



Committee and Date

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Item

Public



Technical Consultation on the Proposed Infrastructure Levy – Shropshire Council Response

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1. Synopsis

1.1. Government is currently undertaking a technical consultation on a proposed Infrastructure Levy running until the 9th June 2023. This report summarises the key aspects of this technical consultation and outlines the proposed Council response.

2. Executive Summary

2.1. The Shropshire Plan recognises the importance of providing infrastructure and affordable housing in order to achieve a Healthy Economy. Indeed, the strategic objectives for a Health Economy include ‘connectivity and infrastructure’ and ‘housing’.

2.2. The Shropshire Plan explains that to achieve a Healthy Economy - “We will deliver excellent connectivity and infrastructure, increasing access to social contact, employment, education, services and leisure opportunities.” It also states that “Developer contributions will be used to enhance local facilities, to provide more access to greenspace and to deliver improvements to footpaths, cycleways, and highways.”

- 2.3. Provision of infrastructure and affordable housing is also recognised as being critical in achieving the Healthy People and Healthy Environment objectives of the Shropshire Plan.
- 2.4. Currently developer contributions to infrastructure and affordable housing are primarily secured through planning conditions (where the infrastructure is to be provided by the developer and is necessary to make the development suitable in planning terms), Section 106 Legal Agreements and the Community Infrastructure Levy (CIL). Council's should seek to prioritise CIL funding to address the strategic and cumulative impacts of development for an area. To support the delivery of the Council's emerging Local Plan and wider Council strategies, it is anticipated the Council will undertake review of its CIL in 2024 to further ensure necessary infrastructure is delivered in a timely manner. This review will take into account any emerging outcomes from this consultation.
- 2.5. Government is currently undertaking a technical consultation on a proposed new Infrastructure Levy. This Infrastructure Levy would largely replace CIL and Section 106 Legal Agreements as a key mechanism for securing developer contributions towards infrastructure and affordable housing. It would operate alongside planning conditions.
- 2.6. The purpose of the Government's consultation is to seek views on technical aspects of the design of this proposed Infrastructure Levy. It includes 45 questions across a range of subjects, including the fundamental design of the Infrastructure Levy; identifying the rates and minimum thresholds for the Infrastructure Levy; charging and paying the Infrastructure Levy; and delivering infrastructure; delivering affordable housing. The consultation also covers matters such as the neighbourhood share, administrative fees, exemptions and levy reductions, enforcement and the role of digital transformation; and the transition process which would introduce the Infrastructure Levy.
- 2.7. Further information on the proposed Infrastructure Levy and the technical consultation is available here:
<https://www.gov.uk/government/consultations/technical-consultation-on-the-infrastructure-levy/technical-consultation-on-the-infrastructure-levy>
- 2.8. Responses to this technical consultation will inform the preparation and content of draft Regulations, which will themselves be consulted on - should Parliament grant the necessary powers set out in the Levelling Up and Regeneration Bill (the Bill).
- 2.9. The proposed Infrastructure Levy is of direct relevance to Shropshire Council. It would change the way in which developer contributions towards infrastructure and affordable housing are secured in the future, although it is important to note the proposed Infrastructure Levy includes a phased test-and-learn approach over the course of approximately a decade.
- 2.10. The proposed changes to the way in which developer contributions towards infrastructure and affordable housing are collected have the potential to impact on the achievement of the Shropshire Plan, particularly the aforementioned objectives to achieve a Healthy Economy.

- 2.11. They also have implications for the implementation of the emerging Local Plan for Shropshire which plans for the period to 2038, and future iterations of the Local Plan beyond 2038.
- 2.12. Appendix 1 to this report sets out the proposed response to Government's technical consultation on the Infrastructure Levy. It is structured around the 45 questions asked by Government, with responses provided to each specific question, where it is considered necessary and appropriate.
- 2.13. In drafting the proposed responses set out in Appendix 1, officers have reflected upon the implications for Shropshire, especially considering the characteristics of the County, the aspirations and objectives set out in the Shropshire Plan, and the vision and framework of the draft Shropshire Local Plan.
- 2.14. Officers have also engaged Shropshire Council Members. Firstly, a concise summary of the Infrastructure Levy technical consultation proposals and officer's initial views on the key components of this proposal was circulated to all Members, with a request for comments to inform the preparation of the proposed response. Secondly, there was a meeting of the cross-party Local Plan Member Group to discuss and refine the proposed response.
- 2.15. In summary, the proposed response to this technical consultation (Appendix 1 of this report) seeks to provide constructive feedback to both the principle and detail (where known) of the proposed Infrastructure Levy.
- 2.16. It acknowledges the stated intention of the Infrastructure Levy is to create a more efficient developer contribution system which increases the amount of land value uplift captured from development in order to facilitate infrastructure and affordable housing provision without undermining development viability.
- 2.17. It also welcomes a number of the detailed aspects of the proposal, including the proposed 'test and learn' approach to the introduction of the Infrastructure Levy; the ability to establish local rates; the ability to have differing rates for different types of development, geographical locations and land typologies (greenfield/brownfield); the provision of a clear distinction between site-specific integral infrastructure and levy-funded infrastructure; continuation of a neighbourhood share provided to Town and Parish Councils (this would be an update to the current CIL Neighbourhood Fund); continued prioritisation of affordable housing; and recognition of the need for enforcement measures.
- 2.18. However, there are significant concerns about a number of aspects of the proposed Infrastructure Levy. In particular the technical nature of the Levy calculation and payment process which has potentially significant resource implications and has the potential outcome of the Council needing to return Levy receipts and/or agree reduced payments late in the development process, and potentially following the commitment of delivery of specific infrastructure items. This is a particular concern as it would appear that there would be increased financial risk exposure to the Council from the proposals.
- 2.19. It is considered there could also be potential delays to infrastructure delivery; added potential costs associated with Council borrowing to deliver infrastructure in advance of Levy receipts; potential reduced flexibility to plan for infrastructure needs due to a requirement to examine Infrastructure Delivery Strategies; potential

risk to infrastructure delivery if significant Levy funds are applied to non-infrastructure matters; potential risk of blurring funding / undermining delivery of either infrastructure and/or affordable housing by combining the funding pots; continuation of self-build relief which is a concern under the current regime (due to the infrastructure implications of self-build development); concern about the potential for further offsets for brownfield land; and concern about how the enforcement measure restricting occupation would work in practice.

- 2.20. Another very significant concern in a Shropshire context, is the proposed approach to reductions of Levy payments for small sites. Such development represents a significant proportion of total development in Shropshire and does impact on infrastructure. Given these identified issues, there is concern that the proposed Infrastructure Levy would not represent an improvement of the current developer contribution mechanisms (CIL and Section 106 Legal Agreements).
- 2.21. Furthermore, whilst the stated objectives of the Infrastructure Levy are acknowledged, provided CIL and affordable housing contributions are ‘set’ at the correct rate, existing mechanisms are considered equally able to ensure that the amount of the land value uplift as a result of a Planning Permission captured to facilitate infrastructure and affordable housing provision without undermining development viability is maximised.
- 2.22. The proposed response therefore identifies a number of potential amendments in order to maximise the benefits of any new Infrastructure Levy. This includes simplifying the liability calculation process, establishing the first calculation of the levy as a cautious minimum thereby removing risk of repayment, allowing payment instalment policies to distribute levy payments over the build period easing developer cashflow issues and providing earlier funding for infrastructure investment, removing the need to examine updates of the Infrastructure Delivery Strategy to provide greater flexibility to respond to emerging needs and opportunities, separating affordable housing funding out of the levy and instead considering it as part of the baseline, and removing small site and self-build reductions with rates instead determined by viability.
- 2.23. In view of the urgent need to submit the Council’s consultation response on 9th June 2023, to meet the deadline for responses, the Call in and Urgency Mechanism in paragraph 17 of the Overview and Scrutiny Procedure Rules will need to be applied to ensure that the response can be submitted within the required timescale i.e. by the 9th June 2023. The consequence of this, is that this decision will not be able to be “called in” in accordance with the Overview and Scrutiny Procedure Rules.

3. Recommendations

- 3.1. To approve the response to Government’s Technical Consultation on the Proposed Infrastructure Levy as set out in Appendix 1 to this report.
- 3.2. That authority be given to the Executive Director of Place to agree, in consultation with the Portfolio Holder for Highways and Regulatory Services, any additional minor changes to the Council’s response to this consultation ahead of its submission to the Government by the 9th June 2023.

Report

4. Risk Assessment and Opportunities Appraisal

- 4.1. Government's technical consultation on the Infrastructure Levy provides Shropshire Council with the opportunity to seek to positively influence Government's deliberations on how to progress with the future mechanisms for securing developer contributions towards infrastructure, particularly with regard to the proposed Infrastructure Levy. Failing to respond to this consultation would mean that this opportunity is missed.
- 4.2. As with the current approach to securing developer contributions, there is a significant risk to the Council of not following nationally prescribed processes. It is for this reason that it is important for the Council to understand and respond appropriately to this technical consultation and to future consultations on wider aspects of the reform to the approach for securing developer contributions.
- 4.3. Importantly, the technical consultation on the proposed Infrastructure Levy outlines a proposed 'test and learn' approach to the introduction of the Infrastructure Levy which provides opportunities to learn before wider 'roll-out'. As this test and learn period is intended to occur over the course of approximately a decade, and it is up to Local Planning Authorities to express interest in participating in the test and learn period, this approach also minimises the immediate as well as the longer term risk to Local Planning Authorities of moving to a new system for securing developer contributions.
- 4.4. With regard to Government's proposed Infrastructure Levy, it is considered that the main potential risks and opportunities are financial. In particular the technical nature of the Levy calculation and payment process has potentially significant resource implications, could potentially result in the Council needing to return Levy receipts and/or agree reduced payments late in the development process, and may require borrowing (at a cost) to deliver infrastructure earlier in the development process. These are addressed further in Section 5 of this report.
- 4.5. The proposed Infrastructure Levy could also reduce flexibility to respond to new infrastructure needs due to a requirement to examine Infrastructure Delivery Strategies, delay delivery of infrastructure as a result of uncertainty about availability of funding / payment timescales, and risk infrastructure delivery if significant Levy funds are applied to non-infrastructure matters. There are also concerns about the potential blurring / undermining delivery of either infrastructure and/or affordable housing and the forms of relief / reductions proposed, particularly that relating to small scale development, which has the potential to reduce levy receipts in Shropshire.

5. Financial Implications

- 5.1. It is considered the Government's consultation poses potentially significant financial implications on the Council in the manner in which it delivers and funds necessary infrastructure resulting from new development.

- 5.2. Government's proposed Infrastructure Levy addressed within this report would largely replace the Community Infrastructure Levy (CIL) and Section 106 Legal Agreements as a key mechanism for securing developer contributions towards infrastructure and affordable housing.
- 5.3. In terms of direct financial implications, the Infrastructure Levy proposal involves a three-step process for calculating the Infrastructure Levy. The technical nature of these steps have the potential to represent significant administrative and resource burdens for Local Planning Authorities, above that associated with CIL and Section 106 Legal Agreements. Particularly in relation to viability assessment and in circumstances where there is a dispute about the viability of a scheme.
- 5.4. It is acknowledged that Government's stated intention for the Infrastructure Levy is to increase the amount of the land value uplift as a result of a planning permission captured to facilitate infrastructure and affordable housing provision, without undermining development viability. However, it is considered that provided CIL and affordable housing contributions are 'set' at the correct rate, existing mechanisms are equally able to ensure land value uplift as a result of a Planning Permission captured to facilitate infrastructure and affordable housing provision without undermining development viability is maximised.
- 5.5. It is understood that the key distinction between the Infrastructure Levy and current arrangements is the fact that receipts can change at the completion of the project in circumstances where evidence shows the value of the completed development has changed. This of course can go both ways, and therefore there is a clear potential for developers to argue for reduced infrastructure levy contributions than previously agreed upon completion, especially if market conditions have changed negatively. This poses a clear additional financial risk burden on to Councils.
- 5.6. It would also create significant uncertainty about the amount of infrastructure funding that is actually available and therefore has the very real potential to impact on the Council's ability to confidently implement infrastructure projects.
- 5.7. Within the Infrastructure Levy technical consultation, Government is also proposing that in order to facilitate up-front delivery of infrastructure, Local Planning Authorities can borrow against future receipts of the Infrastructure Levy. Such borrowing of course comes at a cost. Furthermore, in circumstances where there is potential that Infrastructure Levy receipts could reduce during the course of the project, there is a risk that the amount borrowed is greater than the eventual receipt from the relevant development.

6. Climate Change Appraisal

- 6.1. Funds secured through the Infrastructure Levy could be utilised to deliver all forms of infrastructure, including those associated with adapting to and mitigating the effects of our changing climate. However, the application of funds secured through the Infrastructure Levy is ultimately a decision for Shropshire Council (and assuming the continuation of the Neighbourhood proportion - relevant Town and Parish Councils).

- 6.2. Furthermore, it is important to note that this same principle applies to existing mechanisms available for securing financial contributions towards infrastructure provision, particularly the Community Infrastructure Levy (CIL).
- 6.3. As such, it is not considered that the Infrastructure Levy in and of itself will influence the extent to which funding is applied to such forms of infrastructure – perhaps with the exception of Government's expectation that it will result in addition funding being available, therefore potentially increasing the likelihood that this occurs.

7. Background

The Technical Consultation

- 7.1. On the 17th March 2023, the Department of Levelling Up, Housing and Communities (DHLUC - Government) launched a 12 week technical consultation to the 9th June 2023 on a proposed new Infrastructure Levy.
- 7.2. Within this technical consultation, Government is seeking views on technical aspects of the design of the proposed new Infrastructure Levy which would largely replace CIL and Section 106 Legal Agreements as a key mechanism for securing developer contributions towards infrastructure and affordable housing. It would operate alongside planning conditions (for infrastructure to be provided by the developer and which is necessary to make the development suitable in planning terms).
- 7.3. The technical consultation includes 45 questions across a range of subjects, including the fundamental design of the Infrastructure Levy; identifying the rates and minimum thresholds for the Infrastructure Levy; charging and paying the Infrastructure Levy; delivering infrastructure; delivering affordable housing; other matters such as the neighbourhood share, administrative fees, exemptions and levy reductions, enforcement and the role of digital transformation; and introducing the Infrastructure Levy.
- 7.4. Responses to this technical consultation will inform the preparation and content of draft Regulations, which will themselves be consulted on - should Parliament grant the necessary powers set out in the Levelling Up and Regeneration Bill (the Bill).
- 7.5. This technical consultation on the proposed Infrastructure Levy is of direct relevance to Shropshire Council, as the Infrastructure Levy would change the way in which developer contributions towards infrastructure and affordable housing are secured in the future (although the proposed Infrastructure Levy includes a phased test-and-learn approach over the course of approximately a decade, which would mean that it does not have any immediate implications for the Council).

Shropshire Council Proposed Response

- 7.6. The proposed Shropshire Council response is at Appendix 1 of this report. It is recommended that Cabinet supports the proposed response as set out, which seeks to provide constructive feedback to both the principle and detail (where known) of the proposed Infrastructure Levy.

- 7.7. In so doing it acknowledges that the stated intention of the Infrastructure Levy is to increase the amount of the land value uplift as a result of a Planning Permission captured to facilitate infrastructure and affordable housing provision, without undermining development viability and welcomes a number of the detailed aspects of the proposal. However, it also identifies significant concerns about a number of aspects of the proposed Infrastructure Levy.
- 7.8. In drafting this response, the implications for Shropshire, especially considering the characteristics of the County, the aspirations and objectives set out in the Shropshire Plan, and the vision and framework of the draft Shropshire Local Plan have been reflected upon.
- 7.9. In drafting this response, officers have also engaged Shropshire Council members. Firstly, a concise summary of the Infrastructure Levy technical consultation proposals and officer's initial views on the key components of this proposal was circulated to all members, with a request for comments to inform the preparation of the proposed response. Secondly, there was a meeting of the cross party Local Plan Member Group to discuss and refine the proposed response.

The Shropshire Plan

- 7.10. The Shropshire Plan recognises the importance of providing infrastructure and affordable housing in order to achieve a Healthy Economy. Indeed, the strategic objectives for a Healthy Economy include '*connectivity and infrastructure*' and '*housing*'.
- 7.11. The Shropshire Plan explains that in order to achieve a Healthy Economy - "*We will deliver excellent connectivity and infrastructure, increasing access to social contact, employment, education, services and leisure opportunities.*" It also explains that - "*We will ensure an appropriate mix of housing in the right areas of the county when supporting people with disabilities and to attract the right workforce for the employment needs and opportunities located there; reducing distances travelled to work.*"
- 7.12. Provision of infrastructure and affordable housing is also recognised as being critical in order to achieve the Healthy People and Healthy Environment objectives of the Shropshire Plan.
- 7.13. Changes to the way in which developer contributions towards infrastructure and affordable housing are collected have the potential to impact on the achievement of the Shropshire Plan, particularly the aforementioned objectives to achieve a Healthy Economy.

The draft Shropshire Local Plan

- 7.14. The draft Shropshire Local Plan identifies the draft vision and framework for the long-term sustainable development of Shropshire. Addressing such issues as needs and opportunities in relation to housing, the local economy, community facilities and infrastructure, and seeks to safeguard the environment, enable adaptation to climate change, and help to secure high-quality and accessible design.
- 7.15. Changes to the way in which developer contributions towards infrastructure and affordable housing are collected have the potential to impact on the achievement

of the draft Shropshire Local Plan, as the delivery of appropriate supporting infrastructure is essential in order to achieve long-term sustainable development.

Pertinent Aspects of the Technical Consultation

7.16. The following sections summarise the most pertinent aspects of the technical consultation on the proposed Infrastructure Levy as they relate to Shropshire.

Fundamental Design of the Infrastructure Levy

7.17. This section of the technical consultation addresses the basic principles and scope of the Infrastructure Levy and seeks views on several aspects of Governments proposals, which covers such issues as:

- a. The definition of development potentially liable for the Infrastructure Levy.
- b. The type of infrastructure Infrastructure Levy funds can deliver, including affordable housing.
- c. The distinction between infrastructure that is integral to a development and should be provided by a developer and the wider infrastructure that should be funded by Infrastructure Levy funds.
- d. Whether Infrastructure Levy funds should be available for spending on items other than infrastructure.
- e. The routeways for determining the extent of a Infrastructure Levy liability and collecting Infrastructure Levy funds.

7.18. Dependent on the type of development, Government is proposing three ‘routeways’ for securing Infrastructure Levy funds, summarised in the table below. Views are being sought on what thresholds to apply to determine the applicable routeway, however Government envisages that the majority of development would follow the Core Levy routeway (with a threshold of 10,000 dwellings proposed for the Infrastructure in Kind routeway and the Section 106 routeway applying only to development that is not subject to the Levy).

Policy approach / routeway	Integral Infrastructure	Levy-funded Infrastructure	Delivery of Affordable Homes
1. Core Levy routeway	Planning conditions and Delivery Agreements (which are a streamlined version of current S106 agreements)	Cash payment of Levy liabilities	In-kind payment of Levy liabilities (where residential development is proposed)
2. Infrastructure In-Kind routeway	Planning conditions or s106 agreements where needed	In-kind payment of Levy liabilities secured through s106 agreements	In-kind payment of Levy liabilities (where residential development is proposed)
3. Section 106 only routeway	The distinction between integral and Levy-funded infrastructure does not apply. s106 agreements used as now	The distinction between integral and Levy-funded infrastructure does not apply. s106 agreements used as now	No affordable housing sought

Identifying Rates and Minimum Thresholds for the Infrastructure Levy

7.19. This section of the technical consultation addresses and seeks views on proposals for how Infrastructure Levy rates and minimum thresholds (based on the Gross Development Value (GDV) of a development per m² – below this no payments would be required) could be determined.

7.20. Government proposes that charging rates and minimum thresholds would be set by a charging schedule, similar to the existing CIL framework. The charging schedule would be prepared by the Council and rates and thresholds can be set

on different development types, land typologies (such as greenfield or brownfield) and geographies. The charging schedule would be independently examined to maintain development viability.

7.21. The consultation also proposes to include separate thresholds for schemes carried out under permitted development rights, and that this would be set nationally in regulations.

Charging and Paying the Infrastructure Levy

7.22. This section of the technical consultation addresses and seeks views on proposals for charging and paying the Infrastructure Levy. Specifically, Government is proposing a three-step process for the calculation and payment of the Infrastructure Levy (summarised below).

Step	Payment Process	Planning Stage
Step 1	Indicative liability calculation	Submitted with the planning application.
Step 2	Provisional liability calculation and payment	Post-decision, before the development is occupied.
Step 3	Final adjustment payment	Post-completion or once the development is sold.

7.23. Infrastructure Levy liabilities will be based on anticipated and final sale values. Valuations of the GDV may be required at a number of stages in this process. The Government would expect the Council to secure its own valuation or to require the developer to provide an independent valuation.

Delivering Infrastructure

7.24. This section of the technical consultation addresses and seeks views on the delivery of infrastructure. Government proposes that Councils would prepare Infrastructure Delivery Strategies which would support consideration of infrastructure requirements arising from planned development and set out how Infrastructure Levy receipts would be directed to affordable housing and infrastructure to support this development.

7.25. The Infrastructure Delivery Strategy would contain the Council's approach to the baseline of infrastructure provision and to funding infrastructure. It would also include the Council's strategic spending plan, including information on 'integral' infrastructure, prioritisation of 'levy-funded' infrastructure, affordable housing, proportion of a neighbourhood share, proportion of an administration share, spending on non-infrastructure items and the extent of borrowing against future receipts.

7.26. Drafting an Infrastructure Delivery Strategy would be a consultative process with infrastructure providers and also the local community. The spending plan part of the document would be subject to examination.

7.27. Borrowing against future Infrastructure Levy receipts would be allowed. It is proposed Local Planning Authorities could make use of the Public Works Loan Board. Should a Council do this, it must service the interest cost and make minimum revenue provision (a charge to revenue) with respect to debt.

Delivering Affordable Housing

7.28. This section of the technical consultation addresses and seeks views on the delivery of affordable housing. It proposes the introduction of a 'right to require', through which a proportion of the levy (set by the Local Planning Authority) must

be delivered as in-kind on-site affordable housing, which developers are obliged to provide. This proportion would be set as a percentage and would be equal to a monetary amount.

7.29. Local Planning Authorities would also be able to secure affordable housing in addition to that provided in-kind through the 'right to require' using a 'grant pot' model. Here, the Local Planning Authority can choose to use Infrastructure Levy receipts to top up the price a registered provider is prepared to pay for affordable housing units.

7.30. Schemes composed entirely of affordable housing will not be charged under the Infrastructure Levy, similar to how CIL operates in Shropshire.

Other Matters

7.31. This section of the technical consultation addresses and seeks views on a range of other technical issues, including: the neighbourhood share, administrative fees, exemptions and levy reductions, enforcement and the role of digital transformation.

Introducing the Infrastructure Levy

7.32. Government is proposing and seeking views on a phased 'test and learn' approach to roll out the Infrastructure Levy. Specifically, it would be introduced to a representative minority of Local Planning Authorities to trial the system. Participating in the test and learn phase would be voluntary.

7.33. Sites permitted before the introduction of the Infrastructure Levy would be subject to the existing system of CIL and Section 106 agreements. CIL would still be charged on existing development granted planning permission prior to the deadline when the Infrastructure Levy is adopted. A charging schedule and Infrastructure Delivery Strategy will need to be introduced together when transitioning to the Infrastructure Levy.

Pertinent Aspects of the Proposed Response

7.34. In broad summary the proposed response to this technical consultation (Appendix 1 of this report) seeks to provide constructive feedback to both the principle and detail (where known) of the proposed Infrastructure Levy.

7.35. It acknowledges that the stated intention of the Infrastructure Levy is to increase the amount of the land value uplift as a result of a Planning Permission captured to facilitate infrastructure and affordable housing provision, without undermining development viability.

7.36. It also welcomes a number of the detailed aspects of the proposal, including:

- a. The proposed 'test and learn' approach to the introduction of the Infrastructure Levy which provides opportunities to learn before wider 'roll-out'.
- b. The ability to establish local rates responsive to local viability.
- c. The ability to establish differing rates for different types, geographical locations and land typologies (greenfield or brownfield) of development.
- d. The intention to provide clear distinctions between integral infrastructure (necessary to make the development suitable in planning terms) and levy-funded infrastructure. However, it is important that this definition is responsive to local circumstances.

- e. Continuation of a neighbourhood share, allowing Town and Parish Councils to address their infrastructure priorities.
- f. Continued prioritisation of affordable housing and flexibility to use Infrastructure Levy funds to secure more affordable housing.
- g. Recognition of the need for enforcement measures to ensure payment is made.

7.37. However, there are significant concerns about a number of aspects of the proposed Infrastructure Levy. In particular:

- a. Introduction of a three-step process for calculating the Infrastructure Levy and the technical nature of these steps would represent administrative and resource burdens for Local Planning Authorities, above that associated with CIL and Section 106 Legal Agreements.
- b. The three-step process for calculating the Infrastructure Levy introduces significant risk to Local Planning Authorities. Any reductions to the 'Infrastructure Liability' between steps 2 and 3 would require Local Planning Authorities to return payments / affordable housing receipts. However, these receipts could already be spent / utilised to justify borrowing in order to allow the timely delivery of infrastructure. This is in effect transferring risk from developers to Local Planning Authorities.
- c. Linked to the above concern, there is a real risk that infrastructure delivery will be delayed, due to risk associated with the potential need to return received funds.
- d. Whilst preparation of infrastructure delivery strategies is sensible (and generally aligns with the Place Plans and Strategic Infrastructure and Investment Plan already prepared by the Council), the requirement for examination could reduce the ability to proactively respond to new infrastructure requirements and opportunities.
- e. There is potential for the Infrastructure Levy to be applied to non-infrastructure matters, which presents significant risk to infrastructure delivery if receipts are directed elsewhere.
- f. Whilst an opportunity exists to borrow against Infrastructure Levy receipts, borrowing does of course have a cost. The preference would be to ensure timely receipt of Infrastructure Levy payments with certainty about level of receipt (minimum level of receipt) from the outset.
- g. The 'blurring' of funding for infrastructure and affordable housing increases the level of uncertainty about the funding for each. This 'blurring' may also increase the risk to affordable housing delivery, as in circumstances where Infrastructure Levy receipts need to be repaid (see above) funds for affordable housing delivery are potentially more easily returned than those committed to infrastructure projects.
- h. The approach to reductions for small sites is a particular concern in Shropshire, where such development represents a significant proportion of total development.
- i. The approach to self-build relief is consistent to that within the CIL regulations. Officers have always had concerns with this mechanism, as the cumulative impacts of self-build housing is no different to that of any other individual dwelling.

- j. The potential for additional offsets for brownfield land beyond those already identified. These offsets could fail to respond to the impact of such development on infrastructure and also create an unintended ‘loophole’.
- k. Whilst the enforcement measures are generally welcome, most are comparable to those available for CIL. The significant new measure is the ability to restrict occupancy of a dwelling until payment is received, however there are concerns this penalises the wrong party – the purchaser rather than developer (particularly as the land charge is removed before any adjustment payment).

7.38. The proposed response therefore identifies a number of potential amendments in order to maximise the benefits of any new Infrastructure Levy. This includes:

- a. Simplifying the liability calculation process, so that it entails two steps rather than three. These being an initial cautious minimum levy calculation (the backstop) and then the adjustment calculation at the end of the development. This provides greater certainty about the minimum liability to all parties, whilst also providing opportunities for Gross Development Value to inform a final uplift to the liability, reflecting the principle of maximising funding for infrastructure.
- b. Introducing the ability to establish payment instalment policies (similar to CIL) to allow the payment of the levy liability over the build period. This effectively balances concerns regarding developer cashflow with the earlier delivery of infrastructure. This can be complemented by borrowing for strategic infrastructure,
- c. Allowing for the examination of the initial Infrastructure Delivery Strategy but removing the need to examine subsequent updates. This provides certainty about the suitability of core principles within the document, but provides greater flexibility to respond to emerging needs and opportunities.
- d. Assess affordable housing when establishing the baseline for the levy so it can remain a separate dedicated fund. Specific contributions and the affordability in perpetuity can be secured within Delivery Agreements (that largely replace S106 Legal Agreements).
- e. Removing small site and self-build reductions with rates instead determined by viability.

8. Additional Information

8.1. Further information on the proposed Infrastructure Levy and the technical consultation is available here:

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

9. Conclusions

9.1. The proposed Shropshire Council response to this technical consultation is at Appendix 1 of this report. It is recommended that Cabinet supports the proposed response as set out, which seeks to provide constructive feedback to both the principle and detail (where known) of the proposed Infrastructure Levy.

9.2. In so doing it acknowledges that the stated intention of the Infrastructure Levy is to increase the amount of the land value uplift as a result of a Planning Permission captured to facilitate infrastructure and affordable housing provision, without

undermining development viability and welcomes a number of the detailed aspects of the proposal. However, it also identifies significant concerns about a number of aspects of the proposed Infrastructure Levy.

Local Member: *All members*

Appendices:

Appendix 1 - Shropshire Council Response: Technical Consultation on the Proposed Infrastructure Levy
