

Levelling Up and Regeneration Bill  
Public Bill Committee  
UK Parliament  
Whitehall, London

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*Date* 14 September 2022

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Dear Sir,

## **Levelling Up and Regeneration Bill – Bill Committee Call for Evidence**

Hampshire County Council welcomes the opportunity to provide evidence relating to the implications of the Levelling Up and Regeneration Bill. The main themes that the County Council will provide written evidence on are the proposed Infrastructure Levy and the wider improvements to planning procedures, specifically the fast-tracking process for priority Nationally Significant Infrastructure Projects (mainly energy projects).

### **Proposed Infrastructure Levy**

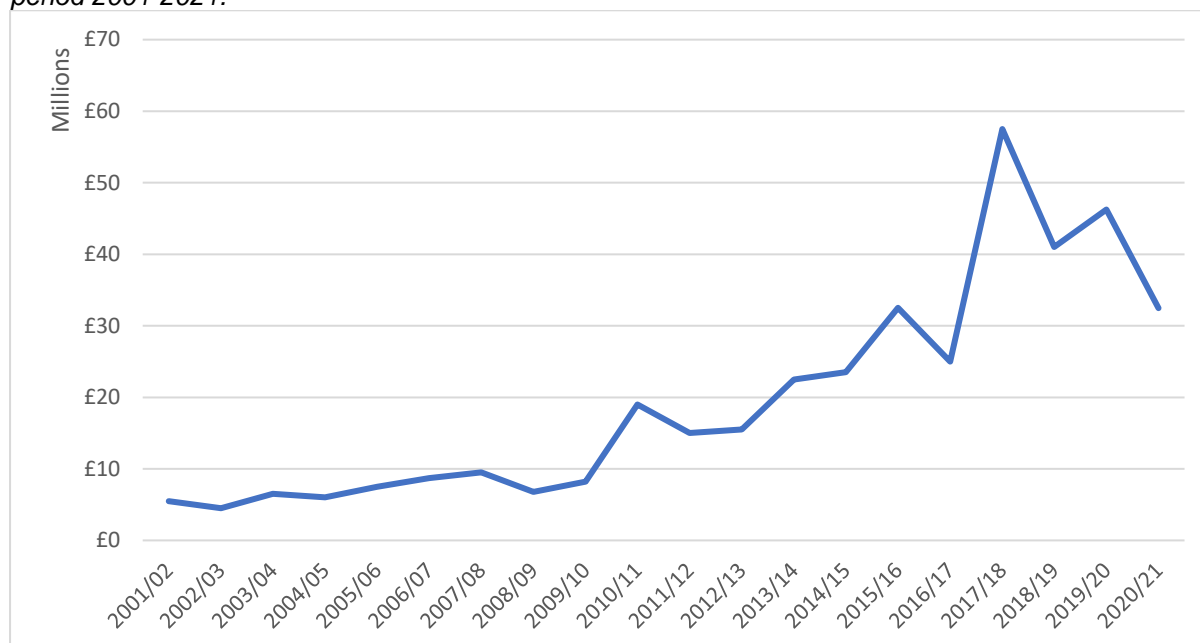
The County Council note that there has not been any additional funding made available to support the levelling up agenda and so existing infrastructure funding streams are increasingly being refocussed on levelling up policy objectives. The consequence of this is that the mitigation of development pressures and the provision of enabling infrastructure must be delivered by developers and local authorities with limited funds.

The main area of the Bill that is of concern to Hampshire County Council is therefore the proposed Infrastructure Levy. The Levy is proposed to be set and managed by the lower tier authorities in the same way that CIL is currently, once again failing to recognise the fact that upper tier authorities are responsible for delivering a significant proportion of the key infrastructure required to support the growth of an area. It is not clear what involvement, if any, the County Council might have in the setting of the levy or how the levy is to be spent.

The County Council has raised concerns about the Community Infrastructure Levy (CIL) regime since its appearance in the Planning Act 2008, primarily relating to two key points. Firstly, regarding the fact that the Levy does not capture as much value as enabled through section 106 (therefore short changing infrastructure delivery) and

secondly, the fact that CIL is set and operated by the lower tier authorities with no requirement to pass funds to the County Council to enable it to deliver the infrastructure needed to support growth within its area. The County Council has historically secured significant level of section 106 contributions for infrastructure delivery, as illustrated by Figure 1.

Figure 1: Total amount of section 106 contributions received by Hampshire County Council in the period 2001-2021.



These concerns have been confirmed in the nine years since the first charging schedule came into force in Hampshire. The level of section 106 contributions being collected has started to see a decline following the introduction of CIL. This is only just being realised as a result in the lag time between planning permissions being issued, their implementation and the triggers for payment. In addition to impacting upon section 106 contributions, CIL is not levying the levels of funding historically secured by section 106 within the County as Table 1 illustrates.

Table 1: Implementation of CIL across Hampshire

Authority	Date CIL Implemented	Total collected (up until 31 March 2021)	Total passed to the County Council
Basingstoke and Deane	25 June 2018	£692,459	£0
East Hampshire	8 April 2016	£4,918,829	£0
Eastleigh	N/A	-	-
Fareham	1 May 2013	£9,863,144	£0
Gosport	1 February 2016	£1,086,725	£0
Hart	N/A	-	-
Havant	1 August 2013	11,193,218	£ 4,512,405
New Forest District	6 April 2015	£5,958,202	£0
New Forest NPA	N/A	-	-
South Downs	1 April 2017	£5,005,801	£196,000
Test Valley	1 August 2016	£4,031,908	£0
Rushmoor	N/A	-	-
Winchester	7 April 2014	£16,742,672	£1,561,012

Not only are the total amounts levied by CIL much less than the County Council has historically secured by section 106, but also typically the lower tier authorities are not passing CIL funding to the County Council. With the requirement for Charging Authorities to pass between up to 25% of CIL to neighbourhoods, more CIL funding has been passed to the Parish and Town Councils than the County Council. It is therefore critical that upper tier authorities have a statutory role in the proposed Infrastructure Levy process to inform both the strategy and how the Levy is spent.

The proposed Levy is based on the final Gross Development Value and therefore there is anticipated to be a significant delay between the commencement of development and receipt of the Levy. For strategic housing sites it could be 15 - 20 years or more before the Levy is calculated and paid. Whilst local authorities can borrow against future receipts, it is not clear whether the County Council will be able to do this if it is not statutorily involved in administering the Levy. In any event, borrowing against receipts expected to be received so far into the future will be a risk due to the nature of housing markets and the economic cycle, and particularly risky given current financial pressures on upper tier local authorities at present. There is also the likelihood that developers will seek to minimise contributions by challenging viability at the end of the development.

Given the above, there is an overall risk to the County Council's capital programme which is the main mechanism for provision of new transport, environmental and education infrastructure in Hampshire, for example, as a result of the introduction of the Levy as currently proposed. This is due to both uncertainty over access to funding and the timing of any such funding in terms of delivery of infrastructure. There may be far more onus put on the County Council to use alternative funds and borrowing to deliver the infrastructure when it is needed, with the risk that funds will not be forthcoming or at the level originally expected. With acute pressure on revenue funding, and the continuing unfunded pressures in social care, waste and highways, the cost of taking on additional borrowing, even for an interim period, is unlikely to be affordable to upper tier councils.

Finally, devolution offers the opportunity for places to not only borrow against further growth, but secure greater opportunities to fund their own future, through fiscal and other freedoms as well as different forms of tax incremental financing. The Pan-Hampshire authorities have prepared an emerging Prospectus for a County Deal seeking devolved powers which includes some of these opportunities, but anything that enables policy to relate to place-based circumstances would be welcomed.

### **The implications for section 106 agreements**

Hampshire County Council note that there will still be a need for the developer to deliver on site infrastructure and supports this approach. It is also noted that there is an intention to set out what the Levy is not expected to cover (for instance utilities connections, Sustainable Drainage Systems, section 38 and section 278 highway works) and the County Council will need to consider this aspect in detail to ensure that it can continue to enter agreements to secure key infrastructure through the planning system to mitigate development impacts.

The County Council therefore support the approach of continuing to use planning obligations to deliver both key on and off-site infrastructure through a retained role for section 106 for the largest sites, with the value agreed for the package secured to be no less that it would be if the Levy were to be applied.

The regulations may provide details of how CIL, section 106 and section 278 may, or may not, be used in conjunction with the Levy. The County Council is keen to see this detail at the earliest opportunity to enable it to establish the best position to secure the necessary infrastructure to facilitate and support development in Hampshire.

### **School Places Provision**

Hampshire County Council as the Local Education Authority has a statutory duty to provide school places. The Department for Education expect developers to fund the new school places that are required because of new housing. With the ever-increasing pressure on local authorities' budgets, it is imperative that the Infrastructure Levy does not reduce the opportunity to negotiate and secure sufficient developer contributions to mitigate the school places demand from the new housing that is required to be delivered across Hampshire through the local plan process.

Any new system such as the Infrastructure Levy must allow the opportunity for masterplanning of places by the key infrastructure providers. To do this, the respective parties need a seat at the negotiating table when agreeing the land, plans and contributions - as the County Council currently does through negotiating section 106 contributions.

The current planning system also puts planning obligations in place through a legal agreement and allows the County Council to secure key funding from developers to deliver improvements to existing infrastructure and / or provide new facilities to meet school place needs. This ensures that the land and contributions are agreed and made available to allow for the delivery of new school places, in the right place at the right time.

The section 106 process works well in Hampshire and has delivered good quality public infrastructure, appropriately planned, and delivered on time. The County Council produce Developer Contributions Guidance that helps developers understand the contributions they need to make for public infrastructure. This assists them when negotiating the acquisition of land from the landowner. Payments are drawn down through the section 106 process and aligned to the payment profile of the infrastructure.

In the case of secondary school provision, there is often more than one developer and buildings / land contributions need to be pooled to deliver the infrastructure.

A national benchmarking guide has been produced that looks at the true cost of the delivery of school places across the country. This is used as the basis for securing education contributions through section 106.

Education authorities need to work with local planning authorities to share the impact of housing in specific areas. The wrong sized development could create an unviable sized new school or overcrowding and lifetime Home to School Transport costs at an existing school.

In the main, the current section 106 process has enabled Hampshire County Council to deliver the appropriate public infrastructure in the right place at the right time that has been appropriately funded by the landowner / developer and would wish for that process to continue and not be removed, reduced, or put at risk by the introduction of the Infrastructure Levy.

### **Wider Improvements to Planning Procedures - Nationally Significant Infrastructure Projects**

Hampshire County Council note that legislation will be introduced to improve the Nationally Significant Infrastructure Projects (NSIP) regime, establishing a fast-track consenting route for priority cases where quality standards are met, enabled by amendments to the Planning Act 2008 so that the relevant Secretary of State can set shorter examination timescales in certain circumstances.

Hampshire has a total of four NSIPs at various stages in the process currently, but numbers are expected to increase in the future – particularly as the Government is encouraging use of the NSIP regime to speed up the decision-making process for strategic projects.

The Development Consent Order (DCO) process requires a lot of work to be undertaken at the pre-application stage, and there is a risk that this work will be abortive as there is no guarantee an application will be made. For instance, the proposal by Wheelabrator for an Energy from Waste facility at a site on the A303 at Barton Stacey was withdrawn following a significant amount of pre-application discussion, provision of technical comments and liaison with partner local authorities and local members. The County Council did not have a Planning Performance Agreement in place to enable it to recover its costs in dealing with the proposal and, therefore, the resources spent on this project fell entirely on the County Council. This is in contrast to mainstream planning applications where pre-application fees are sought to cover the County Council's costs in engaging at an early stage.

'The role of local authorities in the development consent process' guidance document makes it clear that local authorities are not obliged to participate in the DCO process but it is strongly encouraged, and generally expected by local residents impacted by any such proposals. Proposals will undoubtedly be informed and improved by effective engagement of the proper authorities at this stage, which will also expedite and ease the subsequent formal DCO approvals stages. As such it is therefore entirely reasonable for the County Council to be able to fully recover its costs in engaging in the process and working proactively with the applicant on issues as they arise. Ensuring that local authorities are able to recover the reasonable costs in engaging in discretionary activities relating to DCOs, such as pre-application engagement, must therefore be a priority going forward and should be captured as a requirement in the Levelling Up and Regeneration Bill.

If a fast-track approach to consenting is implemented the County Council would recommend that the Levelling up and Regeneration Bill requires promoters to pay for the engagement of host authorities to be able to resource DCO projects from pre-application through an examination and post consent.

I trust that this written evidence is of assistance to you. If you wish to discuss any of the comments raised, please do not hesitate to contact my colleague Neil Massie on 0370 779 2113.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stuart Jarvis', with a stylized, cursive script.

Stuart Jarvis  
Director of Economy, Transport and Environment