

## The Building Safety Levy: consultation

### Consultation response from UK Apartment Association

Submitted 7 February 2023

**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?

Yes, the viability of residential schemes is already constrained due to increased construction costs, availability of land/land prices and labour shortages. In the current market (with depressed housing sales and the wider cost of living crisis) the addition of a further charge on development will depress development of residential housing unless other charges are reduced correspondingly, or land prices adjust (and we would expect a market correction to take some time).

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

The local planning authority seems a sensible collection agency given that it is responsible for the collection of other levies during the course of development.

However, appropriate systems and resource will need to be put in place to:-

- (a) Ensure that the system is properly managed without causing delays to development; and
- (b) Demonstrate receipts and allow prompt payment – failure to provide receipts of contributions by local authorities is quite common (eg for s106 payments) and can cause difficulties when transacting with properties.

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

No response

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

No response

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

We agree that regular reviews are necessary. However, we consider the duration of the levy is a more significant concern. We note that the stated aim of the levy is to raise sufficient funds to ensure that taxpayers and leaseholders are not required to meet remediation costs. This policy aim will require a finite amount of money and as such a cut off period for the levy is appropriate.

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

Requiring a payment of the levy will have a disproportionate impact on the viability of BTR schemes because of the manner in which returns are generated. Our position remains that BTR should be excluded from the regime – see response to Q20 below.

**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.

As mentioned in our response to Q6 the levy has a disproportionate affect on the viability of BTR schemes because of the manner in which their returns are generated. Again our position is that BTR should be excluded from the regime.

**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.

No response

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

No response

**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?

No response.

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

No response

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

No response

**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.

We support the use of floor area as the basis for calculating the levy as this creates a more equitable result than a unit-based charge. We also consider that this method of calculation is consistent with other taxes (e.g. CIL) and so will not be administratively burdensome for developers. Any floor area-based levy would, however, need careful consideration and should exclude communal areas and amenity space. Such facilities are common in BTR developments and are designed to enhance customer experience / wellbeing and should not be discouraged.

Calculation on a unit-by-unit basis is likely to disproportionately affect BTR developments which often comprise smaller units over a denser area and provide much needed accommodation in residential areas. (Please also see our response to Q20 in relation to the impact of the levy on BTR).

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

No response

**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.

Yes, although care needs to be taken that the rate is easy to determine to ensure that the regime is not unduly complicated/burdensome.

As mentioned in our response to Q1, the levy will have an impact on the viability of schemes – in certain parts of the country it is already challenging to bring forward residential development. Having a flat rate across the country would fail to recognise this.

In addition, whilst we do not consider that BTR should be subject to the levy, if an exclusion is not put in place consideration should be given to different rates to different tenures/uses reflecting the different economic impact the levy will have on the viability of different asset classes.

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

No response

**Question 17:** Do you think there should be 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?

We consider that different rates should apply to brownfield and greenfield developments. This reflects that brownfield sites will often be more expensive to develop (which impacts on viability) and is more consistent with government policy.

**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?

If a project has already entered the building control process at the point of implementation then we do not consider it should be caught by the levy. There is often a significant lead in

period for large residential development and anyone involved in the scheme will have undertaken their viability appraisal (and incurred significant cost) in advance of this which may not have anticipated the levy which could render the scheme unviable.

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

No comment

**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.

BTR developments have a key role to play in addressing the housing shortage in England. Rental housing provides affordable, high quality, secure accommodation for those whose access to home ownership is limited and helps to accelerate housing delivery. The growth of the sector is dependent on it continuing to attract capital investment.

BTR investors make their returns on a project over a much longer period of time than housebuilders which makes the viability of BTR schemes more challenging. An additional charge of this nature will have a detrimental impact on the viability of BTR schemes and discourage growth of the sector. This levy also comes at a time when the rental sector is facing a number of legislative changes (e.g MEES, renter reforms) – all of which are important - but which are placing a higher regulatory burden / cost on investors. The combined effect of these changes and the levy is likely to discourage investment in BTR.

In addition, we note that the purpose of the regime is to help fund the remediation of existing defects. The inclusion of BTR would fail to recognise that in many instances BTR investors will not have access to Government funding in relation to remediation of existing buildings and so the responsibility for remediation will often sit with the investor as landlord. Payment of the levy will therefore result in inherent unfairness to those involved in the BTR sector.

**Question 21:** Do you agree Affordable Homes should be excluded from payment of the levy?

Please give reasons for your answer.

No response

**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.

No response

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

Yes

**Question 24:** Do you agree supported housing should be excluded from payment of the levy?

Please give reasons for your answer.

No response

**Question 25:** Do you agree care homes should be excluded from payment of the levy?

Please give reasons for your answer.

No response

**Question 26:** Do you agree that children's homes should be excluded from payment of the levy?

Please give reasons for your answer.

No response

**Question 27:** Do you agree Domestic Abuse facilities should be excluded from payment of the levy?

Please give reasons for your answer.

No response

**Question 28:** Do you agree residential care homes be excluded from payment of the levy?

Please give reasons for your answer.

No response

**Question 29:** Do you agree Criminal Justice Accommodation be excluded from the levy?

Please give reasons for your answer.

No response

**Question 30:** Do you agree military establishments be excluded from the levy?

Please give reasons for your answer.

No response

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

No response

**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 – this will encourage the delivery of affordable housing and recognises the cost to developers in providing such housing as part of their schemes.