

CABINET
23rd January 2023

THE BUILDING SAFETY LEVY: CONSULTATION

1. Summary

- 1.1 This report summarises the current consultation by the government on the Building Safety Levy and considers the implication for the Council. The consultation ends on 7 February 2023.

The consultation seeks views on the design and implementation of the Building Safety Levy (the Levy). The Levy is proposed to be paid by developers and charged on new residential buildings requiring building control approval in England, for the purpose of meeting building safety expenditure.

2. RECOMMENDATION

- 2.1 That the responses to the questions, set out in Appendix A to the report, form the Council's response to the Government's Consultation on the Building Safety Levy.

3. Background and Discussion

- 3.1. The Department for Levelling Up, Housing and Communities (DLUHC) is seeking views on the design and implementation of the Building Safety Levy (the Levy). The consultation takes the form of a series of questions and ends on 7 February 2023. The suggested responses to the consultation questions are set out in Appendix A, with the key points outlined in paragraphs 3.12 to 3.17 below.
- 3.2. On 13 April 2022, DLUHC announced a wide-ranging agreement with major homebuilders who had pledged to commit £2 billion to remedy their own buildings and also that the intention was to deliver an estimated £3 billion from a proposed Levy.
- 3.3. The Levy is part of an existing package of measures to ensure that the burden of paying to remedy historical building safety defects does not fall on leaseholders and DLUHC has already taken the necessary primary powers to implement the Levy. Section 58 of the Building Safety Act 2022 gives the Secretary of State broad powers to raise a levy on any relevant building which is defined as "a building in England consisting of or containing: one or more dwellings; or other accommodation" (includes temporary accommodation, for example hotel or hospital).
- 3.4. The Levy will therefore, in principle, apply to all new residential buildings requiring building control approval, which includes any development with a room purposed for a person to sleep in.

CABINET
23rd January 2023

- 3.5. A second consultation on the design of the proposed Levy has been launched seeking views on its design and implementation. The consultation is seeking the views of interested parties, especially developers of all sizes, building control professionals and local authorities.

Consultation proposals

- 3.6. The Levy will be required to be paid by any named person or organisation for whom a construction project is carried out. Known as the 'Client', this will usually be the industry/developers carrying out the building works. The government considers that as the Client holds responsibility for the construction project, they should also be responsible for the Levy. The Levy must be paid by the Client on all new residential developments in England that require building control approval.
- 3.7. The consultation states that local authorities are best placed to act as the Levy collection agency, with the collected Levy being passed to central government. The consultation recognises that there will be an administrative and costs burden on local authorities and it is therefore suggested that a proportion of levy receipts are retained to pay for the additional administrative burden. As a comparator, the Council can retain up to 5% of the Community Infrastructure Levy (CIL) collected for administration costs.
- 3.8. The detail of the Levy to be charged has not been set out in the consultation. The consultation does advise that the Secretary of State will take account of impacts on housing land supply whilst ensuring that the Levy can generate the revenues required to remediate historic building safety defects. A review period is suggested for the Levy to determine how much has been collected towards these historic defects. The consultation recognises that the Levy could have a great effect on smaller developers.
- 3.9. The consultation seeks views on whether the Levy should be calculated on a per unit basis or per square metre. The consultation seeks views on whether there should be a differential levy rate based on average house prices in the local authority areas or whether the levy should be based on house prices in the regions. The consultation also seeks views on the potential for a brownfield/greenfield levy.
- 3.10. So as not to obstruct the development of community facilities, the consultation proposes to exclude certain buildings from the levy, including Affordable Homes, NHS Hospitals, NHS Medical Centres, and NHS GP Centres, Residential Care Homes and Children's Homes, Refuges and Residential Domestic Abuse Facilities, Criminal Justice Accommodation, Military Barracks and other Military Establishments. Additionally it is proposed to exclude small developments (under 10 units) to protect small businesses, and the consultation is seeking views on the exclusion of conversions.

CABINET
23rd January 2023

- 3.11. The consultation proposes that payment of the Levy be split into two payments. 60% to be paid when notice of commencement is given. The local authority can then issue a stop notice on the development if the levy is not received within the set timeframe. The remaining 40% will be due prior to the final certification stage. The final inspection by a Building Control Office will assess whether the amount paid is correct. Completion nor final certification will not be issued until after receipt of payment.

Consultation questions and the Council's response:

- 3.12. The consultation document asks 32 separate question (see Appendix A) regarding the scope, exemptions, method of charging, delivery and collection of the levy.
- 3.13. Unlike CIL, building control approval can be given by local authority building control teams but also by Approved Inspectors. The majority of building control regulation matters for new residential development in Dartford are dealt with by Approved Inspectors and as a result, no records relating to building control matters on these developments are held by the Council. Therefore, in order to collect the Levy, the Council will need to have knowledge of and monitor matters, which they are currently not involved with. Given the different stages of monitoring, collection and enforcement proposed in the consultation it is likely that there will be a significant cost to the Council in administering collection of the Levy and passing the receipts to DLUHC. There is no indication in the consultation of how much the Levy will be. Should new residential development delivery slow the collected Levy may be low, so it is difficult to have certainty about whether significant Levy can be retained to cover the increased admin costs which are likely to require the Council to invest in additional staff resource and IT systems.
- 3.14. The stages of payment proposed will require monitoring at different stages of the project, liaison with Approved Inspectors and potentially enforcement. All of which is additional work over and above the existing local authority Building Control service. From the Council's experience of operating CIL, commencement notices are not always submitted by the developer (as required by the legislation) and there is a lack of awareness of the system by small agents/builders/developers. This results in Council staff time spent on following up non-payment and monitoring developments for commencement. The need for this monitoring resource will be exacerbated by the proposed Levy where the building control authority is not the local authority but is an Approved Inspector and therefore information regarding the commencement and completion will not be provided to the Council directly.
- 3.15. Officers have concern about the impact of the proposed Levy on the viability of development identified to come forward as part of the Local Plan strategy. Already brownfield sites in the town centre have viability issues, which can lead to lower affordable housing delivery where

CABINET
23rd January 2023

viability is marginal but redevelopment plans are also likely to be halted where the redevelopment costs are higher than the potential return. This is an issue for the sites identified to bring about transformation in the town centre. The proposal of charging the Levy per unit would therefore favour lower density greenfield sites. This would undermine the Council's objective, set out in the emerging Local Plan, of developing new residential development on existing brownfield sites that are suitable for redevelopment particularly sites which contribute to the regeneration of the town centre. Dependant on the amount of the Levy the proposal could have significant impact on the regeneration of the town centre and may result in the regeneration of sites in Dartford being slowed further.

- 3.16. The consultation suggests that higher house prices could result in a higher levy but officers have concern that this does not take into account higher build costs for brownfield land and therefore again favours greenfield low density development where there are higher returns for developers. This further undermines Council's approach to sustainable development in urban areas making use of available brownfield sites. It also fails to take account of the fact that build costs are higher in the south east, close to London where skilled labour is in greater demand.
- 3.17. There is no detail of the level of the Levy proposal and so there may not be sufficient funding to cover the considerable additional admin costs. The collection of the Levy by local authorities, particularly where they are the building control regulator, and will result in the double handling of money dealing with the development, Approved Inspectors and then paying the money collected to government. The proposed Levy could undermine sustainable development and the Council's approach to development and the regeneration of the town centre.

Timescale

- 3.18. There is as yet, no confirmation when the Levy would come into force although generally thought to be sometime in 2023. Once the Levy is in force, there are proposed transitional provisions so that:
- for the first year, projects already at the commencement stage when the Levy comes into operation would be excluded, and
 - there would be a grace period for any project that has entered the building control process on the date the Levy comes into operation.

4. Relationship to the Corporate Plan

- 4.1 As this relates to new development, it is relevant to the Council's overall vision for the area to make Dartford a place of quality, choice and safety and also related to the delivery of new residential developments.

CABINET
23rd January 2023

5. Financial, legal, staffing and other implications and risk assessments*

Financial Implications	No implications in responding to the consultation but should the Building Safety Levy be collected by local authorities the Council will be required to hold the money collected and pay it to Government as required.
Legal Implications	No implications of responding to the consultation
Public Sector Equality Duty	Not Applicable
Crime and Disorder duty	Not Applicable
Climate Impact Assessment	No impact as a result of responding to consultation.
Staffing Implications	Should the Building Safety Levy be collected by local authorities additional staffing resource will be required to monitor and collect the Levy.
Administrative Implications	Should the Building Safety Levy be collected by local authorities there will need to be administrative systems put in place to monitor and collect the Levy.
Risk Assessment	No uncertainties and/or constraints in responding to the consultation

6. Details of Exempt Information Category

Not applicable

7. Appendices

Appendix A – Building Safety Levy consultation questions

CABINET
23rd January 2023

BACKGROUND PAPERS

<u>Documents consulted</u>	<u>Date / File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Information Category</u>
https://www.gov.uk/government/consultations/the-building-safety-levy-consultation	22-11-22	Mark Stoneham Sonia Collins (01322) 343620	Building Control Planning Services	N/A