

<b>Agenda Item</b>	<b>15</b>
<b>Report No</b>	<b>ECI/54/24</b>

# The Highland Council

**Committee:** Economy and Infrastructure

**Date:** 14 November 2024

**Report Title:** Infrastructure Levy for Scotland: Scottish Government Discussion Paper

**Report By:** Assistant Chief Executive - Place

## **1 Purpose/Executive Summary**

- 1.1 This item briefs Members on the Scottish Government's Infrastructure Levy for Scotland Discussion Paper and seeks homologation of officer comments submitted to Scottish Government prior to the 30 September 2024 deadline.

## **2 Recommendation**

- 2.1 Members are asked to homologate officer comments, as detailed at **Appendix 2**, as the Highland Council's response to the Scottish Government's Infrastructure Levy Discussion Paper.

## **3 Implications**

- 3.1 **Resource, Legal, Risk, Health & Safety and Gaelic** – this is a Scottish Government consultation seeking to discuss a discretionary power that may be made available to local planning authorities sometime after May 2026 and therefore has no direct implications for the Council. A further report to Committee and an assessment of the implications may be necessary in 2026 if and when the detail of secondary legislation is known.

## **4 Impacts**

- 4.1 In Highland, all policies, strategies or service changes are subject to an integrated screening for impact for Equalities, Poverty and Human Rights, Children's Rights and Wellbeing, Climate Change, Islands and Mainland Rural Communities, and Data Protection. Where identified as required, a full impact assessment will be undertaken.
- 4.2 Considering impacts is a core part of the decision-making process and needs to inform the decision-making process. When taking any decision, Members must give due regard to the findings of any assessment.

- 4.3 This report seeks homologation of comments already submitted to a Scottish Government Discussion Paper. The Levy is not a Council proposal or policy and therefore an impact assessment is not required.
- 4.4 If and when the relevant secondary legislation has been progressed through the Scottish Parliament then a further report to Committee may be appropriate and if so then would include a full impact assessment.

4.5 **Integrated Impact Assessment - Summary**

- 4.5.1 An Integrated Impact Assessment screening has been undertaken on 29 October 2024. The conclusions have been subject to the relevant Manager Review and Approval.
- 4.5.2 The Screening process has concluded that this work does not require a Full Impact Assessment, as it sets out factual information about Highland without making any recommendations or proposals on the strategy and policies that will emerge. Members are asked to consider the summary in **Appendix 1** to support the decision-making process.

4.5.3

Impact Assessment Area	Conclusion of Screening
Equality	<ul style="list-style-type: none"> <li>Children and Young People – <i>no impact</i></li> <li>Children affected by disability – <i>no impact</i></li> <li>Older adults – <i>no impact</i></li> </ul>
Socio-economic	<i>no impact</i>
Human Rights	<i>no impact</i>
Children’s Rights and Well-being	<i>no impact</i>
Island and Mainland Rural	<i>no impact</i>
Climate Change	<i>no impact</i>
Data Rights	<i>no impact</i>

5 **Infrastructure Levy for Scotland Discussion Paper**

- 5.1 Scottish Government has started a consultation process with a Discussion Paper on how to implement an optional power from the Planning (Scotland) Act 2019 to allow a local planning authority to charge an infrastructure levy on the development industry towards the provision of strategic infrastructure. This optional power lapses if appropriate secondary legislation is not in force by 24 July 2026. Scottish Government has recently stated that it will progress this secondary legislation by the end of April 2026. The Discussion Paper seeks ideas and comments on what that future secondary legislation should include.
- 5.2 There is a clear logic to the imposition of a levy. National Planning Framework 4’s Infrastructure First policy places greater emphasis on supporting development only if sufficient infrastructure capacity exists or can reasonably be created. The levy is to fund strategic infrastructure capacity the need for which is created by cumulative new development within a wide catchment. As such the levy will be separate from but additional and complementary to site-specific developer contributions required to mitigate for more localised infrastructure capacity impacts which will continue to be sought and secured via a section 75 or similar legal agreement.

The levy requires a legal foundation because Aberdeen City and Shire's approach of seeking developer contributions for strategic transport infrastructure over a wide catchment was found unlawful by the UK Supreme Court in a [judgment](#) given in October 2017.

- 5.3 Scottish Government hopes to formulate a levy that will be simple to implement, proportionate, fair and predictable for developers, effective and not make development unnecessarily unviable. It is hoped that landowners will take all or the majority of the "financial hit" of the levy; i.e., the developer will pay a sum of money for the land that takes account of the levy charge. There are many financial and practical matters to be worked through to achieve these laudable aims.
- 5.4 The methodology for calculating the levy amount is paramount. Scottish Government suggests a nationally set methodology but with variables that can be adjusted to allow for local circumstances, for example for viability, which will vary markedly across Scotland. Consultees are also being asked whether the amount should be based on the number of units of development (e.g. houses), total floorspace or value of the development. The limitation of a levy based on development value is that that value may vary markedly over time and the specifics are often not known at planning permission in principle application stage.
- 5.5 Another crucial decision is defining what types and scales of development are exempt from the levy. Scottish Government suggest applications for "buildings used by people" should be charged and that infrastructure developments should not be charged. This appears to be designed to exempt energy sector developments. One decision to be left to local planning authorities is the choice of threshold(s) below which the levy would not be chargeable. Otherwise, Scottish Government is also seeking views on whether the timing of payment should be on grant of planning permission or on completion of (phase of) development. Other matters still to be worked through are the appeals process if there is a dispute about liability for or the amount of payment, the enforcement mechanism for non-payment, and the accounting process for recording how income from the levy is spent.

## **6 Highland Council Response**

- 6.1 The Highland Council officer response is detailed at **Appendix 2**. This response seeks to maximise the influence that Highland as a local planning authority would have in applying the levy. It suggests that there should be scope for variation to local circumstances not only by local authority but also by place and by site.
- 6.2 For example, it suggests that there should be scope to adjust the levy to reflect local development viability, local variation in local infrastructure needs and costs, local socio-economic priorities, and local environmental factors.
- 6.3 In terms of the more technical issues, it suggests charging by floorspace will be easier to calculate and more accurate than by development value. It agrees with not charging for householder development because this is already agreed practice for other developer contributions within Highland. It also states that most payments should be made on completion of a development.
- 6.4 The response suggests that the levy should be calculated at planning application decision stage, and that part of the payment should be taken from the landowner at commencement of the development with the balance being taken from the developer on completion.

- 6.5 Otherwise, the response agrees with the Scottish Government's suggested approach, for example on the need for an appeal process, enforcement of non-payment, and transparent accounting.

Designation: Assistant Chief Executive - Place

Date: 30 October 2024

Author: Tim Stott, Principal Planner - Development Plans

Background Papers: Infrastructure Levy for Scotland: [Discussion Paper](#)

Appendix: Appendix 1 – Integrated Impact Assessment Screening  
Appendix 2 - Highland Council Response to Paper

# Integrated Impact Assessment Screening

---

## About proposal

**What does this proposal relate to?** Council Response to Scottish Government Consultation Paper

**Proposal name:** Highland Council response to Infrastructure Levy for Scotland: Scottish Government Discussion Paper

**High level summary of the proposal:** Scottish Government are consulting on what the secondary legislation for an Infrastructure Levy should contain

**Who may be affected by the proposal?** No one will be affected by the consultation itself

**Start date of proposal:** 03/06/2024

**End date of proposal:** 30/09/2024

**Does this proposal result in a change or impact to one or more Council service?** No

**Does this relate to an existing proposal?** No

---

## Author details

**Name:** Tim Stott

**Job title:** Principal Planner

**Email address:** Tim.Stott@highland.gov.uk

**Service:** Place

---

## Responsible officer details

**Name:** Scott Dalgarno

**Job title:** Development Plans Manager

**Email address:** Scott.Dalgarno@highland.gov.uk

**Sign off date:** 2024-10-30

---

## Equalities, poverty, and human rights

**Protected characteristics**

Select what impact the proposal will have on the following protected characteristics:

**Sex:** No impact

**Age:** No impact

**Disability:** No impact

**Religion or belief:** No impact

**Race:** No impact

**Sexual orientation:** No impact

**Gender reassignment:** No impact

**Pregnancy and maternity:** No impact

**Marriage and civil partnership:** No impact

**Protected characteristics impact details:** This is a response to a Scottish Government consultation. It is not a Highland Council policy or proposal.

## **Poverty and socio-economic**

What impact is the proposal likely to have on the following?

**Prospects and opportunities:** No impact

**Places:** No impact

**Financial:** No impact

**Poverty and socio-economic impact details:**

## **Human rights**

**Which of the below human rights will be affected by this proposal?** No human rights will be affected

**What impact do you consider this proposal to have on the human rights of people?** No impact

**Human rights impact details:** This is a response to a Scottish Government consultation. It is not a Highland Council policy or proposal.

## **Equalities, poverty and human rights screening assessment**

**What impact do you think there will be to equalities, poverty and human rights?** No impact

**Is a Full Impact Assessment required?** No

---

## Children's rights and wellbeing

**What likely impact will the proposal have on children and young people?**None.

**Which of the below children's rights will be affected by the proposal?**No children's rights will be affected

**Explain how the children's rights selected above will be affected:**This is a response to a Scottish Government consultation. It is not a Highland Council policy or proposal.

### Children's rights and wellbeing screening assessment

**What impact do you think there will be to children's rights and wellbeing?**No impact

**Is a Full Impact Assessment required?**No

---

## Data protection

**Will your proposal involve processing personal data?**No

### Data protection screening assessment

**What change will there be to the way personal data is processed?**No personal data will be processed

**Is a Full Impact Assessment required?**No

---

## Island and mainland rural communities

**Does your proposal impact island and mainland rural communities?**No

### Island and mainland rural communities screening assessment

**What impact do you think there will be to island and mainland rural communities?**No difference

**Is a Full Impact Assessment required?**No

---

## Climate change

**Does the proposal involve activities that could impact on greenhouse gas emissions (CO2e)?**No

**Does the proposal have the potential to affect the environment, wildlife or biodiversity?**No

**Does the proposal have the potential to influence resilience to extreme weather or changing climate?**No

**Provide information regarding your selection above:** This is a response to a Scottish Government consultation. It is not a Highland Council policy or proposal.

## **Climate change screening assessment**

**Have you identified potential impact for any of the areas above or marked any as not known?** No

**Is a Full Impact Assessment required?**No



## Infrastructure Levy Discussion Paper - Highland Council Response

### Responses to Points for Discussion

#### Section 8.1 Setting the payable amount

##### 8.1.1 Unit of charge

- Do you agree that the charge should be based on a calculation per square metre of development? Are there any options or issues we have not considered above?

This will depend largely on the type of development for which Infrastructure Levy is considered suitable and appropriate. For example, a development that may be big in site area and investment size may not lend itself to an infrastructure levy calculation on the basis of floorspace e.g. windfarm development which will require different criteria/metrics.

For certain uses the external floor space may be the most suitable and simple approach given that this aligns with the approach taken with planning applications.

However, a balanced approach to ILS will be required which recognises the unique and specific circumstances of an application and which ensures the viability of development. This is especially the case for housing developments where a balanced approach with developer contributions needs careful consideration to ensure the viability of development. In addition, there are particular challenges for developments in the more isolated communities, including many in Highland, where a one-size-fits-all approach may unduly impact on the viability and delivery of development. For uses where the floorspace is deemed to be the most suitable approach it is likely that a gross floor space (as per section 7 of Circular 2/2022) is appropriate but also a tiered may help to ensure that the levy contributions sought are realistic and proportionate to address the balanced approach needed.

- Should the area of the development be calculated by internal or external measurement?

To make the implications and calculations easier and more efficient, the same of calculating the external measurements should be used for applying IFL (making it similar to the basis of planning applications fees for any property). In line with Circular 2/2022 'Gross Floor Space' may be the most appropriate measurement.

- How should existing property that is demolished or redeveloped be treated in the calculation?
  - Net Increase in floorspace area and any changes in use or intensity of development and/or activity should be compared and considered to apply the levy charges.
  - New identified infrastructure projects in the Local Development Plan Delivery Programme should be given priority and accordingly the developer should be charged (the amount might be less compared to new sites).

##### 8.1.2 Setting the Levy amount

- Do you agree that the Levy should be charged as a set amount per square metre?

With reference to our earlier response in 8.1.1, there are instances where external floor space is considered to be a suitable measure for charging and a tiered approach may help to arrive at fair and proportionate amounts. The charges may need to be more responsive and tailored to the unique needs of the areas around proposed developments. Highland comprises of several sub-regions and each of its sub-regions has several infrastructure priorities. These strategic priorities should be identified for each part of the region, and these would inform and help identify the Levy amount for these tailored requirements (complementing the nature and demand of the area including exemptions – this should be reviewed on a yearly basis making required changes to the Levy amount according to the individual infrastructure needs).

- Is it helpful to use average sale values to set the amount of the Levy? What other methods could be used?

Using average sale values in Highland to set the levy can be helpful, as it aligns the charge with the economic context of the area. It ensures that more valuable properties contribute proportionately, and it could help avoid overburdening less economically developed areas. It adjusts the levy according to the financial capacity of different areas. However, the data needs to be available clearly and consistently to ensure this can be carried out.

Linked to these other criteria that could be factored in include:

- The opportunity to use the levy to address sub-regional disparities and inequalities in service levels and infrastructure, for example in lower SIMD areas. In certain rural areas these levies may need to be set at lower rates to account for lower service demands or costs, and to help address those disparities.
- The opportunity to consider how the specific impacts that a development or activity has on infrastructure or biodiversity might inform the levy amounts, albeit that such charges should not be seen as a means of mitigating unacceptable impacts.
- **How can a set amount best reflect local variation in development value? Do you agree that local authorities should set the zones across which the amount is set?**

A set amount might not fully capture local variations in development value because it does not account for differences in factors like land demand, existing infrastructure, and socio-economic conditions. To better reflect these variations, the amount could be adjusted based on criteria such as:

- Land Use Type: Different uses (residential, commercial, industrial) can have vastly different values.
- Location: Proximity to amenities, transport links, and economic activity can influence land value.
- Infrastructure: Areas with existing infrastructure may warrant different charges than those needing significant investment.

Local authorities like The Highland Council have a good understanding of the needs, demands and conditions of its infrastructures in different local areas and sub-regions. As such local authorities should have a strong role in setting the levy rates.

- **Should local authorities be allowed to charge the Levy only in parts of their area (or not at all)?**

Yes, local authorities are best placed to understand the variations in the local market (of each individual area) which would help them to set the Levy rates in their area and in specific parts of its area (identification of sub-areas might include, for example, areas where there would not be a need for paying levy or an area where the Levy rate might be higher compared to all other places.) We agree that where appropriate joint work between local authorities and national park authorities will help to define what is appropriate in each area.

- **How could amounts for commercial and industrial development be set?**

The charges for commercial or industrial developments should be aligned with the local infrastructure needs. While a standard base levy amount could be applied when submitting a planning application, this rate may be increased in areas where significant infrastructure development or improvement is required to support the project.

### **8.1.3 The ILS and other demands on value**

- **Would it be helpful for local authorities to have discretion to waive or reduce the ILS in individual cases?**

Yes, giving local authorities the discretion to waive or reduce the Infrastructure Levy for Scotland (ILS) in individual cases could be beneficial. This flexibility would allow them to account for unique circumstances, such as:

- Affordable Housing Projects: Authorities could reduce the ILS to encourage developments that provide social or affordable housing.
- Economic Stimulus: In areas struggling with economic stagnation, reducing or waiving the ILS might attract commercial investment and job creation.
- Site-Specific Challenges: Certain sites may face higher development costs due to environmental or logistical constraints and/or developer contributions that needs to be balanced with ILS to make these projects viable.

In addition, the viability of certain housing developments may be under pressure due to infrastructure and developer contribution requirements, and such factors might inform where a reduction or waiver applies.

This discretionary power would enable local authorities to respond to local needs, promoting development while balancing infrastructure requirements. However, clear guidelines would be necessary to prevent misuse and ensure transparency. To reduce such risks, it would be helpful to have clear guidance or statutory provisions that clarify how any challenges should be handled.

- Should the impact of planning obligations and other charges / requirements be considered in this assessment?

Yes, the impact of planning obligations and other charges or requirements should definitely be considered in the assessment of development costs. This ensures a balanced approach that does not overburden developers while still securing necessary contributions for infrastructure and community benefits. Related to this there are particular issues around:

- **Cost Burden on Developers:** When planning obligations (such as affordable housing, green space, or transport improvements) and other charges like the Infrastructure Levy (ILS) are combined, they can significantly increase development costs. This may discourage investment or lead to fewer projects being completed.
- **Viability of Development:** An assessment that includes all obligations and charges ensures that the total cost of development is viable, and projects remain financially feasible. If the cumulative costs are too high, developers may scale back on important community contributions, like affordable housing.
- **Fair Distribution of Costs:** Considering all obligations allows for a fair distribution of costs between the developer and local authorities. It ensures that developers are not paying multiple overlapping charges (or ensuring avoidance of double charging) without a clear benefit to the community or infrastructure.

## Section 8.2 What kinds of development should pay the Levy?

- Do you agree that residential institutions should be excluded from the Levy?

There is a general support towards the idea of excluding certain residential institutions, especially those that provide clear social benefits, from the levy. However, this should be done carefully with clear definitions to prevent abuse and to ensure that institutions that generate significant infrastructure demands contribute their fair share (putting a cap on the scale of development would help to monitor the financial pressure that large institutions might bring on the infrastructure).

- Should the Levy be charged on all or some types of affordable housing?

We have flagged that particular care needs to be taken in balancing ILS with developer contributions for housing, especially for affordable housing. As such there may be grounds for reducing and waiving ILS contributions for such developments.

- How should commercial development, purpose-built student accommodation and build-to-rent housing be treated?

Commercial development, purpose-built student accommodation (PBSA), and build-to-rent housing are distinct property types that serve different purposes, but they all contribute to local infrastructure demands.

- Commercial Development: Should pay proportionate ILS charges based on impact, with potential reductions for public-benefit projects like –roads, bridges, hospitals, libraries, parks, etc.
- PBSA: Should face moderated ILS charges due to lower infrastructure needs, with potential exemptions from affordable housing requirements.
- Build-to-Rent Housing: Should fully contribute to ILS and affordable housing, with possible incentives for long-term and/or affordable rental models.
- Should renewable energy infrastructure and related development also be subject to the Levy? How might that impact on voluntary community benefits?

**ILS will further erode the economic viability of renewables, directly impacting on the ability to extract community benefit at the scale that The Highland Council would wish. Fundamentally therefore we would advise caution on applying ILS to renewables for that reason.** In addition, the other key issue for Highland is the transport infrastructure. Currently we do well with securing mitigation for upgrading for roads/bridges – as exemplified by our “South Loch Ness Strategy” (an area hosting multiple renewables schemes)- possibly beyond the value of each development on its own. Depending on the extent of the charge under the levy, we may lose this opportunity.

For renewable energy infrastructure, such as solar farms, wind turbines, and energy storage facilities, but also enabling developments such as substations and power line upgrades, there may be grounds for ILS to be made but a balanced approach should be taken alongside direct development impacts and mitigation, infrastructure requirements and community benefits.

Many renewable energy projects, particularly those in rural areas, offer **voluntary community benefits** (e.g., funding for local projects, discounted energy rates, or investments in local infrastructure) to secure community support and goodwill. Scottish Government’s **Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments** describes Community Benefit thus:

*“Community benefits are a renewable industry led voluntary initiative to support communities and offer an opportunity for communities to work with renewable energy businesses for the long-term benefit of the community.”*

In taking a balanced approach the following should be considered:

- **Reduced Financial Flexibility for Developers:** If renewable energy developers face higher costs through the ILS, they may have less financial room to offer voluntary community benefits. This could lead to a reduction in the quality or scope of the benefits provided.
- **Shift toward mandatory contributions:** ILS could shift the focus away from voluntary contributions toward mandatory ones, potentially making the community benefits less flexible and more standardized. This might reduce the opportunity for communities to negotiate tailored benefits that meet their specific needs.
- **Incentivising development in certain areas:** By **exempting or reducing ILS** charges for renewable energy infrastructure, local authorities can encourage the development of these projects, ensuring that community benefits continue to be offered without overburdening developers. This could incentivise further investment in renewables while maintaining good relationships with local communities.
- **Number and scale of renewable projects and strategy imperative towards achieving net zero.**

If renewable energy infrastructure were, despite the concerns above, to be subject to ILS, it should be subject to an appropriate levy amount, taking into account its public and environmental value and different profile of demand on Infrastructure (For example: there may be fewer types of demand but some demands could be significant such as on the local road network – where existing road network may not be physically capable of accommodating the scale of development).

### 8.2.1 Exemptions

- Do you agree that householder development should be excluded from the Levy?

Yes, excluding **householder developments** from the Infrastructure Levy is a sensible approach. These developments have minimal infrastructure impacts and excluding them would support homeowners in improving their properties without adding unnecessary financial or administrative burdens.

- Should self-build housing and very small developments be exempt?

There may be grounds for all scales and types of housing developments to including Infrastructure Levy but with potential for reduced charges if the development is being led by a housing trust. While we support the principle of applying ILS proportionately across all developments care needs to be taken on the financial viability of all scales of housing project to avoid threatening their delivery.

- Are there any other types of development that should be exempt?

Several types of development, including **affordable housing, non-profit projects like charities, public infrastructure like schools, libraries, minor engineering works, small agricultural projects, and brownfield redevelopment**, could justifiably be **exempt** or face **reduced Infrastructure Levy charges**. This would encourage socially beneficial, environmentally sustainable, and community-focused projects without creating undue financial burdens.

- Should there be exemptions for charities or other types of developer?

There may be circumstances where exemptions can apply including RSLs or Housing Trusts. However, consideration should be given on case-by-case basis depending on the type of proposal and the detailed circumstances of the case.

- To what extent should exemptions be set nationally, or at local authorities' discretion?

A **balanced approach** is key:

- **Nationally set exemptions** for essential developments (like affordable housing and renewable energy) ensure consistency and alignment with broader goals.
- **Local authority** should set value of exemption/reduced ILS payable which allows flexibility to address specific regional priorities and respond to local economic and development needs. This would promote fairness while allowing for local responsiveness and innovation in meeting infrastructure and community development challenges.

### 8.3 When should the Levy be calculated, and paid?

- When would be the best time for the Levy to be calculated and paid?

**Calculation:** At the time of **granting planning permission aligning to the current Developer Contributions**, ensuring clarity and accurate valuation.

**Payment: Initial Payment:** A smaller portion (e.g., 25%) on **commencement of development**; **Final Payment:** The remaining portion (e.g., 75%) on **completion or first occupation**. Possibly a phased approach for larger developments where development is being built out in phases.

This approach might bring a balance to the need for early infrastructure funding with the financial realities of development projects, ensuring that the levy does not hinder progress while providing timely support for necessary public infrastructure.

- What arrangements could be made in the case of development benefitting from PDRs?

Developments that benefit from **Permitted Development Rights (PDR)** present unique challenges for the Infrastructure Levy (ILS), as they do not require formal planning permission but still impact local infrastructure. To address this, a tailored approach is necessary to ensure that PDR developments contribute fairly to infrastructure without imposing undue burdens.

- Is any special statutory provision needed to manage arrangements in LLTNPA?

No comments

#### 8.4 Who should be liable to pay?

- Do you agree that the owner of the land at commencement of development should be liable to pay the Levy?

Yes, the landowner at the commencement of development should be liable to pay the Infrastructure Levy, as this creates clear accountability, aligns responsibility with those benefiting from the development, and simplifies the legal and administrative process. It encourages better planning and avoids complications arising from ownership changes during the development process.

While this would be a clear and effective approach, there may be specific cases where a developer (rather than the landowner) takes on the financial responsibility for the levy through a private agreement. In such cases, liability should still legally fall on the landowner at commencement, but contractual arrangements can allow the developer to cover the cost if agreed upon. This ensures flexibility while maintaining clarity.

- If not, who should be liable, and how (and when) should they be identified?

While alternatives exist, making anyone other than the landowner liable presents challenges related to complexity, enforcement, and fairness. The most practical approach would likely remain either **the landowner at commencement** or **the developer and/ or the applicant** if they are clearly responsible for the project. If the landowner is not held liable, then the **developer** is the next most logical choice, as they control the project and benefit financially. The **developer** should be identified at the time of **granting planning permission** or **commencement of development**.

- Should there be specific provisions to prevent liability for the Levy being passed on to homebuyers?

Yes.

(To prevent the Infrastructure Levy from being passed on to homebuyers, specific provisions should be introduced, such as legal restrictions, pricing transparency, developer incentives, and phased payment structures. These mechanisms would help maintain housing affordability, ensure that the cost of infrastructure improvements is fairly borne by developers or landowners, and protect homebuyers from inflated property prices.)

#### 8.6 Penalties and enforcement

- Should there be a penalty fee if the Levy is not paid on time?

Yes, there should be a **penalty fee** if the Infrastructure Levy (ILS) is not paid on time. This will encourage timely compliance, ensure essential infrastructure is funded on schedule, and cover the administrative costs of collecting overdue payments. A system based on **percentage penalties, interest charges, or tiered fines** would provide a strong incentive for developers and landowners to pay on time, while additional enforcement measures can ensure persistent non-payers are held accountable.

- If so, should it be a fixed amount or a proportion of the amount due?

Proportion of the amount due would be a better option but a combination of both **fixed amounts** and **proportional penalties** can be an effective approach for late payments of the Infrastructure Levy (ILS) (solely depends on the case).

- Should the penalty increase over time if the Levy is still not paid?



Yes, the penalty for late payment of the Infrastructure Levy (ILS) should increase over time if the levy remains unpaid.

- Should the local authority be able to require development to stop if the Levy is not paid? Would this be effective?

Allowing local authorities to require development to stop if the Infrastructure Levy is not paid can be an effective enforcement tool. It provides a strong incentive for compliance, protects community interests, and ensures fairness among developers. Proper guidelines and legal frameworks would need to be established to implement this measure effectively while considering potential impacts on the community and developers.

- Do you have any views on offences relating to failure to pay, failure to stop work, or attempting to evade full payment?

Yes, establishing clear offences relating to failure to pay the Infrastructure Levy (ILS), failure to stop work when required, and attempts to evade full payment is essential for ensuring compliance and integrity in the development process.

### **8.7 What should the Levy be spent on?**

- Are any changes needed to the definition of infrastructure?

No, rather than changing the existing infrastructure definition, it would be better to define the type of infrastructure the ILS could be spent. The levy is to be spent on infrastructure identified in the LDP and NPF4, and in future through Regional Spatial Strategies, for which s.75 planning obligations are less suitable or where it is appropriate to gather contributions across a wider area.

- Do you agree that the Levy should fund infrastructure identified in the development plan, or should local authorities provide a separate list?

The Infrastructure Levy should ideally fund infrastructure identified in the development plan but allowing local authorities to provide a separate list in line with the current LDP and the identified projects can enhance flexibility and responsiveness to community needs.

- How could the costs of administering the Levy be covered?

To cover the costs of administering the Infrastructure Levy, a combination of strategies can be employed, including allocating a percentage of levy revenues for administration, charging application fees, requiring developer contributions, pursuing grant funding, and investing in efficiency improvements.

### **8.8 Accounting for levy income and expenditure**

- Do you agree that the local authority should publish an annual report on infrastructure levy income and expenditure?

Publishing an annual report on Infrastructure Levy income and expenditure is essential for transparency, community engagement, performance assessment, informed decision-making, regulatory compliance, and building trust with developers. This practice not only enhances the effectiveness of the levy system but also strengthens the relationship between local authorities and the communities they serve.

- How many years should report cover – six, ten, or a different period?

10 years or more

- Are any other provisions required on accounting or collection of the Levy?

No comments