

Planning Service

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Dear DLUHC

The Building Safety Levy Consultation

Thank you for providing South Oxfordshire and Vale of White Horse District Councils (South and Vale) with the opportunity to comment on the Building Safety Levy consultation.

Overall, the principle of requiring the development industry, rather than individual taxpayers to cover this cost is supported. However, it is not clear why an additional levy is needed alongside the Residential Property Developer Tax (RPDT) collected by HMRC. The annual allowance as part of the RPDT could be lowered allowing HMRC to collect more tax. Clarification is also needed as to whether developers are liable to pay both the levy and the RPDT, if it is an either or, then more information and guidance would be needed as to how Local Authorities would know the RPDT has been paid.

Please find our comments to the questions below.

Q1. Do you think the Building Safety Levy charge will impact on other charges made in relation to residential buildings including Community Infrastructure Levy and Section 106 payments or the Infrastructure Levy that will replace the existing system of developer contributions? If so, what are they likely to be?

- Yes, there is potential that this may impact on other charges
- When the CIL charging rate is set the process involves looking at all costs and values across the district
- If an additional levy is introduced, this will need to be factored in which means that CIL charges may have to be reduced to accommodate this additional cost

- Viability may become an issue on some developments which in turn could impact S106 contributions, this could mean fewer facilities and services to mitigate the impact of the development or reduce the amount of affordable housing

Q2. Who do you think should act as the collection agency for the levy?

- The Residential Property Developer Tax is collected by HMRC, could the levy also be collected as a tax through HMRC
- The RPDT tax threshold could be lowered which would capture more developers
- Is any software being explored that could be used across all councils to centralise the collection and returns of the levy?
- If the building works are being controlled by the BSR the Local Authority will not be overseeing the application, in these instances will the levy be collected by the BSR?
- If the building works are being controlled by an Approved Inspector (Building Control Approvers) then they should be responsible for sharing this additional responsibility and should administer and collect the levy for any building works, they are controlling, so it is fairer and more equally distributed across both public and private sector. It should not always fall to Local Authority Building Control to administer the non-income generating aspects of the building control process.
- The consultation has not referred to Approved Inspectors and the role they will have in this process
- The collection of the levy could be spread across the BSR, Approved Inspectors and the local councils. This could be simplified by a central software system used for the collection of the funds. This will reduce the administrative burden solely on one group.

Q3. What proportion of receipts do you think the Collection Agency should retain? What administration costs will that need to cover?

- At this stage it is difficult to state as a suggested levy rate has not been provided
- The Council's would need further information on the levy rate to calculate whether there is sufficient income to cover the costs
- The administration cost would need to include
 - Creation of a system to collect the payments and on-going costs to review this
 - Initial collection, the self-assessment payment would need to be checked and recorded
 - In some cases, the self-assessment payment may not be agreed, so time would need to be spent agreeing and securing the payment
 - In some cases, legal advice may be required to secure the collection of the payment
 - Time spent issuing a stop notice if the payment is not received
 - Time spent collecting the final payment (collecting debt costs)

- The new system is likely to generate a lot of additional enquiries not just the processing of the levy. This needs to be costed into the process to manage this extra volume of work.

Q4. How frequently should revenue returns be provided to DLUCH?

- Annually

Q5. Do you think there should be regular review points? If so, how frequently should they be?

- With CIL the levy is reviewed by authorities, so the reviews take place at different times with different rates set
- If the levy is to be responsive and not restrict development, then an annual review may be useful

Q6. We welcome views on the two-step process and charging points for the levy. Do you agree or disagree, please give reasons?

- To reduce administrative costs a simplified system is preferred with minimum collection stages
- Where the Local Authority are controlling the building works, applicants are only required to give 2 days' notice before works start. This would not allow sufficient time for the collection agency to check the self-assessment and supporting document submitted by the client and works could commence.
- Related to this are concerns that this could delay the commencement of development especially new housing
- Approved Inspectors (AI) (Building Control Approvers) would also need to follow the same system that is set out for Local Authorities. The consultation has no information on the role AI's would have
- The issue of the stop notice will involve the Local Authorities legal team. The resource implications of this need to also be considered
- The legislation would need to be changed to prevent the completion or final certification being issued for non-payment of the levy. Current legislation does not allow Building Control Officers to withhold a completion or final certificate for this reason.

Q7. What are your views on the percentage split, i.e., charging 60% of the levy prior to commencement stage and 40% at final certification. Are these the right amounts? If not, why not – please give reasons.

- Reducing the stages of collection would be preferable, however we recognise in some cases this could impact on small / medium enterprises cash flow, especially where CIL payments are required too
- For CIL payments amounts over certain thresholds are staged over 1- and 2-year periods to aid cashflow
- However, depending on the levy amount it would be preferable to avoid staged payments to reduce administration costs

Q8. N/A question for developers (applies to small / medium enterprises)

Q9. What do you think should be the principal sanction to ensure the levy is paid?

- A charge on the land through Land Registry for non payment
- Stop Notices could be used to implement and enforce the new levy. This is also in line with new enforcement powers that are being introduced as part of the Building Safety Act. However, this could potentially impact on the delivery of housing
- A penalty payment additional to the amount owed as a percentage

Q10. Do you think that the failures outlined above may occur in operation of the levy? If so, how best can they be avoided?

- It is possible some clients will try to avoid paying the levy, like some of the issues found for the CIL payments
- A financial penalty may be the best mechanism to reduce failure of payment

Q11. Is it reasonable to consider the sanctions regime of the RPDT in relation to the levy?

- This is a possibility; more clarity would be required as to how to assess deliberate or concealed information. This could add an additional work to the council's Finance team

Q12. How might levy design avoid mistakes, gaming, and fraud, or else maximise positive incentives?

- Similar to affordable housing provision within the planning system which also applies on development over 10 units
- Considerations are already made at the planning stage as to whether the development should be a higher density and provide affordable housing
- Land registry evidence of ownership to prove the land is not being parcelled up

- Financial penalties if evidence is provided that proves deliberate avoidance

Q13. Which of the options above do you think is the best basis on which to implement the levy? Please give reasons for your answer.

- One of the reasons the CIL levy needs to be based on a per square metre calculation is that it applies to various forms of development, not just new houses
- If the rate for rate for the new building safety levy was based per unit this may be a simpler approach
- However, this could potentially mean that the levy is the same amount regardless of the size of the property which could impact on viability

Q14. How best can we protect small and medium sized builders? Is exempting smaller developments the best way?

- It could be perceived that some developers are being penalised for the use of unsafe cladding by other developers. Some developers may never have used the unsafe cladding, however they are now subject to a levy to cover the cost
- We are concerned about the impact on small and medium sized builders at a time when there are increasing challenges such as high costs and shortages of construction materials, skills and labour shortages, uncertainty in the housing market which may drive down prices and profit margins especially over the next two years. Along with the emphasis on sustainable materials and practices which are positive for the environment, however currently adding additional cost to developments
- The self-assessment aspect of the levy may be a burden and create an additional administration cost

Q15. Do you think that government should set differential levy rates based on geography based on different land values and house prices in different areas? Please give reasons

- Different rates could be set geographically but higher rates could be based upon areas where the highest levels of unsafe cladding were found
- Having variable rates based on geography, land values and house prices in different areas can be perceived as fairer. It would involve a more detailed calculation and application of the levy, which would also have to be regularly reviewed

Q16. Which of the two options outline above would you prefer? Please give reasons for your answer.

- Having the rates based on land values and prices in different areas appears to be a fairer approach especially factoring in CIL payments

Q18. What amount of grace period should be set for projects that have already started the building control process on the date the levy goes live?

- The levy could apply for all new applications received from a set date and not applied to those already submitted. If the levy were to be applied retrospectively then a clear process for doing this would need to be set up and advanced notice provided advising clients of the new levy

Q17. Do you think there should be a different levy rate applied on brownfield and greenfield development in the same geographical area? If so, do you think that the differential should be the same in every geographical area?

- There could be a case for this, especially if there are viability issues on brownfield land
- The differential rate should be different if the levy rate is based on land values and house prices

Q19. What are your views on the above exclusions? Please set out whether you agree or disagree and give reasons for your answers.

- Agree with the excluded developments which include NHS hospitals, supported housing, children's homes, refuges and domestic abuse, rape crisis centres, criminal justice accommodation, military barracks and establishments
- Clarification as to whether the levy would be applied is required in relation to private hospitals and private residential care homes
- For GP practices that are private owned and managed the levy should still apply
- Conversions could be covered by the levy for development under 10 units
- Home refurbishments and improvements undertaken by individual homeowners should be excluded too, these are not often undertaken by developers and therefore homeowners should not have the financial burden of this levy

Q20. Do you have any views on Build to Rent developments, purpose built student accommodation, older people's housing. If so please set them out.

- Build to Rent development should pay the levy
- Purpose built student accommodation should pay the levy
- Houses of Multiple Occupation (HMO) could also pay the levy especially larger sized HMO's above 6 people
- Private older people's housing / retirement villages could also pay the levy

Q21. Do you agree Affordable Homes should be excluded from the payment of the levy?

- Yes
- We would support an exemption on viability and affordability grounds

Q22. Do you agree NHS Hospitals, NHS medical homes and NHS GP practices should be excluded from payment of the levy?

- Yes

Q23. Do you agree conversions, improvements to owner occupied homes and refurbishments should be excluded from payment of the levy?

- Agree that improvements to owner occupied homes and refurbishments should be excluded from payment of the levy

Q24. Do you agree supported housing should be excluded from payment of the levy?

- Yes

Q25. Do you agree care homes should be excluded from payment of the levy?

- There may be a case to apply the levy to private care homes

Q26. Do you agree that children's homes should be excluded from payment of the levy?

- Yes

Q27. Do you agree that domestic abuse facilities should be exempt from payment of the levy

- Yes

Q28. Do you agree residential care homes be excluded from payment of the levy?

- There may be a case to apply the levy to private care homes

Q29. Do you agree criminal justice accommodation be excluded from the levy?

- Yes

Q30. Do you agree military establishments be excluded from the levy?

- Yes

Q31. Would excluding developments under 10 units (or the square metre equivalent) protect small and medium sized enterprises? What might the alternative be?

- It would help small and medium sized enterprises in line with the points raised under question 14.

Q32. Do you consider that we should set a discounted levy rate for the entirety of a development where that development provides a specified proportion or affordable housing?

- Any development above 10 units would require affordable housing provision, either through a commuted sum payment or direct delivery
- If affordable units are exempt from the levy, the market housing element should still be liable

Your sincerely

[Redacted signature]

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Development Manager