

**Appendix A:
Dartford Borough Council's response to consultation questions on the
Building Safety Levy**

Question 1: 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?

It is difficult to answer this question, as there are no details on the amount that might be charged for the Levy.

The Borough Council has significant concerns about the additional impact of the Levy on the viability of residential development sites. The Borough Council has a strategic objective to deliver transformative regeneration of Dartford town centre which will contribute both small and large sustainable residential development sites close to existing public transport, services and community facilities (as set out in both the adopted and the emerging Local Plan). However, the viability of the regeneration of existing land in Dartford town centre is marginal at best and residential sites that do come forward for planning permission demonstrate reduced profit such that the affordable housing provision on such sites is reduced below that required by Local Plan policy. The recent Viability Assessment for the submitted Dartford Local Plan 2021 has found that development within Central Dartford is likely to be under greater viability pressure than elsewhere in the Borough. As a result, emerging policy seeks 20% affordable housing in Dartford town centre to allow these sustainable brownfield sites to come forward and 35% elsewhere in the Borough. The Borough Council is concerned that further costs imposed on new development are likely to reduce affordable housing provision in the town centre, particularly as many sites in the town centre have already been purchased or are in the ownership of the likely developer so any reflection in the land value of the Levy costs will not be of any benefit.

If sites identified in the Local Plan for residential development become unviable to develop and fail to come forward, not only does this impact on housing supply it also impacts on the CIL funds collected which are required to bring forward strategic infrastructure improvements but also potentially delay sites where infrastructure would be provided as part of the redevelopment.

Question 2: Who do you think should act as the collection agency for the levy? Please give reasons for your answer.

The Borough Council does not consider that local authorities are best placed to be the collection agencies.

Since the Borough Council is very rarely the building control authority dealing with new residential developments, the requirement for the Borough Council to act as Collecting Authority introduces more complexity to the Building Control process and significant additional administrative processes for both the local authority and Approved

Inspectors. As the Levy will be passed onto central Government, the Borough Council considers that the collection authority should be Central Government.

In addition, there are likely to be greater efficiencies in the Levy being collected centrally, allowing a collecting system to be developed which is the same across the country and the training of dedicated staff. As a small Borough, Dartford would have to employ staff and develop a collecting system for what could be a low amount of Levy.

Question 3: What proportion of receipts do you think the Collection Agency should retain? What administration costs will that need to cover?

The proposed collection processes are complex and if the local authority is to be the collection agency this introduces the need to monitor developments and possibly enforcement of developments, which would otherwise have been dealt with by the Approved Inspector with regard to building control legislation. This will lead to the need for additional staff resource including technical officers, building control enforcement officers, finance officer involvement, increased management involvement and the need for administrative/IT systems. Therefore, adequate funding should be allowed for this. Without any understanding of the amount of the Levy it is not possible to give an indication of proportion.

The Borough Council's concern is that these costs will be on-going and if the administrative costs are funded as a percentage then there is a risk that when there is a development downturn there will be insufficient funding and the local authority will have to bear the costs of collection and payment for DLUHC.

Question 4: How frequent should revenue returns be provided to DLUHC? Please give reasons for your answer.

Paragraph 37 of the consultation suggests the receipts should be paid to DLUHC quarterly by the collection agency. The Borough Council considers that this frequency is far too much of a burden. CIL is at most passed to parishes on a 6 monthly basis. It is suggested that should the local authority be the collection agency that receipts are paid annually to DLUHC.

Question 5: Do you think that there should be regular review points? If so, how frequent should they be?

Yes. Since this is a new Levy, the Borough Council suggests that the initial review should be after the first two years and then reviewed every 2 years after this. This review should include the impact on development coming forward as well as payment for the remediation of cladding.

Question 6: We welcome views on the two-step process and charging points for the levy. Do you agree or disagree, please give reasons?

The Borough Council has significant concerns about the level of resource required should local authorities become the collection agency as it is likely the majority of

residential developments will continue to be dealt with by Approved Inspectors. The 2 stage process is also a resource issue for the Approved Inspectors.

Question 7: 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.

The Borough Council has concerns that payment of 60% prior to commencement is an additional early cost for developers, without any income. This is on top of the existing CIL to be paid at commencement of development. The impact on cashflow is likely to result in schemes becoming unviable. It is recommended that viability assessment be carried out, involving the development industry. The level of upfront costs, on top of planning permissions costs, site preparation and CIL payment is likely to impact on small and medium developers the most.

Question 8: If you consider yourself a small or medium enterprise, what impact will these levy payment points have on your ability to build? If so, what could help? To note we intend to exempt developments under 10 units or the square metre equivalent.

Not applicable to a local authority.

Question 9: What do you think should be the principal sanction to ensure the levy is paid?

The Borough Council suggests that the principal sanction should be at completion of development, such that a completion notice is not provided until the Levy is paid. This would rely on Approved Inspectors checking with the collection agency with regard to payment but if this is a single step and an easy method to check payment this could be simply be part of the process. The level of sanction would again depend on the amount of Levy. Enforcement and stop notices may cost more to serve than the amount of Levy due. Also of relevance is who monitors and how the Approved Inspectors provide information to the collection agency and how they can monitor payment.

Question 10: Do you think that the failures outlined above may occur in operation of the levy? If so, how best can they be avoided?

The lack of knowledge of small builders, agents and Approved Inspectors may result in late payment due to a lack of awareness. The complexity of the proposed collection process and the reliance on approved inspectors providing information to the collection agency and also assessing accurately the final Levy payment are all risks to the operation of the Levy.

A simple single payment at completion, prior to a completion certificate being issued and paid to DHLUC directly would avoid some of the double handling and subsequent increased risk of missed collection.

Question 11: Is it reasonable to consider the sanctions regime of the RPDT in relation to the levy?

Not applicable to a local authority.

Question 12: How might levy design avoid mistakes, gaming, and fraud, or else maximise positive incentives?

See response to Q10 above.

Question 13: Which of the options above do you think is the best basis on which to implement the levy? Please give reasons for your answer

The Borough Council considers that charging per sqm is the preferred basis for charging the Levy. A charge per unit is more likely to favour lower density greenfield developments, of larger houses sold at a higher cost. National planning policy has been moving towards more of an urban intensification focus for housing delivery, not least under National Planning Policy Framework (NPPF) chapter 11, and an additional burden on viability charged on a per dwelling basis would be contrary to this policy, by encouraging more suburban style larger houses. Charging on a per unit basis could further frustrate the Borough Council's strategy, set out in the new Local Plan, to increase focus on residential development in and around Dartford town centre.

Question 14: How best can we protect small and medium sized builders? Is exempting smaller developments the best way?

Paragraph 69a of the NPPF promotes small and medium sized sites by ensuring there is a sufficient supply of sites over 1ha. Therefore, it is suggested that smaller development under 1 hectare (or an alternative threshold of 30 or 50 dwellings) should be applied as the exemption level to tie into this. The Borough Council's Local Plan viability testing evidence tested a range of housing size typologies: whilst there are many variables relevant (not least, the houses-flats mix) the data suggests that it is not until sites reach 50 dwellings or more – broadly – that viability normally supports an appropriate policy compliant development.

Question 15: Do you think government should set differential levy rates based on geography based on the different land values and house prices in different areas? Please give reasons.

The Borough Council believes that the Levy should have some regard to geographic component given the variety of land values, build costs and house prices across the country. It is unclear the merits are of a regional approach suggested, or indeed if a 'South East' approach would be at all relevant to Dartford given the size of the region defined on this basis, and the variety of relevant factors. Indeed as the Borough Council's own viability testing for the Local Plan has found there is variance on viability across the Borough itself.

Question 16: Which of the two options outlined above would you prefer? Please give your reasons for your answer.

A local authority area based approach would be more warranted than regional, however this differential should be only be a minor component determining the Levy facing the site, in comparison/relative to the importance of ensuring brownfield land re-use is not rendered unviable (see next question).

Question 17: Do you think there should be a different levy rate applied on brownfield and greenfield developments in the same geographic area? If so, do you think that the differential should be the same in every geographic area?

Yes, the Borough Council believes that the Levy should be lower on brownfield sites. This is an important principle. Since build costs and land costs will vary geographically the Borough Council consider the Levy should be varied accordingly. Higher value areas have already seen easier brownfield sites redeveloped, but the more difficult brownfield sites that can often bring about the greatest transformation remain undeveloped. The Borough Council consider therefore that the differential should be significant. Brownfield land development is commonly on sites that are particularly under pressure in viability terms due to a number of reasons including existing land values, existing uses, build costs and site specific costs e.g. town centre or highly contaminated sites.

Question 18: 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?

Projects which have already started the building control process should not be charged provided they are complete (or phased completion) within 2 years, as the cost of this Levy will not have been taken into account by the developer and this may lead to the reduction of build quality.

Question 19: What are your views on the above exclusions? Please set out whether you agree or disagree and give reasons for your answers.

The Borough Council agrees in principle with the exclusions set out in paragraph 74 of the consultation as these developments are providing infrastructure to support growth in population and meeting housing needs for those who cannot buy on the open market.

With regard to the exclusion of small developments, as suggested in the answer to Q14 this exclusion should be set at a level, which reflects existing national planning policy and the support given to SMEs.

Question 20: Do you have any views on Build to Rent developments, purpose-built student accommodation, older people's housing. If so please set them out.

The Borough Council considers that this would depend on the nature of the development. Some of these developments have high rental values and can provide a high return for investors greater than medium density market sale apartments.

Question 21: Do you agree Affordable Homes should be excluded from payment of the levy? Please give reasons for your answer.

Yes, as this will avoid increasing costs on such developments, which may lead to a reduction in the provision of affordable housing due to costs and viability issues.

Question 22: Do you agree NHS Hospitals, NHS Medical homes, and NHS GP practices should be excluded from payment of the levy? Please give reasons for your answer.

Yes, as these are community facilities support existing and growing residential populations.

Question 23: Do you agree Conversions, improvements to owner occupied homes and refurbishments should be excluded from payment of the Levy?

Yes, as the residential use is already established.

Question 24: Do you agree supported housing should be excluded from payment of the levy? Please give reasons for your answer.

Yes, where this affordable housing provision

Question 25: Do you agree care homes should be excluded from payment of the levy? Please give reasons for your answer.

Yes, generally, as costs of such provision is high and in Dartford they have to compete for land with a residential value.

Question 26: Do you agree that children's homes should be excluded from payment of the levy? Please give reasons for your answer.

Yes, as these are community facilities support existing and growing residential populations

Question 27: Do you agree Domestic Abuse facilities should be excluded from payment of the levy? Please give reasons for your answer.

Yes, as these are community facilities support existing and growing residential populations.

Question 28: Do you agree residential care homes be excluded from payment of the levy? Please give reasons for your answer.

Yes, see response to Q25 above.

Question 29: Do you agree Criminal Justice Accommodation be excluded from the levy? Please give reasons for your answer

Yes, these are community facilities supporting growth.

Question 30: Do you agree military establishments be excluded from the levy? Please give reasons for your answer.

Yes, these are community facilities supporting growth

Question 31: Would excluding developments under 10 units (or the square metre equivalent) protect small and medium sized enterprises? What might the alternatives be?

Yes, to ensure viability is not impacted on small sites, where cash flow for SME's is more critical but the Borough Council suggests that this level is increased in line with NPPF advice. See response to Q14 above.

Question 32: 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?

Yes, in order to improve the viability of such developments, so that the level of affordable housing provision is not impacted on at planning stage due to costs of development and therefore viability.