

To: Planning and Climate Change Policy Board

On: 27 August 2024

Report by: Chief Executive

Heading: Infrastructure levy for Scotland: discussion paper

1. Summary

- 1.1 The Scottish Government has recently published a discussion paper in respect of the introduction of an infrastructure levy.
 - 1.2 The discussion paper seeks to support discussions about the infrastructure levy for Scotland and seek views on how it could operate prior to a full consultation on draft regulations.
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2. Recommendations

- 2.1 It is recommended that the Board:
 - Note that The Scottish Government have published a discussion paper in respect of the Infrastructure Levy for Scotland.
 - Agree that the draft response as detailed in Appendix 1 to this report is submitted as the response from Renfrewshire Council.
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3. Background

- 3.1 The Planning (Scotland) Act 2019 provides powers for Scottish Ministers to make regulations to introduce an infrastructure levy.
- 3.2 The infrastructure levy is intended to provide an additional stream of funding for infrastructure which is required to support growth on a wider scale than individual developments.

- 3.3 The Planning (Scotland) Act 2019 notes that the infrastructure levy would be:
- payable to a local authority;
 - be in respect of development wholly or partly located within the authority's area;
 - used by local authorities to fund or contribute towards funding infrastructure projects.
- 3.4 In addition, the Act notes that infrastructure includes:
- a) Communications, transport, drainage, sewerage and flood defence systems,
 - b) Systems for the supply of water and energy,
 - c) Green and blue infrastructure,
 - d) Educational and medical facilities and
 - e) Facilities and other places for recreation.
- 3.5 It is significant to note that National Planning Framework 4 (NPF4) requires local developments plans and their associated delivery programmes to:
- be informed by evidence on infrastructure capacity, condition, needs and deliverability within the plan area, including cross boundary infrastructure;
 - set out infrastructure requirements to deliver the spatial strategy, informed by an evidence base which identifies the infrastructure priorities and where, how, when and by whom such infrastructure projects will be delivered; and
 - indicate the type, level and local of the financial or in kind contribution and the types of development from which they will be required.
- 3.6 The discussion paper notes research and reviews relating to the introduction of an infrastructure levy and considers how the Community Infrastructure Levy functions within England and Wales.

4. Issues for Discussion

- 4.1 The discussion paper sets out core criteria for an Infrastructure Levy for Scotland:
- Simple for planning authorities to implement;
 - Predictable and straightforward for developers to calculate;
 - Set in a way that takes account of viability;
 - Fair and proportional;
 - Complimentary to existing mechanisms.
- 4.2 The discussion paper recognises that the infrastructure levy will not raise all the funding needed for infrastructure related to development in an areas. The paper does however set out that it can make a helpful contribution to support the provision of infrastructure required as a result of cumulative development or to facilitate planned growth.

- 4.3 It should be noted that the discussion paper notes that it is proposed that the infrastructure levy operates alongside Section 75 and other planning obligations. The infrastructure levy would not replace such obligations.
- 4.4 The discussion paper identifies the following issues for discussion:
- Setting the payable amount;
 - What developments should pay the levy;
 - When should the levy be calculated and paid;
 - Who should be liable to pay;
 - Appeal process;
 - Penalties and enforcement;
 - What should the levy be spent on; and
 - Accounting for levy income and expenditure.
- 4.5 The discussion paper provides the initial thoughts of The Scottish Government and how the infrastructure levy could operate.
- 4.6 The discussion paper can be viewed at <https://www.gov.scot/publications/infrastructure-levy-scotland-discussion-paper/documents/>.
- 4.7 Officers have reviewed the discussion paper and have drafted the response detailed within Appendix 1.

5. Next Steps

- 5.1 It is recommended that the Board agree the response as detailed in Appendix 1 is submitted in advance of the submission deadline as the response from Renfrewshire Council.

Implications of the Report

1. **Financial** – the introduction of any infrastructure levy will collect funds to be used in the investment and delivery of infrastructure projects.
2. **HR & Organisational Development** – None.
3. **Community/Council Planning** – the discussion paper notes that the infrastructure levy would be used in the investment and delivery of infrastructure projects which would have a wider community/council impact.
4. **Legal** – the introduction of any infrastructure levy is likely to have a legal impact in respect of how payments are secured.
5. **Property/Assets** – None.
6. **Information Technology** – None.

7. **Equality & Human Rights** - The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report.
 8. **Health & Safety** – None.
 9. **Procurement** – None.
 10. **Risk** – None.
 11. **Privacy Impact** – None.
 12. **Cosla Policy Position** – None.
 13. **Climate Risk** – N/A.
 14. **Children's Rights** – N/A.
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APPENDIX 1 – DRAFT RESPONSE

Chief Planning Officer
The Scottish Government

Via email to infrastructure.levy@gov.scot

Dear Chief Planning Officer,

INFRASTRUCTURE LEVY FOR SCOTLAND: DISCUSSION PAPER

I write in relation to the above discussion paper to provide a response on behalf of Renfrewshire Council.

At the outset I would note that we are supportive of the introduction of an infrastructure levy for Scotland and welcome the opportunity to provide feedback in respect of the relevant provisions which are set out within the Planning (Scotland) Act 2019.

The initial thoughts of The Scottish Government on how the infrastructure levy could operate, as outlined in the discussion paper, are noted. We would however suggest that introducing an infrastructure levy while also retaining the ability to seek planning obligations via Section 75 or other such legal agreements may create an additional layer of complexity and could create difficulties in how contributions are sought and secured. In light of the above we would suggest that the infrastructure levy replaces the need for developer contributions to be sought via S75 or other such agreements. In our view this would create a simpler system which is easier to administer and understand for local authorities, developers and members of the public.

We would propose that the infrastructure levy applies to all types of development based upon criteria which would be set by regulations. Such criteria could include the number of residential units proposed, the amount of floor space created or the size of the development site in question, depending on the type of development in question. Exceptions would require to be applied at the lowest level given that it would be disproportionate and unreasonable to seek the payment of such a levy where the development proposed has little or minimal impact on local infrastructure.

The introduction of any infrastructure levy would assist in funding infrastructure projects which would require to come forward in order to support the delivery of development sites within the local area. The definition of infrastructure within the Planning (Scotland) Act 2019 is noted however we would propose any levy should also have the ability to be spent in respect of other infrastructure which may be required to support developments such as community facilities, play facilities and waste facilities, etc. Any infrastructure requirements would be set out within the local development plan, its associated delivery programme and through any future regional spatial strategies. Evidence and justification for the need for the infrastructure in question would therefore be considered in the preparation of such plans and strategies.

It is considered that any infrastructure levy should be calculated based on the type of development in question with any calculation based upon the number of residential units proposed, the amount of floor space created or the size of the development site in question. In our view any regulations in respect of an infrastructure levy would require some flexibility when considering when such payments would be required. In some developments there may be a need for the payment to be made prior to the development commencing, while other developments may be able to accommodate payments when particular triggers are met. It is considered that this is likely to be dependant upon the proposed development and its scale and size. In addition, it is submitted that any agreed levy amount would require to be linked to an appropriate index in order to ensure at the time of payment it reflects up to date costs associated with the infrastructure project it would be contributing to.

Payment and enforcement of the levy is a concern and it is considered that further thought would be required as to how this would be managed in the event that development proceeds without the payment of the levy. Enforcement powers would be required to ensure that development could be stopped if any levy due had not been paid in respect of the agreed timelines. In addition concerns are also raised in respect to the monitoring, management and enforcement of any infrastructure levy given local authorities are already limited in terms of staff resources and required expertise.

In respect of publishing an annual report detailing the income and expenditure associated with the infrastructure levy, in the interest of transparency, we agree that such a report should be prepared and published. Any report detail any monies received, expended within the year in question or indeed any monies held at the chosen reporting date in question should be reported.

I trust the above comments are of assistance in the consideration of any future infrastructure levy for Scotland.

David Love
Chief Planning Officer
Renfrewshire Council