain, as the liability notices result in £0. Officer time is spent on follow up queries and there is little financial penalty for householders if the process is not followed correctly. We therefore support the proposed exemptions.

Further detail is welcomed on how automatic exemptions will work in practice – will they be set through the regulations or will local authorities have discretion to set them in their charging schedules according to local circumstances?

**Question 39:** Do you consider there are other circumstances where relief from the Levy or reduced Levy rates should apply, such as for the provision of sustainable technologies? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.

It is acknowledged that there is scope for national offsets to the levy to be proposed, for example new buildings exceeding national or local environmental policy. Whilst exemplar sustainably designed buildings are encouraged and welcomed there is uncertainty how this will work in practice. Different local authorities will have differing needs and individual circumstances so nationally set offsets from the levy may not be able to account for these. It is also considered that the infrastructure levy will be providing funding for infrastructure needs which cumulative development will affect. It is important that funding is collected to supply necessary infrastructure and there is not a mechanism for developments being able to avoid or minimise the levy even if there are other benefits. Additional detail on proposals will be required to alleviate these concerns.

**Question 40:** To what extent do you agree with our proposed approach to small sites? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.

Small sites continually make up a large proportion of the development delivered in Sevenoaks District. Our emerging Local Plan includes a policy on small sites which supports the provision of well-designed new places on smaller sites no larger than 1 hectare in existing built up areas. It would seem sensible to introduce a reduced levy rate for such sites, in order that the viability is not negatively impacted. Furthermore, given the significant need for affordable housing that exists within the District, the emerging Local Plan also includes a policy that sets a lower threshold for affordable housing on sites within designated rural areas. It is reassuring that the levy proposals maintain the ability for the Council to seek in-kind affordable housing on smaller sites in these areas.

**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.

The change in the way affordable housing is to be delivered i.e. moving from a percentage requirement set out in local policy to delivery through the right to require, poses risks in itself. It shifts the delivery of affordable housing from a numbers focus, which is directly linked to local evidence, to a monetary value which makes it more difficult to see how local needs are being met. What certainty does the right to require provide to ensure that affordable housing is delivered?

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

No comment.

**Question 43:** Do you agree that these enforcement mechanisms will be sufficient to secure Levy payments? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary.

The proposed enforcement measures are similar to the measures existing under the CIL Regulations and clauses in Section 106 agreements in regard to restriction of occupation. Sevenoaks District Council has only had to pursue enforcement action against a CIL charge on one occasion and the existing CIL regulations were effective in receiving the outstanding funds.

## Chapter 7 – Introducing the Levy

**Question 44:** Do you agree that the proposed ‘test and learn’ approach to transitioning to the new Infrastructure Levy will help deliver an effective system? [Strongly Agree/Agree/Neutral/Disagree/Strongly Disagree/Unsure] Please provide a free text response to explain your answer where necessary

We are generally supportive of the test and learn approach as it is not often we get the opportunity to help shape and input into such a significant proposal. It will be imperative to understand how the levy operates in different areas in different Councils and therefore the approach taken needs to be representative of the places it will apply to e.g. north and south, urban and rural, large and small, constrained and unconstrained etc.

We do have some concerns however. The ten year period anticipated for the levy to become fully operational has some risks – this timescale spans over both general and local elections and therefore has the potential to create significant uncertainty if there are political changes. Also, the test and learn process will be incredibly onerous for those local authorities involved, as the testing will need to be run alongside current processes. What assurances of support can be given to those authorities involved in the test and learn process to ensure current service delivery is not compromised?

Notwithstanding our concerns, it is fair to say that our experience of the current system of CIL and S106 shows that it is not working as well as it should, for the reasons given earlier in our response. We therefore welcome the opportunity for change and would like it noted that Sevenoaks District Council wishes to volunteer itself to become a test and learn authority.

**Question 45:** Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010? [Yes/No/Unsure]. Please provide a free text response to explain your answer where necessary.