Research Project to Identify and Assess the Options for the Introduction of an Infrastructure Charging Mechanism in Scotland (Stage 1 & Stage 2)

Final

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Glossary

Affordable Housing	Defined in Planning Policy as “housing of a reasonable quality that is affordable to people on modest incomes…in the form of social rented accommodation, mid-market rented accommodation, shared ownership, shared equity, discounted low cost housing for sale including plots for self-build, and low-cost housing without subsidy”
Business Rate Supplement (BRS)	Business Rate Supplements Act 2009 makes provision for county councils, unitary district councils and the Greater London Authority to levy a supplement on the national non-domestic rate (or business rate).
Charging Authorities (CA)	With respect to CIL, defined in the 2010 Regulations as a “the collecting authority for CIL charged in its area”. Is normally the Local Planning Authority.
City Deals	City Deal is an agreement between government and a city. It gives the city and its surrounding area certain powers and freedom to take charge and responsibility of decisions that affect their area, to do what they think is best to help businesses grow, to create economic growth, and to decide how public money should be spent.
Department for Communities and Local Government (DCLG)	Governmental Department in England and Wales tasked with driving up housing supply, increasing home ownership, devolving powers and budgets to boost local growth in England and supporting strong communities with excellent public services
Government Economic Strategy (GES)	Scotland’s Economic Strategy, updated in 2015, sets out an overarching framework for a more competitive and a fairer Scotland and identifies four broad priority areas where our actions will be targeted to make a difference, included inclusive growth, innovation, investment and international investment, influence and networks.
Growth Accelerator Model (GAM)	Economic investment tool developed by Scottish Futures Trust. Reportedly has the potential to unlock £6bn of additional investment in cities and regions across Scotland. The model effectively creates the right conditions for different types of public and private sector investment to be made against a backdrop of economic growth and opportunity. Features include: ▪ Funding linked to demonstrable and sustained economic growth and job creation ▪ Establishment of a training academy ▪ Long-term developer profit share
Land Value Capture (LVC)	A type of public financing that recovers some or all of the value that public infrastructure generates for private landowners.
Local Planning Authority (LPA)	Have primary responsibility for the delivery of the planning service in Scotland. Planning authorities undertake key pieces of work to inform stakeholders about the service they deliver.
National Planning Framework 3 (NPF3)	Published by Scottish Government’s Planning and Architecture division, the National Planning Framework (NPF) sets the context for development planning in Scotland and provides a framework for the spatial development of Scotland as a whole and sets out the Government’s development priorities over the next

	20-30 years and identifies national developments which support the development strategy
Non-Domestic Rates (NDR)	Business rates (also called non-domestic rates) are a tax on business property to help pay for local council services. They are based on the property and generally don't reflect the turnover or profits of the business.
Planning Gain Supplement (PGS)	Supplement to S106 obligations considered in England and Wales in 2006. Viewed as potential mechanisms for increasing resources for investment, though ultimately rejected as alternative systems viewed as more appropriate to fund local infrastructure projects, and the potential impact of a 'tax' on areas of lower demand.
Public Works Loan Board (PWLB)	A statutory body operating within the United Kingdom Debt Management Office, an Executive Agency of HM Treasury. PWLB's function is to lend money from the National Loans Fund to local authorities, and to collect the repayments.
Regulation 123 Lists	Abbreviation of requirement in Regulation 123 of the CIL Regulations (2010). It refers to the list of infrastructure projects a requirement of CIL Regulation 123 and is known as a 'Regulation 123 list', or 'R123 list' for short.
Review of Scottish Planning	September 2015, review panel appointed by Scottish Ministers to undertake an independent review of the Scottish planning system, tasked with providing a 'root and branch' review, and encouraged to explore game-changing ideas for radical reform of the system. Published in May 2016.
Scotland Act 1998	An Act of the Parliament of the United Kingdom which established the devolved Scottish Parliament. It is amended by the Scottish Parliament (Constituencies) Act 2004, the Constitutional Reform Act 2005, Scotland Act 2012 and Scotland Act 2016
Scottish Planning Policy (SPP)	Document published by Scottish Government's Planning and Architecture division setting out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land.
Section 106 Agreements	Section 106 of the Town and Country Planning Act 1990. Agreement between a developer and a local planning authority about measures that the developer must take to reduce their impact on the community. Required to make development acceptable in planning terms.
Section 75 Agreements	Section 75 of the Town and Country Planning (Scotland) Act 1997. Agreement between a developer and a local planning authority about measures that the developer must take to reduce their impact on the community. Required to make development acceptable in planning terms.
State Aid	State aid is any advantage granted by public authorities through state resources on a selective basis to any organisations that could potentially distort competition and trade in the European Union (EU).
Tax Incremented Financing (TIF)	Public financing method used as a subsidy for redevelopment, infrastructure, and other community improvement projects, based around a value capture strategy. First employed in the USA in 1950s.

Town and Country Planning (Scotland) Act 1997	The principal piece of legislation governing the use and development of land within Scotland.

1 Introduction

1.1 Background

Following the publication of the independent review of the Scottish planning system in 2016, the Scottish Government appointed Peter Brett Associates (PBA) to lead a research project to identify and assess the options for the introduction of an infrastructure charging mechanism across Scotland. The PBA-led multi-disciplinary team comprises Brodies LLP, Cushman & Wakefield and TradeRisks, all leading organisations who are experienced in the field of infrastructure funding delivery and the legal applications of such actions.

Sustainable economic growth and housing delivery are key priorities for the Scottish Government. To contribute towards this, the principles of an improved and fairer system, with greater transparency, certainty and efficiency needs to be considered to secure funds towards infrastructure delivery.

This research project focuses on the **options** for an infrastructure charging mechanism to be applied through the planning system in Scotland. It sets out the **pros and cons** of the identified options and includes a potential **route map** towards potential implementation.

The Scottish planning system is currently under review. The report of the Panel appointed by Scottish Ministers to review the system – 'Empowering Planning to Deliver Great Places' (31 May 2016) – clearly states that, "Our review has concluded that linking infrastructure with planning development is the most significant challenge for the Scottish planning system at this time." This research project will focus on the options for an infrastructure charging mechanism to be applied through the planning system in Scotland.

The findings from this research will be used to inform the development of a consultation paper on the review of planning to be published and consulted on in early 2017. Following the consultation period, the PBA-led research team will provide more detailed advice on technical options which could be taken forward in future planning legislation.

1.2 Research Study Stages

The research study is based on the following three stages:

- **Stage 1 – Baseline, Initial Consultation and Identification of Priorities** including a focused literature review, desk based assessment to establish the broad scope of legislative requirements, establish a key stakeholder group to be agreed with the client team, undertake initial consultation exercise with the key stakeholder group members, to explore the issues and options of a charging mechanism, including with the Department of Communities and Local Government (DCLG) Community Infrastructure Levy (CIL) Team representatives and CIL review research team in relation to the performance of CIL and the output of the review work, and to develop a set of key priorities for the establishment of a charging mechanism within the Scottish context.

- **Stage 2 – High Level Options, Stakeholder Workshop and Consideration in the Consultation Paper**, including to identify high level options for the introduction of an infrastructure charging mechanism within the Scottish Planning system, and re-consult the Key Stakeholder Group to gather views on the identified options through a Workshop session.

  Stages 1 and 2 outputs are to be used to inform the consultation paper which will be consulted on in early 2017.

- **Stage 3 – Process & Delivery**, including to identify and prepare a case for a preferred option and develop a detailed framework for that option, that best meets the key priorities for a potential charging mechanism. The framework should address the more detailed process elements, including calculating and applying the charge and delivery of the preferred mechanism including a timeline for the preparation of the charge.

  This report addresses Stages 1 and 2. Stage 3 will be taken forward following completion of the planning review consultation in 2017.

2 Scope of Research

2.1 Introduction

This section outlines the aims and objectives of this research, the scope and the approach and methodology. It also identifies the key elements for consideration, such as geographic scale, Scottish Government policy priorities, land value uplift and legislative requirements.

2.2 Aims and Objectives

The **aim** of this research project is to identify and assess options for an infrastructure charging mechanism in Scotland to support sustainable economic growth. The research will be used to help inform future decisions on this subject area.

The research **objectives** are:

- To identify **key priorities** for the establishment of an infrastructure charging mechanism within the Scottish context;
- To identify and assess the **pros and cons** of a charge being applied at different geographical scales;
- To set out **high level options** for a charging mechanism, which capture land value uplift, highlight how they meet the identified key priorities and Scottish Government's policy objectives; and
- To critically assess the high level options to identify a **preferred option** and set out a detailed framework for its implementation and operation.

This report addresses the first three objectives, namely: key priorities for an infrastructure charging mechanism; the pros and cons of a charge across different geographical scales; and high level options for a charging mechanism. The fourth objective will be addressed in Stage 3 of the research to be progressed following consultation in 2017.

2.3 Key Elements for Consideration

The key elements for consideration in Stages 1 and 2 of this research project are:

KEY ELEMENT	DETAIL
Geographic Scale	To consider the options of a charge being applied at different geographic scales, for example, sub Local Authority, Local Authority, Regional or National level. An important factor for any charge will be the ability to address cross-boundary infrastructure requirements. To consider what flexibility should be applied to the implementation of the

	mechanism within and across these levels.
Scottish Government Policy Priorities	To consider the implications of the different geographic options for Scottish Government national policy objectives.
Land Value Uplift	To consider how the charging mechanism will be applied to capture land value uplift.
Development Plans	To consider the relationship between the charging mechanism and Development Plans / the Development Plan process, taking account of the need for flexibility to integrate with a changing Development Plan landscape. To consider the relationship between a potential infrastructure charging mechanism, with other developer contribution requirements e.g. affordable housing.
Legislative Requirements	To set out the broad scope for legislative requirements at the identified geographic levels.
Optional/Compulsory	What approach should be taken to the adoption of a charge, for example, optional/compulsory and what would the implications of this be?
Relationship to Development Management and S.75 / Legal Agreements	How would any infrastructure charging mechanism relate to the use of existing mechanisms for securing contributions, including use of planning conditions and legal agreements including S.75? What changes to S.75 of the Planning Act would be required to accompany each of the options to ensure developers are not 'double charged' for infrastructure?
Implementation/Resources	To consider options for where responsibility would lie for setting, applying/implementing and managing the charge at the different scales? What level of political support would be required? What form of Project Management / structure would be needed within the relevant organisations to ensure the process is transparent and efficient? To appraise the resource and skills implications for the relevant sectors.

State Aid	To consider the implications of State Aid for the identified options and how to address this.

2.4 Methodology for Research Stages 1 and 2

The research for Stages 1 and 2 comprises both desk based analysis as well as engagement with key stakeholders both within and out with Scotland. The following outlines the methodology undertaken to meet the aims and objectives of the project:

STAGE	TASKS
Stage 1	To undertake a focused literature review. To undertake a desk based assessment to establish the broad scope of legislative requirements. To establish a key stakeholder group to be agreed with the client team. To undertake initial consultation exercise with the key stakeholder group members, to explore the issues and options of a charging mechanism. Consultation also undertaken with the DCLG CIL Team representatives and CIL review research team in relation to the performance of CIL and the output of the review work. To develop a set of key priorities for the establishment of a charging mechanism within the Scottish context.
Stage 2	Using the key priorities, identify high level options for the introduction of an infrastructure charging mechanism within the Scottish Planning system, addressing key elements such as geographic scale, Development Planning, legislative and implementation (organisational structure / resources), requirements and timelines, as well as relationship to S.75 and State Aid. To re-consult the Key Stakeholder Group to gather views on the identified options through a Workshop session.

This report represents the output of Stages 1 and 2 and is to be taken forward by the Planning and Architecture Division of Scottish Government for consideration as part of the process of preparing a consultation paper on the planning review.

3 Background Context

3.1 Introduction

This section considers the background context in terms of economic and financial, policy and legal in which the priorities and options of infrastructure charging mechanisms are to be considered.

3.2 Economic & Financial Context

This high level section places the possible contributions from new development planning consents in the wider economic setting; estimates current contributions through planning obligations (Section 75); assesses the maximum potential for additional measured charges; and identifies a number of potential challenges in the implementation of measured charges.

The wider economic setting

Infrastructure, as a category, covers a wide range of assets that has come to describe nearly every conceivable asset and service required within society so that commercial enterprise can function and to serve those, and domestic, premises.

Narrowed down to the “produced fixed assets”, that is, those assets physically provided by expenditure, from whatever source, over the last two to three centuries, a high level assumption can be made about the sum total replacement value. Within Scotland, all assets from airports to sea walls (including 60,000 km of roads, 3,000 km of rail, and 2,500 schools) have a conservative estimated replacement value of £600 billion. This excludes the associated running costs and maintenance of these assets.

Most of these assets relate to the geography of Scotland and to its population. Most are needed whether the population is well housed or not. The dependency is on people rather than dwellings. Scotland has a higher replacement value of assets than the UK average and much of this is due to the greater provision of roads, bridges and ferries, per head of population.

About 20% of these assets are owned by the private sector and tend to be those that generate revenue income – such as power stations - or “hybrids” (e.g. the rail network might be in public ownership and without revenue income, while rolling stock can pay for itself from fares and can be in private ownership). That leaves about £500 billion of public assets most of which has no revenue income.

Population growth drives the need for infrastructure growth, and, in broad terms, drives growth in the number of households. Thus, the number of new dwellings is by far the most significant demand indicator for new infrastructure investment requirement. Annual construction of dwellings represents about four times the construction cost of commercial premises. Household usage of infrastructure is probably a similar multiple to usage by businesses. For these reasons and to simplify the assessment, only new housing development is considered.

Dwelling growth, averaged over the last three years, numbers about 15,500 a year or about 0.6% per annum of total stock.[1] If the replacement value of all infrastructure is distributed on a pro-rata basis, this comes to about £200,000 of public sector infrastructure requirement (of all kinds) per new dwelling. Or a national growth in public infrastructure investment of circa £3 billion per annum. Older infrastructure should also be considered, in addition to desired increases in utility (e.g. improved technology or lower environmental impact). The total annual investment need is estimated at about 1.5%pa of replacement value or about £7.5bn per annum[2]. Whether what is spent is on the right things in the right place is a matter of political economy and out with the scope of this note.

There is also the growing trend for planning authorities, in assessing obligations, to add "fitting out" or running costs to the cost of the fixed asset. There has been a long history of this in respect of adopted roads where a commuted sum (e.g. 20 years of maintenance) is charged. A similar "servicing cost" has also been added to the obligation cost of schools and parks. It is arguable whether these costs are genuine infrastructure costs, considering that they are not part of the created public sector asset value. In some cases, they will duplicate the additional income received from local (and national) taxes, for local services, that are generated from the growth in population and dwellings. These "servicing costs" have been excluded in this high-level assessment.

While it can be argued that the value of land, above primitive and poorly served agricultural value, is determined by the benefit of the infrastructure that serves it[3], it is clear that only a small part of the total infrastructure cost is represented by the plot value of a new dwelling[4]. If all this was "captured" for infrastructure, and calculated the total public infrastructure requirement as being related to new dwellings, then this full land value can only contribute 9% of the nation's needs. This does not occur in practice, as landowners need compensation usually related to existing use values. But even at this theoretical level of maximum contribution from land value uplift, we have to acknowledge that over 90% of public infrastructure needs are met by general taxation

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[1] The 15,500 figure is the annual three-year average of new house building completions in Scotland (2013 to 2015). The data source is Housing Statistics for Scotland http://www.gov.scot/Topics/Statistics/Browse/Housing-Regeneration/HSfS/NewBuildAllSector. Net addition in housing stock is a more accurate measure of growth but as the rate of demolition is reducing the new build figure becomes a reasonable proxy.

[2] Interestingly this is not far from current capital expenditure by Scottish Government, public sector bodies, UK Government, and revenue contributions to capital budgets.

[3] There are other ways to value land. Residual valuation methods are used later in this assessment, but spending power of those that use land and how much people are prepared to pay for space could be used, for access to jobs, for civic amenity, etc.

[4] Approximate national average of £40,000 before conditions, obligations, and other charges, and assuming affordable housing pays full land price.

(and some revenue income), and not from potential developer (or land owner) contributions.

Development land can only, therefore, make a small contribution – in other words, the uplift in land value cannot meet the full cost of infrastructure. The challenge then is to determine how much it can contribute and what factors need to be taken into account in preparing options for setting and implementing a measured charge.

Assessing the land value uplift contribution potential

For this assessment a number of estimates and assumptions are made.

First of all, it is assumed that, in line with policy, land value uplift on market housing[5] is the main contributor. Commercial development can make a contribution but should not restrict economic growth. It should also be noted that most land for commercial use has relatively low values compared to market housing land. The exceptions are likely to be retail use and city centre office developments. The volume of these, however, is small compared to market housing and their heterogeneous nature make estimates difficult. They have been ignored for this “order of magnitude” assessment.

Secondly, it is assumed that affordable housing[6] makes no land value contribution; that the value of developers’ obligations for affordable housing is the plot value for those dwellings. Some affordable housing may support a small part of its plot value, and conversely some affordable housing may require a contribution to build cost as well as its plot value. We assume these balance out, on average. To “charge” affordable housing for infrastructure contributions would effectively increase the amount of affordable housing grant requirement. This would lead to a circular use of public resources, and runs the risk that higher land prices would be paid than are necessary. Finally, the policy objective of 25% affordable housing is assumed, but that this does not apply to small scale housing developments, leading to an estimated overall delivery of 15% of total output of market developments[7].

Thirdly a number of estimates are made about development costs, density, dwelling sizes, and build out rates. These are shown in Appendix A.

Finally, an estimate sales values is established using data from Registers of Scotland (July 2016) for all sales, with an uplift to reflect the new build premium.

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[5] Market housing is taken to cover open market sales, private rented sector (which equates to full market value in the longer-term) and student housing.

[6] Affordable housing is taken to cover social housing, intermediate and mid-market housing and shared ownership, where these have an explicated or implied subsidy so that charges to occupiers are below full open market level. Residential care and institutional accommodation has been ignored.

[7] The balance of affordable housing is delivered by social housing providers on sites purely for affordable housing.

The gross development value of all market sales, less the full development costs, provides a residual land value.

This is compared to benchmark land values of existing use[8]. If the residual value is below the benchmark values then the scheme is not viable; the land owner would not sell or develop at the residual value.

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[8] Plus, an element for 'hope value' (if not prior consent) and for business loss compensation and disturbance.

Sales values vary across the nation.[9] Table 3.1 above shows the geographical distribution of sales values expressed in £ per square metre and grouped into four bands to simplify the modelling.

Table 3.1 New build sales values, 2016

Newbuild sales values	£psm	Band
Local Authority		average
West Dunbartonshire	£1,411	
Na h-Eileanan Siar	£1,412	
East Ayrshire	£1,470	
North Ayrshire	£1,508	
North Lanarkshire	£1,641	
Clackmannanshire	£1,658	
Dundee City	£1,694	A
Dumfries and Galloway	£1,725	£1,600
Inverclyde	£1,756	
Falkirk	£1,770	
Renfrewshire	£1,785	
Glasgow City	£1,820	
South Lanarkshire	£1,848	
Orkney Islands	£1,873	
Fife	£1,932	B
Argyll and Bute	£2,022	£1,867
Moray	£2,052	
South Ayrshire	£2,072	
Shetland Islands	£2,091	
Angus	£2,157	
Scottish Borders	£2,159	
West Lothian	£2,198	
Highland	£2,205	C
Perth and Kinross	£2,374	£2,133
Stirling	£2,492	
Midlothian	£2,567	
East Lothian	£2,722	
Aberdeenshire	£2,803	
Aberdeen City	£2,807	
East Dunbartonshire	£2,936	
Edinburgh, City of	£3,129	D
East Renfrewshire	£3,218	£2,800
Scotland national average		£2,200

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[9] Current sales values are derived from Registers of Scotland published statistical report July 2016, adjusted for new build premium of 20% calculated from ONS House Price Index February 2016 table 23, divided by the average dwelling size of 90 square metres GIA

The model adjusts development costs, and benchmark land values, with sales values to calculate residual land values.

The residual land values are net of, i.e. after, the effect of the affordable housing contribution at policy level, and are net of an estimated Section 75 contribution for local highway, school provision and other items such as provision of open space. These costs have assessed from sample schemes and, on average represent about 25% of gross residual plot value with highways and education contributions being by far the most valuable compared to other items. All these obligations are directly relevant to the individual scheme and are assumed to take precedence over any further measured charge.

Problematically, most Section 75 obligations are based on an initial assessment of requirements by the planning authority but are finally adjusted through negotiation on a site by site basis, often informed by financial viability assessments. If measured charges are a fixed amount, i.e. not subject to negotiation, then in effect these take precedence. The danger is that too high a measured charge will reduce the delivery of affordable housing, and other Section 75 obligations.

The results of the residual land calculations for each band are shown below in Table 3.2.

Table 3.2 High Level Financial Viability Assessment

Results of financial viability assessment	Gross development value	Gross development cost	Non-AH Section 75 obligations	Residual land value	Benchmark land value	Potential balance
All in £psm of market housing						
Band A	1,600	1,547	13	40	40	- 0
Band B	1,867	1,690	44	133	96	37
Band C	2,133	1,837	74	223	152	71
Band D	2,800	2,222	145	434	292	142
Scotland national average	2,200	1,874	82	245	150	95

A further modelling output shows that the aggregate plot value of annual output of affordable housing through Section 75 obligations is about £45m; that the aggregate value of other Section 75 obligations is about £85m[10]; and that the potential of a measured charge at £95 per square metre, if it could be paid for by all market dwellings, is about £100m. Contributions for schools, highways, open space and other public amenity have been estimated at an average of 25% of the unfettered average residual plot value of market housing, which is calculated at c. £30,000, and multiplied by the national market housing output of c. 11,500 dwellings per annum. The actual % and actual residual plot values will vary with housing market values so that in the lowest

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[10] The £85m estimate of Section 75 obligations is per annum at 2016 figures.

value areas S75 might only deliver obligations to the value of £1,000 per market dwelling, and in the highest value areas over £15,000 per dwelling.[11]

The sum total of all land value capture, on this basis, is about 3.5% of the national public infrastructure requirement.

Table 3.2 shows that the scope for land value capture rises with sales values, though it is not linear. There are also a substantial number of dwellings with sales values below £1,600psm, or say £145,000 for the average house, where there is no scope for land value capture beyond affordable housing contributions and local, scheme related, infrastructure.

This flags an important design feature for any measured charge scheme. There needs to be a threshold, in sales value terms, below which a charge is not made. If a charge was made below this threshold, then it would constrain output by making some schemes unviable. This is hard to categorise by geographical area as in almost all local authority districts, and in the majority of sub-districts, there will be some low value housing sites.

A second important design feature is that the level of charge will affect the total amount of contribution to wider infrastructure. If it is too low then little will be collected, if it is too high then the threshold will have to be high and fewer dwellings would be able to contribute.[12] Somewhere in the middle is an optimum level of charge—this is explored below by looking at a finer grained distribution of sales values and potential charges.

Figure 3.1 shows an approximate distribution of new build market housing sales in Scotland by value and for each price point the percentage share of the whole sales market (Left hand scale).

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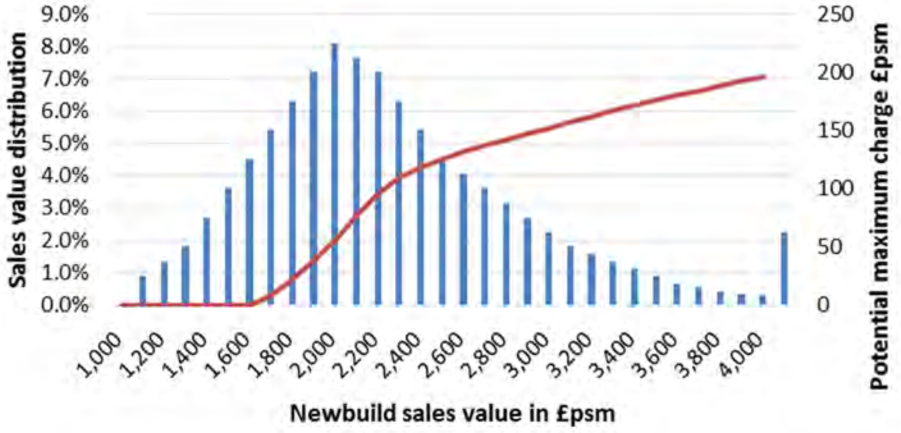
[11] These figures exclude the value of the AH S75 contribution, because this is assumed to be the plot value of the AH. In effect, it is the land owner that makes the contribution as the land value is reduced to accommodate AH. The market housing development (or the developer) itself is assumed to make no direct contribution to the subsidisation of AH, though in some cases part of the construction cost of AH might be subsidised by the developer in high cost areas to enable the social housing provider to charge lower rents.

[12] This is known as the Laffer Curve effect.

Figure 3.1 Sales distribution and potential maximum charge



The red line shows the potential maximum measured charge (£ per sq. metre Right hand scale) for each price point. The non-linear effect, of the residual of many interconnected variables, is apparent.

For a fixed measured charge at different levels the approximate aggregate contribution, now taking the threshold requirement into account, is show below in Table 3.3.

Table 3.3 Charge Price Options and Aggregate Collected

Charge price options £psm	**25**	**50**	**75**	**100**	**125**	**150**	**175**	**200**	**Variable amount per price point**
Aggregate collected (£m)	19	34	45	45	41	21	10	5	86

The last option is based on a charge amount per square metre for each sales value price point. The finer the grain of the price points the more could be collected. Ultimately this could lead to a complex variable based on actual price (per square metre) achieved for each dwelling. A variable charge delivers the highest aggregate amount but would be more complex to administer.

Other aspects to take into account

All measured charges will need frequent revisions to reflect inflation, market conditions, and changes that affect development costs, for example an introduction of additional building control regulations, or a change in interest rates. If they are set lower, to provide a buffer for these impacts, then the aggregate amount collected will be reduced.

The concept of measured charges has the benefit of certainty for the developer, and for those programming infrastructure expenditure. It would have the added, potentially significant, advantage of enabling redistribution of infrastructure contributions from growth locations to the location of the infrastructure, and from high added value areas able to contribute more to low value areas with insufficient resources for necessary infrastructure.

There are, however, a number of difficulties in implementation:

- The charge needs to be based on a predicted and agreed infrastructure requirement, at whatever geographical scale. A general contribution to an unspecified pool would be taxation, entailing different statutory and fiscal arrangements.
- It is not always possible to determine in advance the exact programme of infrastructure to be funded. There are always new requirements or ones that suddenly take priority over previous plans.
- There is an additional difficulty that some infrastructure has yet to be agreed in planning terms. It would be politically difficult to include an item in a charging schedule, for say the next five years, if that item is still undecided and faces opposition.

- Many planning authorities resist fixing planning obligations and charges in advance as they prefer to have some flexibility (or patronage) over what is appropriate for individual schemes.
- The competence or ability of a planning authority may also be a factor. Some smaller authorities may not have the skills necessary to compile a considered and well costed list. It would be tempting to plug local maintenance budget gaps rather than adding to infrastructure assets.
- Finally, all additional charges will impact on the price paid for land. This assessment attempts to estimate the maximum possible amount without making schemes unviable. But if land has been purchased for the development before the charge is implemented then it would become retrospective and open to challenge. Some period of advance warning will be necessary.

Summary

There is scope in financial viability terms for adding a measured charge in addition to Section 75 planning obligations. Different methods will deliver different aggregate amounts. The finer the grain of the approach enables a larger amount to be collected, nationally, but increases the complexity of the charging mechanism compared to a simple flat rate. Potential amounts are small relative to overall infrastructure needs but are material and could, if not forming a substitute for general public sector capital budgets[13], enable greater infrastructure investment.

3.3 Policy Context

This section provides a brief consideration of the policy context around planning and infrastructure.

Since 2007 the Scottish Government has had a clear, overall purpose to create a more successful country, through increasing sustainable economic growth. Supporting sustainable economic growth is complex. Many factors influence the economy and most are outside the control of the public sector. Sustainable economic growth and housing delivery are key priorities for the Scottish Government. To contribute towards this, an improved and fairer system, with greater transparency, certainty and efficiency needs to be considered to secure funds towards infrastructure delivery.

‘The Government Economic Strategy (GES), The Scottish Government 2011’, (Government Economic Strategy, Scottish Government, November 2007 and September 2011. **Scotland’s Economic Strategy, Scottish Government, March 2015**) provides a framework to deliver the Scottish Government’s central purpose: to focus the Government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth. The Scottish Government's economic strategy sets out its priorities and overall approach to support sustainable economic growth. It is a broad, high-level strategy. The Scottish Government has refreshed its economic strategy twice since 2007 (2011 and 2015) and has developed and refreshed underpinning plans and policies. Scotland’s

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[13] I.E. full additionality.

Economic Strategy focuses on four key themes: inclusive growth, international promotion; innovation; and investing in people and infrastructure.

The framework is underpinned by a set of ambitious targets, which form a key part of the **'National Performance Framework (NPF)'**. The NPF, which was refreshed in December 2011, provides a clear vision for the kind of Scotland that the Scottish Government want to see. It provides a broad measure of National Wellbeing, incorporating a range of social and environmental indicators and targets covering issues such as mental wellbeing, income distribution and carbon emissions as well as economic growth.

Originally launched in 2007, a refreshed GES was published in September 2011 to take account of the marked change in economic conditions over the intervening period and to provide added focus towards new and emerging growth opportunities. The clear priorities and actions set out in the GES remain just as relevant today. While the Scottish Government's focus therefore is on the delivery of these priorities, the Scottish Government stands ready to target policy and resource towards any new pressures and opportunities that may emerge. The Scottish Government is continuing to take forward the measures required to transform Scotland's long-term sustainable economic growth performance. The Government Economic Strategy identifies six Strategic Priorities that will deliver sustainable economic growth, boost employment, and provide opportunities for all to flourish.

Table 3.4 Strategic Priorities for Sustainable Economic Growth

Strategic Priorities for Delivering Sustainable Economic Growth - Strategic Priorities
Supportive Business Environment
Transition to a Low Carbon Economy
Learning, Skills and Well-being
Infrastructure Development and Place
Effective Government
Equity

Government's focus on Infrastructure Development and Place aims to harness the strength and quality of Scotland's cities, towns and rural areas and ensure that Scotland is positioned to take full advantage of the opportunities offered by the digital age.

Actions to support infrastructure development and place include:

- Launching a package of proposals to simplify and streamline planning processes and drive improved performance;
- Taking forward the '**Infrastructure Investment Plan**, published in December 2011', (Infrastructure Investment Plan 2015, Scottish Government, December

2015) which outlines the priorities for infrastructure investment in Scotland up to 2030. This includes the Forth Replacement Crossing.

National Planning Framework 3 (NPF3) (2014) provides the spatial expression to the Scottish Infrastructure Investment Plan and the Scottish Government's Economic Strategy. NPF3 sets out the spatial strategy for Scotland and highlights 14 National Developments and other strategically important development opportunities that will help realise it. Many of these are infrastructure related and are to happen over the next 20-30 years. This is a high level policy document which statutory development plans must have regard to. While it links Scotland's growth and development agenda with the prioritisation of investment in infrastructure projects, it is not an infrastructure investment plan.

Scottish Planning Policy (SPP, 2014) sets out the Scottish Government's national planning policies for the operation of the planning system and the development and use of land. SPP establishes that Sustainability and Placemaking are the two Principal Policies of the planning system in Scotland. Infrastructure is acknowledged as having a critical role in delivering the right development in the right place. Emphasising planners' role as enablers of development, SPP directs the planning system to create opportunities by allocating sites and enabling the delivery of necessary infrastructure, attracting investment and employment (paragraph 16). The SPP states development is to be more closely aligned with transport and digital infrastructure to improve sustainability and connectivity (paragraph 23). Planners should have "a sharp focus on the delivery of allocated sites embedded in Action Programmes, informed by strong engagement with stakeholders".

Circular 6/2013 on Development Planning emphasises the need for consultation with key agencies when drafting development plans. Key agencies are bodies under a specific duty to cooperate with planning authorities at defined stages within the development plan process. This includes the preparation of Action Programmes. Paragraph 155 states that the intention of this engagement is so plan-making authorities have the information they need to produce effective plans and to ensure that the plans themselves are aligned with the strategic objectives of the other agencies, who 'buy-in' to the strategy and proposals of the plan and assist in their delivery.

Circular 3/2012 on Planning Obligations and Good Neighbour Agreements addresses the most significant mechanism available to planning authorities to deliver infrastructure, i.e. planning obligations. Planning obligations are commitments undertaken by an applicant to overcome obstacles to the granting of planning permission, potentially providing a means to, for example, compensate or reduce negative impacts on land use, the environment or infrastructure. These most commonly take the form of financial contributions. The Circular states that where the need for these is known in advance, requirements for planning obligations should be set out in the development plan.

Critical to judging whether a planning obligation should be sought are the following five tests set out in the Circular, considered in detail in Section 3.4.

The Circular emphasises that the Development Plan should be the starting point to consider whether planning obligations will be required to deliver proposed developments.

Summary

This section has considered existing policy and actions supporting infrastructure development. There are multiple tiers of policy covering the planning and delivery of infrastructure across Scotland, and multiple initiatives have been put in place by the Scottish Government to encourage infrastructure-first development in promoting sustainable economic growth and wider policy objectives. There is also clear legislation and policy relating to developer contributions, including ‘policy tests’ used to establish instances where contributions would be acceptable. A charge must therefore fulfil policy objectives and meet similar, robust criteria to guide its application and use of funds.

3.4 Legal Context

Introduction

This section provides a brief summary of the existing legislation surrounding planning obligations and taxation and how a charge sits within these structures.

Current position

The current regime of section 75 agreements is laid out in legislation. Section 75 of the Town and Country Planning (Scotland) Act 1997 permits a person to enter into an obligation, normally by agreement with the planning authority, which restricts or regulates the development or use of the land. Planning obligations may require payment of specified sums of money. The current framework is therefore, broadly speaking, a consensual one.

The Scottish Government has issued guidance on the use of section 75 agreements in Circular 3/2012 “Planning Obligations and Good Neighbour Agreements”. The Circular indicates that a section 75 agreement should only be used where it is:

- Necessary to make the proposed development acceptable in planning terms;
- Serve a planning purpose and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans;
- Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area;
- Fairly and reasonably relate in scale and kind to the proposed development;
- Reasonable in all other respects.

In contrast, the equivalent tests in England are matters of law, not guidance (Community Infrastructure Levy Regulations 2010, Regulation 122).

The current research is examining options for a charge, which involves a fixed rate of payment/formula, albeit that there may be some discretion as to when and how this imposed. Some parallels may be drawn with the English Community Infrastructure Levy (CIL), created by Section 205 of the Planning Act, 2008. This empowers the Secretary of State, with the consent of the Treasury, to make regulations providing for the imposition of a charge. Regulations were made in the form of the Community

Infrastructure Levy Regulations 2010. In terms of Section 206 of the 2008 Act, local planning authorities then have discretion as to whether to charge CIL in respect of land development in their area.

Requirements for Implementation

A similar approach to that taken in England regarding CIL could be taken in Scotland, whereby primary legislation of the Scottish Parliament would empower the Scottish Ministers to create a charge, the detail of which would be fleshed out in secondary legislation (regulations). Scottish planning authorities could also be given discretionary powers to impose the charge on local developments.

However, while planning law is a devolved matter, certain aspects of taxation are reserved to Westminster and the UK Treasury. The limits of the devolved competence of the Scottish Parliament and Scottish Ministers are set out in the Scotland Act 1998. In relation to taxation powers, these limits were recently extended in 2012 and again in 2016.

In terms of the Scotland Act 1998, Schedule 5, Paragraph A1, “Fiscal, economic and monetary policy, including the issue and circulation of money, taxes and excise duties…” are reserved to the UK. There are exceptions to this, including “devolved taxes” and local taxes to fund local authority expenditure (such as council tax and non-domestic rates).

It is likely that the forms of infrastructure charge proposed would amount to a tax within the general meaning of the reservation in A1. There have been no cases which have expressly considered the meaning of “taxes” in Scotland, but the wording is broad and appears to have been intended to catch all taxes in the ordinary sense of the word, including charges levied on commercial development activities. Accordingly, any charge levied on the basis of, for example, potential development revenue or profits should be treated as a tax.

A “devolved tax” is one specified in Part 4A of the 1998 Act (inserted by the Scotland Act 2012 and further amended by the Scotland Act 2016). This includes Scottish income tax, land and buildings transaction tax, landfill tax, air passenger duty, and tax on the commercial exploitation of aggregate.

A proposed infrastructure charge might be structured so as to fall within the definition of a tax on transactions involving interests in land, set out in section 80I of the 1998 Act. In order to meet the “devolved tax” definition, it would have to amount to a tax charged on either: (a) the acquisition of an estate, interest, right or power in or over land in Scotland; or (b) the acquisition of the benefit of an obligation, restriction or condition affecting the value of any such estate, interest, right or power.

Otherwise, the charge might still be within devolved competence if it was set up as a form of local taxation. To fall within the exemption under A1, it would need to be a “local tax to fund local authority expenditure”, meaning that the income would theoretically need to remain with the local authority to be spent within the area. This would be suitable if the charge is intended for use in regional projects managed by individual local authorities (or perhaps a number of local authorities working in partnership), but not if the desired aim is to have a central pot of funding available to support national projects.

Options for Local Taxation

There are existing local taxes considered as falling within the local taxes exception (including non-domestic rates) which do not strictly speaking operate in the same way as other local taxes. Another option for the Scottish Government, instead of creating a new form of local taxation, may be to introduce a charge through the non-domestic rates. This would likely require a change to the non-domestic rates regime, which currently operates on the basis of property values, rather than profits or development potential.

Maintaining the 'local' element required to claim the exception from the reservation in A1 could be more difficult given that non-domestic rates collected by individual local authorities are in-gathered and re-distributed by the Scottish Government as part of the annual local government finance settlement, based on pro rata population figures, rather than the rates collected per authority. The rates themselves are also set by the Government rather than by individual authorities. This is meant to compensate for lower rates being recovered in poorer authority areas with high population levels. However, development is likely to be concentrated in areas of higher density population. Some local authorities could be collecting very high amounts of revenue from any additional infrastructure charge through non-domestic rates; other local authorities may collect very low amounts. Assuming the Scottish Government expected this revenue to continue to come in to the central 'pot', a structure of this sort may be difficult to justify as "local taxes to fund local authority expenditure". The risk of the local taxes exemption being used as a 'back door' route to impose policy led taxes nationally on particular sectors or activities was specifically raised during debates on the original Scotland Bill.

Overall, it seems that a purely local taxation mechanism (i.e. one which is administered locally and redistributed locally) would be the surest means of ensuring that the infrastructure charge did not breach the limits of devolved competence.

If the Scottish Government had particular concerns about legislative competence, another option would be to lobby the UK Government to amend the Scotland Act using powers under section 80B to introduce additional devolved taxes by way of an Order in Council.

The Scottish Government should also be mindful of other limits on the Scottish Parliament's devolved competence, and in particular should ensure that consideration is given to any potential for interference with rights under the European Convention on Human Rights; and also the implications for State Aid.

Summary

There are various options through which a charge may be established in Scotland. There is precedent within primary and secondary legislation for the institution of a charge within existing devolved powers of the Scottish Government. Further powers may need to be granted to local authorities or to administering authorities to collect a form of 'tax' falling within the categories specified above.

4 Literature Review

4.1 Introduction

This focused literature review is structured as follows:

Subsection 1 Context – sets out the background and context of this Literature Review;

Subsection 2 Infrastructure Funding Practices – considers a variety of mechanisms and a description of examples in practice;

Subsection 3 Key Issues - identifies key issues identified in the Brief provided by the Scottish Government and their basis in existing literature, guidance and case studies;

Subsection 4 Summary – explains that this literature review synthesises a suite of high level policy and research documents relevant to infrastructure funding mechanisms planning for infrastructure and summarises the findings.

Background

The Review of the Scottish Planning System (2016), Recommendation 18, noted that "Options for a national or regional infrastructure levy should be defined and consulted upon". It suggests that while there are issues surrounding land value uplift models, S75 agreements are too limited and "there is much that could be gained from a well-designed mechanism which properly reflects market circumstances and takes into account development viability".[14]

Context

This focused literature review considers relevant policy documents and research reports, drawn from Government (UK, Scotland and international), industry professional organisations, consultants and reviews on behalf of political parties and academia.

The primary focus of this review is published research of funding mechanisms to deliver infrastructure. This considers a range of issues, including the aim and purpose of the funding mechanism, the key priorities for charging mechanisms, the mechanics of the mechanism, the issues and the pros and cons associated with the mechanisms. Consideration is also given where appropriate, to addressing key elements such as geographic scale, Development Planning, legislative and implementation (organisational structure / resources), requirements and timelines, as well as relationship to legal agreements and State Aid.

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[14] Beveridge, C., Biberbach, P. and Hamilton, J. (2016). *Empowering planning to deliver great places: An independent review of the Scottish planning system*. Edinburgh: Scottish Government.

It does not review Development Plans (see Chapter 4), nor does it consider the plans, strategies and policies of infrastructure providers. These are embedded in the consultant team knowledge, supported by a suite of documents on roads, public transport, water, healthcare, utilities, etc.

Literature on UK national infrastructure is largely concerned with the funding and delivery of major strategic projects such as trunk roads, rail, airports and energy infrastructure. For example, the UK 2014 Infrastructure Plan and Scotland's Infrastructure Investment Plan take this high level approach.

The aftermath of the 2008/09 UK economic recession brought a policy and research focus onto delivering infrastructure for development sites. The recurring theme is the need to find new approaches, following the retrenchment of the private sector from providing large scale, speculative infrastructure finance.

This literature review compiles evidence on the implementation of charging mechanisms to support the delivery of infrastructure. While a necessary complement to a charging system is a well-funded and robust public funding mechanism for key infrastructure projects, the scope of this review remains focused on charging mechanisms and their application.

4.2 Infrastructure Funding Practices

A report by Ryden, et al (2015) for the Scottish Government pointed out that private development and the delivery of infrastructure was historically funded by a combination of private equity and bank debt, a “side-by-side” model which would allow for acquisitions, infrastructure and project fees to be provided by the developer in addition to debt. Post-crash, smaller developers without the upfront capital may not be able to meet the infrastructure requirements demanded through planning.[15] This reflects the overall picture in the UK where private funding activity in infrastructure has, according to the UK Government, fallen:

> “partly due to a drop-off in demand for long-term finance from governments… partly due to uncertainty and risk aversion about the economic outlook, and partly a result of regulatory requirements that oblige banks to reduce the amount of long-term debt on their balance sheets.”[16]

The diminished availability of debt funding has resulted in a wide variety of funding mechanisms being employed in the United Kingdom. A variety of mechanisms employed reflects the importance of a multi-level approach to encouraging development and ensuring adequate funding for essential infrastructure, in the way of:

- Taxes and Fees
- Grants
- Debt Finance

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[15] Ryden LLP, (2015). *Planning for Infrastructure*. Edinburgh: Scottish Government.

[16] UK Parliament, (2015). *UK infrastructure improvements: Key issues for the 2015 Parliament.*

- Tax incentives
- Developer Fees
- Institutional Investment
- Value Capture
- Public-Private Partnerships/ Joint Ventures
- Asset Leverage and Releasing Mechanisms
- Revolving Infrastructure Funds[17]

In the United Kingdom, such mechanisms have become more differentiated. Pinsent Masons (2015) suggested several other funding mechanisms, including:

- Prudential Borrowing
- Institutional Finance
- Private Equity
- Infrastructure Guarantees
- Housing Guarantees
- City Deals
- Single Local Growth Fund (available to Local Enterprise Partnerships)
- EU Structural Investment Funds
- Regional Growth Funds
- Growing Places Funds
- Pinch Point Funding
- Local Infrastructure Fund
- Enterprise Zones
- BID
- Business Rate Supplements

There are further differentiations of each mechanism, as considered by the London's Councils Executive using international examples[18]. Items have been included which may apply to public infrastructure generally and reflect the need to 'capture' additional taxes to fund local projects.

Table 4.1 Funding Mechanisms Considered by the London's Councils Executive

Funding mechanism	Origin
Payroll levy	France
Visitor and tourism tax (hotel tax)	France
Sales tax	United States
Parcel (land) tax	United States

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[17] Strickland, 2014.

[18] Sibley, Jennifer, (June 2015), *Item 7: Devolution of Infrastructure Funding Mechanisms,* London's Executives <http://www.londoncouncils.gov.uk/node/26447>

Business Improvement Districts/ Benefit Assessment Districts	United States/Australia

These mechanisms had been considered as sources of potential income for London's Crossrail 2 project, though have not been utilised—nonetheless, they point to a significant number of examples through which larger-scale infrastructure can be supported.[19]

In practice, the proliferation of innovative funding mechanisms reflects that limited public sector funding and the unpredictability of negotiated agreements impacts the delivery of infrastructure[20]. As Ryden, et al. (op. cit.) reported, an infrastructure-first approach to development is hampered by the fact that local authorities are constrained in terms of willingness to take the risk of front-funding infrastructure, particularly in speculative development sites where local authority funding for public infrastructure is contingent on the delivery of new homes. Despite the willingness of some local authorities to expect returns, the Report highlights the need to consider additional funding sources in addition to a "broader basket" of public sector funding.

The variety of funding and financing options for infrastructure indicates how differentiated capital investment is in practice.

Examples in Practice

UK

A combination of the aforementioned funding and financing options are key to infrastructure delivery in the UK. Across the nations they are supplemented by a series of 'charges' related to new development.

The legislative context for the UK planning system allows for the extraction of financial or contributions in kind from developers to offset the impact of development. Section 75 agreements in Scotland, for example, must meet policy tests set out in Circular 3/2012 and must prove to have a clear relationship to the development and its impacts, and may be negotiated between stakeholders. As described in 'Legal Background' in the previous chapter, comparable systems for S106 in England are legally defined.

More recently, the introduction of CIL in England and Wales has supplemented S106 agreements, though has had mixed results in terms of achieving greater development and meeting infrastructure needs. Call for Evidence associated with the 2016 Planning Review has indicated support from various parties for the introduction of an alternative

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[19] Additional taxing mechanisms which may supplement development charges may include Council Tax Precepts and Business Rate Supplements.

[20] Skaskurbis and Tomalty (2000), *The Effects of Property Taxes and Development Cost Charges on Urban Development: Perspectives of Planners, Developers and Finance Officers in Toronto and Ottawa*, Canadian Journal of Regional Science/Revue canadienne des sciences régionales, XXIII:2 (Summer/Été 2000), 303-325.

mechanism, and by many for the introduction of a similar charge to that employed in England and Wales in Scotland with charging authority given to local authorities.

Developer obligations and other fees cannot meet the full cost of many infrastructure items. While combination public/private revenue and capital funding have formed a large part of infrastructure funding, there has also been a shift toward more innovative funding mechanisms. There have been a number of examples of borrowing-against-revenue streams which are offset by increase in business rates (e.g. Tax Incremental Financing, or 'TIF'). This has been considered across local authority areas or across regions. Local authority bonds have also been used, sometimes as part of a TIF package.

At the wider UK level, City Deals are beginning to offer a significant amount of capital for infrastructure funding while increasing economic growth in city regions. In many cities this has involved the creation of infrastructure programmes or transport investment funds to finance projects over several decades.[21]

There have been examples of additional charges set upon developments in Scotland. In respect to the delivery of the Waverley Railway Line, running through the Central Borders Housing Market Area (HMA), a capital cost of £129.6 million cost would be obtained from an extended developer contributions zone, particularly from housing developments. The Waverley Railway (Scotland) Act 2006 provided the legal authority for the development contributions, sought from every new residential unit within identified postcodes.

Ireland

The development of new guidance with respect to contributions reflects the need to balance public investment in infrastructure and reaching developer contributions. While the government funds a majority of infrastructure projects, a significant shortfall must be met from elsewhere.[22]

There are three contribution schemes under Sections 48-49: General Development Contribution Schemes, Special Development Contribution Schemes, and Supplementary Development Contribution Scheme.

The gradations in schemes support broader public amenity associated with development, specific requirements associated with the development, or a particular public infrastructure project "provided by a local authority or a private developer on behalf of and pursuant to an agreement with a local authority (e.g. through Public Private Partnership), and which will directly benefit the development on which the development contribution is imposed."[23] This reflects the need to exact charges to

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[21] http://www.grant-thornton.co.uk/Global/Publication_pdf/City-Deals-and-Sustainable-Cities2.pdf

[22] See Letterkenny Town Council Adopted Development Contribution Scheme, 2008. http://www.donegalcoco.ie/services/planning/developmentcharges/

[23] Department of the Environment, Community and Local Government (2013). *Developer Contributions, Guidelines for Planning Authorities*

deliver public amenity on various scales and the importance of provision of this specification in primary legislation.

International

As suggested in Section 2.1, there are examples of using alternative public funding sources to deliver infrastructure, including captured business rates, specific use taxes (e.g. fuel tax, sales tax), and development charges. In particular, the United States has a significant number of well-developed land value tax programmes, such as in Chicago, where there are some 170 districts funding projects based on the Equalized Assessed Valuation of properties over a 23-year period. These have been subject to praise as well as criticism, particularly in establishing the effectiveness of the programmes and equitable use of funds.[24] Elsewhere in the United States, specific transport projects are funded by use taxes in the form of tolls, fuel tax, parking charges, and more.

Additionally, several countries with complex planning systems institute development charges. For example, Canadian municipalities and regions can extract infrastructure charges for a wide range of municipal needs associated with applications at graduated rates across developments, and fund projects including essential services (e.g. paramedic services) and public infrastructure (e.g. libraries and parks).[25] It should be noted that specific mitigation required through planning obligations as in the United Kingdom is not required, so development charges in Canada capture a broader schedule of public goods.

While the existence of infrastructure levies in many countries are tied to municipalities or authority areas, there are examples where they reflect even more localised market conditions. In Singapore, development charges associated with planning applications are charged based on fixed geographies and land values, with additional betterment levies.[26] In the latter case, the levies are associated with the proposed increase in value of the land and is calculated based on the proposed use and baseline valuation. The extent to which these funds are applied to infrastructure projects is unclear, though it provides a thorough example of how fixed charges associated with land values may be applied to localised geographies and balanced against specific uses.

In either case relating to development charging, in addition to the clear legislative and governance differences, the mechanisms are sensitive to scale of infrastructure required, market variations, and physical geography.

Of course, a suite of funding sources is necessary to deliver infrastructure. There are several international examples of infrastructure financing authorities which have

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[24] Farris, S. and Horbas, J. (2008). Creation vs. Capture: Evaluating the True Costs of Tax Increment Financing". Journal of Property Tax Assessment & Administration. 6 (4).

[25] For example, see the City of Ottawa (http://ottawa.ca/en/city-hall/planning-and-development/how-develop-property/development-charges/fee-schedule-effective)

[26] https://www.ura.gov.sg/uol/DC/apply-check-pay/apply-permission/DC-rates-archive.aspx

successfully delivered large-scale strategic infrastructure projects to facilitate regional growth and investment. This had successfully been achieved through the Macquarie European Infrastructure Fund[27], a significant investor in Brussels Airport. In the Netherlands, DIF has managed investments in infrastructure projects valued over €20 billion, through public-private partnerships, renewable energy, and core infrastructure projects.[28] Furthermore, the European Union has recently established an infrastructure investment fund (European Fund for Strategic Investments), with additional strands including a project pipeline and assistance programme, and a strategic roadmap.

Existing literature, published guidance and case studies therefore suggest the trend of national and municipal governments with well-established planning systems to exact infrastructure levies to fund infrastructure through a ‘common pot approach’. This is increasingly complemented by the establishment of infrastructure funds or other investment vehicles to finance large-scale projects.

4.3 Key Issues

Definition of Infrastructure

Reports and guidance often differ with respect to what is included in infrastructure investment. The “Planning for Infrastructure” (2014) Report included the following public goods:

- Local roads infrastructure
- Public transport: bus, rail, tram
- Schools
- Water supply
- Waste water
- Waste management and recycling
- Flooding
- Healthcare
- Green infrastructure / Open space
- Heat networks
- Digital infrastructure
- Gas networks
- Electricity networks
- Community facilities
- Sport development
- Recreation / play areas

While comprehensive, the recent report, Empowering Planning (2016) emphasises the importance of delivering additional assets, like education and affordable housing, and their place in delivering great places. Therefore, this literature review considers

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[27] https://www.macquarie.co.uk/mgl/uk/meif/meif-1

[28] https://www.dif.eu/

‘infrastructure’ to consider affordable housing and education facilities unless indicated otherwise.

These items are not considered in turn below. Rather, key issues arising from the definition of ‘key infrastructure’ and how their funding has been approached in literature and reports is delineated. These headings follow the themes as specified by the Scottish Government in the Project Brief.

Affordable Housing

The delivery of affordable housing as an essential item of infrastructure is not agreed upon.[29] For example, it was considered in the Planning for Infrastructure report (2015) that affordable housing “is not a form of infrastructure that is an enabling requirement for development”, even though it is also the local authority’s role to develop a local housing framework and meet local housing needs.[30] Similarly, the requirement to ‘deliver infrastructure to support development’ with regard to CIL in England and Wales also precludes its inclusion in Regulation 123 lists. While covered by contribution mechanisms in the UK, there are international examples of authority-wide infrastructure charge for the delivery of affordable housing alongside other necessary services.[31]

Despite the introduction of charging systems in England, a report analysing the delivery of affordable housing across the UK noted that its delivery across the constituent nations remains broadly similar. Delivery mechanisms throughout the UK reflect the multiple-actor approach to supply side and demand side measures. This includes variations of a starter homes initiative, shared equity products, and help-to-buy on the demand side, and building funds, land release (“build now, pay later”), housing trusts, and more, from the supply side. Central government funds in England (e.g. Single Local Growth Fund) for Local Enterprise Partnerships for infrastructure projects that ‘increase economic value’ are credited as influencing the supply of affordable housing.[32]

The introduction of charging mechanisms, while theoretically supporting the supply of affordable housing delivery through the adequate provision of key infrastructure and thus enabling development, has been considered to be stunting to affordable housing delivery. However, this may be an issue with levels of rates expected as contributions

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[29] Crook, Tony & Whitehead, Christine M.E. (2002). Social housing and planning gain: is this an appropriate way of providing affordable housing? [online] London: LSE Research Online.

[30] Scottish Executive (2005), *PAN 74: Affordable Housing.* Edinburgh: Scottish Executive. <http://www.gov.scot/Publications/2005/03/20796/54073>

[31] Black, J. (2012). The Financing and Economics of Affordable Housing Development: Incentives and Disincentives to Private-Sector Participation. *Cities Centre, University of Toronto*, (Research Paper 224).. <http://neighbourhoodchange.ca/wp-content/uploads/2012/11/Black-2012-Affd-Housing-Research-Paper-224.pdf>

[32] Three Dragons & Heriot-Watt University (2015), *Developer Contributions for Affordable Housing in Northern Ireland*, Department for Social Development.

for affordable housing or unrealistic targets.[33] This indicates the need to ensure affordable housing provision is considered against viability studies. Furthermore, research by RICS notes that charges in low demand areas would have a negative impact on deliverability. However, this may be met through differential charges which may be capable of encouraging efficient consumption of land.[34]

This indicates that while affordable housing falls out with the scope of charging systems, appropriate measures need to be taken to ensure viability of those sites which need to fulfil affordable housing requirements through contribution mechanisms in addition to meeting development charges.[35] For example, international examples and guidance indicate that reducing fees required by councils can have a positive effect on viability of delivering affordable housing.[36] An important aspect of affordable housing delivery is therefore the impact of housing on the viability of development and in positively delivering affordable housing.

Inclusion of Employment Land

It has been observed that the contributions required of employment land may have an impact on viability.[37] In particular, the requirement that sites should be readily serviced by infrastructure to attract development—in most cases forward funded by the Council—shifts the burden to developers and increases the ‘viability gap’. Requiring contributions from economic development sites is therefore considered problematic.

In recognition of this, as part of CIL in England and Wales, local authorities are able to employ differential rates to apply to differential land uses with charges are based on proposed use-classes[38]. However, the guidance suggests that “nil rates” should not be used to promote certain uses where differential rates are applied. Nonetheless, not all authorities may apply CIL to all use types. Savills report that all Charging Authorities set rates for Residential and Retail, while under 50% charge for Commercial and Leisure, and under 30% for student housing.[39]

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[33] Jones Lang Lasalle (2016). *CIL hits affordable housing delivery.* < http://www.jll.co.uk/united-kingdom/en-gb/news/2255/cil-hits-affordable-housing-delivery>

[34] Baumeister, Mia. (2012) Development Charges across Canada: An Underutilized Growth Management Tool?, *IMFG Papers on Municipal Finance and Governance* (9)

[35] Lewes District Council, 2015, *Clarification the Future Use of S10*6. <http://www.lewes.gov.uk/Files/plan_Clarification_on_the_Future_Use_of_S106.pdf>

[36] Kemp A, Mollard V, and Wallis I. (2013) V*alue capture mechanisms to fund transport infrastructure*. New Zealand Transport Agency research report 511, Wellington: NZ Transport Agency <http://www.nzta.govt.nz/assets/resources/research/reports/511/docs/511.pdf>

[37] Ryden, op cit.

[38] Landmark Chambers, 2014.

[39] Op. cit.

An analysis of CIL reports suggests that the inclusion of housing and employment land requires a consideration of viability for incorporation in the scheme. In many instances this has resulted in nil to low CIL rates where it is considered that positive residual land values would not be met. This suggests a broader issue with graduated charges that have a negative impact on the viability of certain classes of developments.

Alternatively, international examples and analyses of development charges or impact fees suggest that the exaction of development charges based on use classes based on geographies (e.g. 'urban growth areas' or zones) could positively impact the efficiency and effectiveness of urban development.[40]

On-site or Off-site Provision

The provision of on-site or off-site infrastructure has proven to be controversial in recent years. This is particularly clear with the provision of assets such as affordable housing, which commentators suggest is particularly acute in London, where a significant number of schemes in recent years has not resulted in an adequate provision of affordable housing.[41] A review by London First and Turley (2016) suggest stricter criteria against which the presumption in favour of on-site provision should be considered. A greater concern is the manner in which commuted sums are spent, and the need for transparency and cross-boundary cooperation where delivery by individual authorities is limited.

The limitation of contributions in the form of S106 and S75 in England/Wales and Scotland, respectively, is the need to demonstrate a direct geographical or functional relationship with the development in question. International examples of urban development charges or impact fees articulate policies toward "integration" of a range of community plans, land use planning, infrastructure strategies, and capital strategies.[42] The operation of CIL in England and Wales presents a case study in the UK of differentiation between site specific requirements and broader strategic infrastructure items. In this case, items that are eligible for CIL funding are presented at examination under Regulation 123, under the governance of the Charging Authority. The benefits of a 'tax' such as CIL suggests that it may be applicable to public goods which do not have a functional or geographical relationship development but are of importance to the wider community and potentially impacted.

RICS Research on CIL has pointed to concerns regarding the allocation of funds collected through a charging scheme. This reflects a relatively new area of

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[40] Baumeister op cit; Carrion and Libby, 1999.

[41] London First &Turley (2016). *The Off-Site Rule: Improving planning policy to deliver affordable housing in London.* <http://londonfirst.co.uk/wp-content/uploads/2016/02/The-Off-Site-Rule.pdf>

[42] See, for example, British Columbia's *Development Cost Charge: Best Practice Guide* (2005) http://www.cscd.gov.bc.ca/lgd/intergov_relations/library/DCC_Best_Practice_Guide_2005.pdf

administration and difficult operation[43] resulting from the move to "break the development from the development site".[44] CIL guidelines suggest that this is mediated by implementing a cap of 15% localised spending (on area of development), which may rise to 25% where a neighbourhood plan is in place. Perceived lack of clarity over the distribution of these funds, however, indicates a general issue about the transparency of funding and the provision of infrastructure items and their relationship to a development site.

Scale of Infrastructure

The scale of the infrastructure project partly determines the nature of mechanisms employed to deliver key infrastructure. The Planning for Infrastructure (2015) Report commissioned by the Scottish Government noted that, currently, Councils seek developer contributions for a varying number of development-related infrastructure items requiring contributions, though there was an observed preference for managing one-off contributions through conditions or legal agreements in the form of the Local Government Act, Countryside Act, Sewerage Act, or Roads Act.

The Report also noted that there is precedence in 'scaling' zones or criteria to reflect the nature of infrastructure provision required. This includes the use of project based contributions, creation of contribution zones, authority-wide obligations, and cross-boundary obligations. The identification of multiple, cross-cutting geographical or criteria based obligation mechanisms suggests the importance of reflecting the scale of infrastructure required and the need to coordinate with other local authorities. As noted, there is already precedent of land-value capture mechanisms to deliver large infrastructure in areas where the projects would not otherwise be deliverable. In the case of Falkirk, for example, this will include several motorway junctions, development enabling site works, flood protection, and more.[45]

Alternative mechanisms employed in the UK and Ireland emphasise the need to capture contributions for infrastructure items of varying scales in such a way that are incorporated into primary legislation. This is reflected by the scale of Sections 48-49 agreements in Ireland, whereby the contributions required by developers, while negotiated, can vary from directly relating to development to meeting wider infrastructure development objectives of wider benefit. Guidance suggests that these funds, however, cannot be taken as the sole funding mechanisms but must work alongside other mechanisms, such as public funding models. Indeed, Irish regulations also encourage differential rates to support certain developments, such as town centres. Rates will reflect the scale of interventions required, and must follow guidance with respect to development of the Contribution Scheme.

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[43] Savills (2014) *Spotlight: CIL—Is it delivering?* <http://www.savills.co.uk/research_articles/141280/183751-0 >

[44] https://www.cambridge.gov.uk/public/ldf/CIL/PDCS%20Print%20version.pdf

[45] Falkirk Council (2013*), Falkirk Tax Incremental Finance (TIF) Initiative: Sustainability and Partnership* <http://www.myfuturesinfalkirk.co.uk/business/pdfs/2013/tiff.pdf>

Contrarily to the negotiated models employed in Scotland, an effort to manage cumulative impacts of development through the introduction of authority-wide levies has also been attempted through the introduction of CIL. However, applying charges in the form of tax such as via CIL, as a supplement to developer contributions, is not always capable of meeting local infrastructure needs. Recent research also suggests that the introduction of supplementary taxes in the form of CIL has a reversed effect on the ability to meet local, neighbourhood needs. Indeed, Savills point out that, in 2014, only 1% of CIL receipts made their way to Town and Parish Councils.

Nonetheless, charging mechanisms are capable of delivering a great deal of capital for projects, though Savills (2014) note that the charges need to reflect the viability and deliverability of projects. As demonstrated with the Crossrail Project, a suite of financing items was required to meet the capital costs of project implementation. Supplementary development charges (e.g. CIL) in addition to land sales, supplementary CIL, and private sources. [46]

Geographic Scale

A key issue facing the deployment of infrastructure charges is defining the geographies at which contributions are sought. At the moment, mechanisms for extracting developer contributions in Scotland are either "cross boundary; local authority wide; zonal; project based; and site driven." All reflect the different levels at which the impact of development can be felt, assessed and mitigated."[47] This indicates the context dependence of fee-based, charging and direct provision mechanisms. The issue of geographic scale and the observed benefits as opposed to the incurred costs of development or taxes impacts the perceived equity of such schemes.[48]

International examples show that public infrastructure provision through public funding may be met out of a general tax, either in the form of use charges imposed directly on beneficiaries of infrastructure or property taxes[49]. However, it does not always meet the criteria for a 'public good' and therefore an overall tax across greater geographical scales.[50] Betterment taxes in the form of business rates have been considered in

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[46] PricewaterhouseCoopers PLC, (2014), *Crossrail 2: Funding and Financing Study* <*https://www.pwc.co.uk/capital-projects-infrastructure/assets/crossrail-2-funding-and-financing-study.pdf*>

[47] Ryden, op cit.

[48] A. Roukouni and F. Medda (2012), *Evaluation of Value Capture mechanisms as a funding source for urban transport: the case of London's Crossrail*, Procedia - Social and Behavioural Sciences 48 (2012) 2393 – 2404

[49] Kemp, et. al., op cit.

[50] Vickerman, Roger (2002). *Private Financing of Transport Infrastructure: Some UK Experience* <https://www.infraday.tuberlin.de/fileadmin/fg280/veranstaltungen/infraday/conference_2002/papers_presentations/paper---vickerman.pdf>

England against more specialised geographical areas (e.g. Enterprise Zones). This reflects the fact that programmes such as TIF have a ‘fixed’ geographical extent.[51]

Experience from Crossrail 1 and 2 indicates the importance of considering the impact of business rate supplements across local authority or combined local authority areas to reflect the potential for raised values. Business Rate supplements in this case were granted to the Greater London Authority in order to implement a banded charge on properties of a certain rateable value.[52] This reflects the need for a significant amount of upfront capital in transport developments.

The geographical extent of a charging mechanism is also dependent on the market viability of these schemes. Evidence suggests that the implementation of the Community Infrastructure Levy, for example, tends to be “clustered” around urban areas or areas of higher property values. As such, only 129 authorities across England have formally adopted the mechanism due to the limited ability of the fund to deliver infrastructure and limited receipts.[53] This emphasises the sensitivity of a mechanism on existing market geographies.

Evidence also suggests that where strong local plans and infrastructure plans exist there is a greater take-up of CIL. The experience of CIL in the London region demonstrates the importance of differential charges across local authority areas. The flexibility in differentiating based on charging zones has an impact on the viability of development, and in the case of London, it was determined that a ‘flat rate’ across the charging zone would result in higher and more equitable receipts.[54] Despite the success of the programme in terms of monies raised, however, a common criticism of this approach is that CIL does not have a ‘local focus’ and that the benefits accrued from the levy does not reach back to the neighbourhood level. Savills reported that, overall, CIL had not transferred as much money raised to Town and Parish councils as indicated under the regulations (15-25%).[55] This may reflect the discretion of the authority in determining what to spend receipts on, but also the transparency and effectiveness embedded within the system of distribution. Generally speaking, it is

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[51] Baker T, Cook I, McCann E, Temenos C, Ward K. (2015) Policies on the move: The transatlantic travels of Tax Increment Financing. Annals of the Association of American Geographers <https://research.northumbria.ac.uk/urbanfutures/wp-content/uploads/2012/05/Policies-on-the-move-TIF-online.pdf>

[52] https://www.london.gov.uk/what-we-do/business-and-economy/promoting-london/paying-crossrail-business-rate-supplement

[53] Gladman, 2016.

[54] http://www.futureoflondon.org.uk/futureoflondon/wp-content/uploads/2010/09/Community-Infrastructure-Levy.pdf

[55] Savills 2014 http://pdf.euro.savills.co.uk/residential---other/spotlight-cil.pdf

essential that appropriate administrative scales are set for the exaction of such charges, whether on the municipal or regional level.[56]

Examples in Scotland, including the Edinburgh Trams and the Waverley Railway Line Re-instatement, point to cases where geographical zones were established to contribute to larger scale infrastructure projects. A ‘gravity model’ approach to developer contributions has in these cases helped fund key regional infrastructure projects based on the proximity of a geographically defined area to the development.

At the local and regional level, a suit of infrastructure investment mechanisms has been instituted as a result of implementing City Deals. These include TIF and Earn back mechanisms through business rates applied to the city region.[57] This has been supplemented by a significant number of new forms of borrowing against local revenue. Successful programmes in Manchester, for example, indicate the potential for such schemes to have cross-boundary impacts on major joint infrastructure assets, such as transport.

Redistribution

Development charges and levies are frequently applied to circumvent the cumulative impacts of development. Examples of development charges in Canada, for example, cover a variety of services from specific transport projects (e.g. subway extensions), to water, sewerage, pedestrian infrastructure, and medical services at the municipal level in addition to ‘regional charges’ to cover more strategic items of essential infrastructure.[58,59] Itemised per unit and per sq. m. charges applying to most development types demonstrates the potential to spread costs across municipalities or authorities to cover costs of new infrastructure. The redistributive nature of charges in this context reflects the specific governmental and legal structures.

The logic of charges applies to a variety of infrastructure to fund services to new development and as such the ability to spread costs of necessary public infrastructure. However, much of this infrastructure demands a significant amount of forward funding to deliver. Scottish Government research indicated concerns from developers and local authorities, in that front funding often constrains the delivery of infrastructure due to local authority concerns over potential delays in roll-out and therefore the delivery of

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[56] Baumeister, op cit.

[57] Peter O’Brien and Andy Pike (2014). *Deal or No Deal? UK City Deals as Infrastructure Funding and Financing Mechanisms*. iBuild Working Paper (13). Centre for Urban and Regional Development Studies (CURDS), Newcastle University, UK

[58] https://www1.toronto.ca/City%20Of%20Toronto/Corporate%20Finance/Developmental%20Charges/Files/pdf/D/DevChargesPhamplet_final_accessible.pdf.

[59] See Halifax’s Regional Development Charge:
https://www.halifax.ca/hrwc/RegionalDevelopmentCharge.php

financial contributions.[60] The Report suggests that the dependence of local authorities on large scale financial or in-kind contributions and their negotiation negatively impacts the potential for delivering much needed public infrastructure on a wider scale.[61] Such delays in agreeing terms of S75s in Scotland contrast standardised charges and equitable distribution across all development types characteristic of some charging schemes.

However, research also suggests that charging schemes as implemented in the United Kingdom do not always promote 'equitable' redistribution. A significant aspect of CIL had been the means by which it spreads the cost of infrastructure across developments and allocated to strategic infrastructure assets. Criticisms of the Community Infrastructure Levy as a means of redistributing the cost of infrastructure often revolve around the inability of local authorities to effectively identify or collect the necessary funds required for infrastructure projects, and this is further exacerbated by governance issues and unfair charging due to number of exemptions and exceptions [62] Research by RICS indicated that charging schedules may prejudice the viability of local developments, while it would also be difficult to ensure an appropriate amount of money raised is reinvested at the community level.[63] Indeed, this reflects the trend toward retaining aspects of S106 agreements to meet localised needs.

Land Value Uplift

As suggested, infrastructure funding requires that a significant proportion of project financing is secured by local authorities, particularly by utilising methods private or public financing as set out in Chapter 3. Land value uplift is considered to capture the benefits of an increase in property values, and may include land value taxation, exactions, tax incremented financing, special assessments, joint developments, and impact fees.[64]

There are examples of such taxes being implemented in the UK, including a Tariff on development in expansion areas, or 'Roof Tax'. In Milton Keynes, developers and landowners in designated expansion areas have agreed to pay £20,000 toward infrastructure for every new unit constructed. This flat rate land tax does not have an equivalent in Scotland. However, additional forms include the Land and Building

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[60] This is particularly the case with housing.

[61] Ryden, op cit.

[62] See Home Builders Federation (2016) submission to the Planning Review. Available at: http://www.hbf.co.uk/?eID=dam_frontend_push&docID=24945&filename=HBF_CIL_Review_submission_-_Jan_2016.pdf

[63] Sarah Monk and Gemma Burgess (2012). *Capturing Planning Gain: The Transition from Section 106 to the Community Infrastructure Levy*. RICS: London. <http://www.cchpr.landecon.cam.ac.uk/Projects/Start-Year/2011/Impact-recent-financial-crisis-planning-affordable-housing-England/Capturing-Planning-Gain-Transition-S106-to-Community-Infrastructure-Levy/Report>

[64] Medda and Modelewska, 2010 *Land Value Capture As A Funding Source For Urban Investment: The Warsaw Metro System.* Ernst & Young: Better Government Program 2009-10

Transaction Tax, a tax applied to residential and commercial land and buildings transactions (including commercial purchases and commercial leases) where a chargeable interest is acquired. However, there is no comparable 'land tax', as implemented in the United States and Australia, though there have been discussions amongst local authorities to institute such taxes. For example, proposals for the introduction of Land Value Taxation (LVT) by Glasgow City Council highlighted the opportunity to tax landowners to help meet the cost of infrastructure and, in particular, the re-development of derelict and contaminated land. It noted that:

> LVT […] ensures that land owners are taxed for the benefits that owning land gives them. For example, land owners will benefit from public investment in the region (such as new transport links, well performing schools etc.), but currently this benefit is not taxed. In this way, public investment could eventually be repaid under LVT: public infrastructure would only be constructed where the benefits outweigh the costs and should therefore be financed by taxing those beneficiaries (in this case, the land owners).

Such a tax scheme was recommended to be implemented alongside existing or replacing a number of existing national tax schemes. There were concerns, however, that the proposed tax would be difficult to administer given frequent reassessment and that a local authority collected tax would require contribution to an agency or the central government funding an infrastructure project.[65] In addition, there were objections to the tax which noted that it would be unfair to businesses, since employment land was not exempt.

There are locally based or project-specific mechanisms that focus on an uplift in value in the form of other metrics, such as business rates or socio-economic improvements. A common subset of these innovative models is those which capture increased business rates or resident taxes. Models such as Growth Accelerated Model (GAM) and Tax Incremented Financing (TIF), Betterment Tax, etc., were promoted in the Planning for Infrastructure Report (2015) as key innovative measures in ensuring the delivery of future infrastructure. However, a key difference between these is that a betterment tax or land tax associated with new development is an added development cost rather than a 'up front' funding model.

The most common form of Land Value Capture is Tax Incremented Financing, which has been implemented in several pilot projects in Scotland[66]. Tax Incremented Financing as employed in the United Kingdom is based on the expected increase in business rates associated with the increase in values as a result of investment. In addition to pilot projects rolling out in Scotland, TIF models have been associated with emerging City Deals. TIF projects associated with City Deals have "enabled the local authorities to borrow an agreed amount in order to invest in infrastructure in specified areas against the retention for 25 years of 100 per cent business rate income growth".

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[65] See Land Value Tax discussion paper from the Local Taxation Working Group, January 2009.

[66] http://www.gov.scot/Topics/Government/Finance/18232/TIF

Another method by which local authorities reduce risk is to utilise developer finance to complete projects and repay developer over the life of a ‘promise to pay note’.

The effects of TIF, namely, retained increases in local taxes, has been employed also as a ‘grant scheme’, reflecting local policy contributions to increased revenues across a range of taxes. This grant approach avoids dependence on a single tax (business rates), and avoids the need “to create complex formal mechanisms to assign revenues between central and local governments.”[67] Whether employed as a grant scheme or as retained business rates, it is widely accepted that certain infrastructure items can create a “virtuous circle” between a development, an item of infrastructure, and value created as a result of the infrastructure.[68]

In Scotland, TIF captures seeks to capture locally generated, incremental public sector revenues which would not have arisen if not for the delivery of “enabling” infrastructure. It is therefore based on the ability of a project to delivery economic growth and regeneration.

The principles of TIF projects in Scotland focus on:

- the ability of a development to delivery regeneration, or unlocking economic development through investment in infrastructure which cannot be funded by traditional means;
- An identified additional stream of public sector income (i.e. through non-domestic rates);
- The mechanism provides a framework for the income stream to be captured to repay debt raised by the Local Authority to invest in infrastructure.

It should be noted that the delivery of TIF programmes have focused largely on commercial development, in particular based on the need to capture streams of income from non-domestic rates over a 25-year period within an identified ‘Red Line Area’. However, pilot projects are expected to be expanded into other areas such as renewable energy and regeneration.

The administration and delivery of TIF is complex, and the conditions need to be ‘right’ for the effective deployment of value capture mechanisms. A report by Steer Davies Gleave for Campaign for Better Transport (2016) suggest that there are several factors that will influence the success of TIF, including location, governance, policy context and sustainability of the market. As implemented in the UK, the development of key infrastructure assets is defined geographically by the expected increase in business rates associated with increased land values. These include New Development Deals written in Enterprise Zones and in City Deals.[69] Examples of significant investment in

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[67] Sandford, Mark. 2016.

[68] Roukouni and Medda, *op cit.*

[69] Steer Davies Gleaves (2016*) Funding and Financing Public Transport Infrastructure.* Prepared for Campaign for Better Transport. Available at: http://www.cbtthoughtleadership.org.uk/SDGFundingAndFinancingReport.pdf

transport improvement in Greater Manchester, for example, indicate the importance of prioritising GVA and economic growth impacts and evaluation/monitoring, pooling resources between authorities and collaboration. Underlying the success of these projects was a commitment to providing leadership, combining resources where necessary and understanding the extent to which the improvement is needed/would impact the local or regional economy.

Table 4.2 Factors impacting operation of CIL.

Factor	Characteristics
Location	Need to identify sites with potential for private developers that are held back by missing infrastructure
Governance	Need to ensure leadership role of Local Authorities, but having the private sector and local stakeholders on board
Policy context	Schemes should be safeguarded by a defined regulatory framework to mitigate risks and volatility in the case of downsides
Sustainability	Essential to ensure long-term support by all stakeholders as well as long-term viability of local property market

Similarly, the promotion of tools such as the Growth Accelerator Model (GAM) in Scotland is a funding mechanism for the effective identification and delivery of public sector enabling infrastructure which stimulates private sector investment and the wider economy. It is dependent on understanding, demonstrating and delivering a case for change. In practice, this involves setting out a strategic case, that it is the best value for money, that it is commercially viable, affordable and achievable. The funding of schemes is dependent on meeting pre-defined metrics, which have included:

- Increase in Rateable Values in an investment zones;
- Increase in Rateable Values above the national average within wider investment zones;
- Increase in number of international tourists within an agreed area;
- Increase in a number of jobs within a defined area; and
- Occupancy levels within commercial developments.

Several mechanisms have been considered or employed to encourage and capture land betterment, and also incorporate sustainable economic growth as a condition of funding. Of course, there are clear differences in who is liable to pay for improvement and at what point of the development process.

Relationship to Development Plans

The relationship between a charging scheme and development plans is multidimensional, implicating the spatial strategy for a city, region or market area, and the process by which it is established.

A GVA/Scottish Government Report (2010) indicated the need for the Scottish Government’s infrastructure investment plans to inform the LDPs and SDPs. However, the report also suggested that local authorities should be more active in seeking funding for infrastructure, either through prudential borrowing or through covenants offered by the public sector. Meeting integrated development plan action programmes and infrastructure plans therefore requires coordination between developers and local authorities.

Indeed, it has been noted in the Review of the Scottish Planning System (2016) that infrastructure delivery between Strategic Development Plans and Local Development Plans has narrowed. The Review highlighted the need to plan at the city-region scale but questioned “the impact of strategic development plans” as they are considered detached from delivery roles. Current infrastructure investment in city regions, it is noted, “are being progressed with little or no reference to the established spatial strategies set out in strategic development plans”.

This emphasises the need to align development plans with other policies and strategies, including infrastructure investment plans. However, there is also a concern arising from the Review that local requirements are not being met as infrastructure providers “aim to deliver their own individual programmes on specific timescales within different geographies”.

The need to provide coordination and meet area requirements is viewed as a significant aspect of instituting charges. While the Scottish Planning Review noted examples of where planning obligations have been evidence of “innovation by planning authorities to make fair and effective use of planning obligations at a wider scale”, commentators within both English and Scottish planning systems note that the need to fulfil major infrastructure requirement demands moving beyond negotiated outcomes currently attributed to S106 and S75.[70] This reflects the experience of introducing CIL in England and Wales, whereby the S106 agreements focussed on site specific requirements, while CIL focusses on providing “infrastructure to support the development of an area rather than to make it acceptable in planning terms”[71]. This also reflects the view that development charges may create conditions for a “pay as you grow” model which has been shown in other contexts to reduce the burden on local residents while managing or directing settlement growth.[72] In this way, development charges are accepted as growth management tools and can thereby enable development that is sensitive to viability and to growth plans.

The focus of existing legislation on making development impacts acceptable in planning terms belies the fact that infrastructure in some part of the UK has failed to be delivered due to a lack of coordination and identification of regional needs. For example, research has indicated that part of the issue in delivering affordable housing in England through S106 is the absence of regional plans.[73] This had been the case largely with S106, though the introduction of CIL is considered to have an impact on delivering

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[70] The Review of the Scottish Planning System suggests that there is “compelling evidence that they contribute significantly to delays in the development management process.”

[71] Burgess and Monk, op cit.

[72] Skaskurbis and Tomalty (2000), The Effects of Property Taxes and Development Cost Charges on Urban Development: Perspectives of Planners, Developers and Finance Officers in Toronto and Ottawa, Canadian Journal of Regional Science/Revue canadienne des sciences régionales, XXIII:2 (Summer/Été 2000), 303-325.

[73] Brownhill, Sue (2014). Are Planning Obligations Delivering Enough Affordable Housing? Are there Alternatives? [Presentation] <http://www.rtpi.org.uk/media/1178931/jrfrtpiwkshopnovsb_compatibility_mode.pdf>

strategic infrastructure. Nonetheless, the underspend and underrepresentation of Charging Authorities outside of London shows a lack of higher-level application of charging systems and potential for lack of delivery of action programmes through charging mechanisms.

From the perspective of public funding, the use of models such as TIF has precedent in Scotland, and has been linked to delivery of Action Programmes to deliver key infrastructure assets. For example, the Falkirk Tax Incremental Finance Initiative, the Local Authority aims to borrow from the Public Works Loan Board to supply “and improve infrastructure to help promote development in specific locations”. This is tied to an ambitious integrated infrastructure and development plan aiming to attract over £400m in investment.

In sum, existing literature and guidance views alternative funding mechanisms as central to achieving the aims of action programmes.

Optional or Compulsory Charges

The impact of value-uplift mechanisms and charging mechanisms have been shown to be in part dependent on the requirements imposed by local governments on developers and how these are tied to local economic development goals.[74] The existence of primary legislation enabling authorities to charge, and reviews of varying systems show that these can vary in prescriptiveness, though are best utilised when tied to growth plans.

Determining whether a charging system should be optional or compulsory across charging authorities depends on the legislation allowing alternative forms of contributions to achieve specific infrastructure requirements. Whilst CIL is a voluntary mechanism, it has been demonstrated through submissions in the course of the 2016 Review that the imposition of pooling restrictions has negatively impacted the ability of Council’s without sufficient plans in place to implement a CIL schedule to fund strategic infrastructure projects. There are overarching concerns that penalising non-conformity with the CIL rollout may in fact reduce the level of receipts gained.

There are examples of ‘local schemes’ in the UK which are entered into as a result of negotiation between various stakeholders. One example, already discussed, is the so-called ‘Roof Tax’ in Milton Keynes, agreed by landowners, developers and the local authority, this results in significant investment from developers at flat-rates to fund infrastructure needs.

The use of “borrowing-against-revenue” funding models or grant schemes such as TIF require local authorities to take the lead in establishing geographies which could potentially benefit from value uplift. These are considered “indirect” development levies insofar as they “capture increased local tax and recycle” it to public goods.[75] The

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[74] See, for example, TIF reports from the USA (http://www.cityofevanston.org/assets/TIF%20Report_FINAL.pdf)

[75] Ryden, op cit.

innovative approaches considered by municipalities and local authorities in the UK reflect alternative forms of finance to meet infrastructure demands in areas where the project in question would not otherwise occur. Value capture mechanisms, as a result of being defined by a fixed geography rather than being imposed on developers, thereby avoid the issue of determining their optionality.

Contrasting the development of value-uplift mechanisms which impact residents and businesses as opposed to developers, experiences of levies in the UK suggests that, where a charge may impact viability, there has been a reticence about obligatory charges. The experience of implementing CIL in England and the potential for local authority ‘opt-out’ or continue using S106 agreements shows a potential problem in the overall impact of charging mechanisms. As of April 2015, only 26% of local authorities had CIL in place. This is due to the fact that “developer-led” approaches seem to favour zero-CIL rates and site specific S106 mitigation. This also reflects the concern that alternative development charges, where in place, could provide more flexibility in mitigating development impacts and delivering infrastructure.

The level at which CIL is applied is also subject to the preference of local authorities in how infrastructure is delivered. Gladman report that areas of planned growth, such as Major Development Areas, often have “nil” CIL rates applied so as to fund infrastructure through S106 mechanisms. Many local authorities considered the income available through CIL to be less certain than negotiated mechanisms.[76]

When Savills reported on the state of CIL in 2014, it was clear that few local authorities were confident of the ability of the Levy to deliver when it came to delivering larger development sites and this impacted the willingness of authorities to require the charge. However, observers in Scotland anticipate, notwithstanding the importance that a similar system could remove the need for demonstrating relationship between particular developments and regional or local authority-wide infrastructure while avoiding complicated S75 agreements,[77] suggesting potential attractiveness to local authorities and developers.

There is limited literature to date that considers the impact of optional or compulsory charges.

Relationship to Development Management and S.75 / Legal Agreements

Pending the release of the CIL Review in England, there is only anecdotal—though mounting—evidence of a reliance on negotiated agreements rather than CIL to deliver local infrastructure.

Infrastructure charges are often tied to the consenting process and are therefore tied within development management processes. The administration of CIL in England and Wales is tied to the application process. Indeed, in authorities which have adopted the

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[76] Gladman, 2016.

[77] Alexander, Rory (2016). *A Review of the S75 Agreement System*. [Online] Available at: <https://www.morton-fraser.com/knowledge-hub/review-s75-agreement-system>

Levy, developments of over a certain number of units must have an accompanying liability form to determine whether a development is required to provide CIL. The notice of required CIL payments are expected upon granting of planning permission, and developers note an Assumption of Liability before works begin. Alternative models for infrastructure funding, such as the Milton Keynes Partnership Supplementary Tariff, while subject to a Framework Agreement for its management, adheres to the policy tests set out in Town and Country Planning Act 1990. The Tariff Supplementary Planning Document notes that:

> The Tariff approach has been developed as a more efficient and less time consuming way of making such commitments and payments, providing both certainty to developers/landowners and the opportunity for MKPC to provide infrastructure to support new development at an early stage in the development process. [78]

Approaches to funding infrastructure relating to new development as evidenced in the UK therefore shows a clear commitment to ensuring an efficient and effective process within existing development management processes. It is therefore recognised that the relationship between a levies or alternative funding mechanisms to Section 75 and legal agreements should be balanced. Ryden (2015), in a report for the Scottish Government, suggested that infrastructure delivery through alternative means of funding (e.g., TIF, City Deals, etc.) cannot be viewed as replacements of contributions to mitigate impacts of specific developments.[79] This reflects the reliance of many councils in England and Wales on S106 agreements and other contributions.

Despite integration with existing planning processes, the introduction of ‘pooling restrictions’ to CIL reflects the significant problem in take-up of the Levy, with evidence suggesting that S106 agreements can deliver greater levels of contributions to meet infrastructure needs. Representations made during the CIL Review in 2016 suggest that there ought to be flexibility in the use of funds gained either through a charge or through to legal agreements. The Local Government Association notes, for example, that “pooling restrictions means councils are unable to pool more than five section 106 contributions on these sites. This raises particular issues for delivery of sites that will be subdivided to be taken forward by a number of different developers”. Indeed, this has impacted areas where it is not viable to implement CIL or where development plans are not evolved enough to identify required infrastructure. Similarly, there have been concerns that where a proposed development requires mitigation through contribution towards a larger infrastructure ‘pot’ but where an authority has not adopted CIL--and where five or more contributions have already been received--the LPA must refuse planning permission since there is no mechanism to address the adverse effects of the

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[78] Milton Keynes Council, 2007.

[79] Ryden, op cit.

proposal, which would have a concomitant impact on the funds available to deliver strategic infrastructure.[80]

Similarly, during the consultation process for Planning Gain Supplement (PGS) schemes in England, it was suggested that a supplementary scheme may deliver shortages of infrastructure provision. It was considered in a study that the overall contribution under a PGS scheme would result in a smaller contribution than existing S106.[81] This also reflects the fact that while S106 agreements are contested and negotiated, they often result in more appropriate and viable levels of contributions for developers.

While there are international examples of 'tiered' models of charging mechanisms (i.e. municipal growth areas, non-growth areas, in addition to strategic regional infrastructure) complementing each-other, literature suggests this requires a strong legislative basis to enable its administration and to ensure it adequately meets local, regional and national objectives.

Implementation / Resources

Several sources indicate the importance of deliverability of developments to the funding of infrastructure.[82] Existing Section 75 agreements and existing charging systems implemented in the UK are both constrained by the deliverability of schemes for the funding of infrastructure. As supported in guidance in England and Wales suggest the need to link a funding schedule with capital spending priorities.

However, existing guidance contains little regarding how charges raised in England and Wales are spent, and this exacerbates concerns about their ability to reflect and meet local needs. While this has meant that capital spending priorities are aligned with charging funding, there are questions over the 'redistribution' and the remaining resources available to deliver action programmes.[83] Of course, this demonstrates the need to work together with other organisations to deliver infrastructure efficiently.

In achieving this, it is suggested that implementing CIL requires "a project manager, project sponsor, governance etc." In addition to:

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[80] See Turley Intelligence (March 2015), available at: http://www.turley.co.uk/intelligence/pooling-s106-contributions. Also see RTPI Submission to the CIL Review (2016).

[81] Knight Frank, (2006). *Planning Gain Supplement Audit: Final Report*. Prepared on behalf of the BPF, the CBI, the HBF & the RICS <http://www.hbf.co.uk/?eID=dam_frontend_push&docID=20599&filename=PGS_Audit_Final_Report_18_September_2006.pdf>

[82] Pinsent Masons, op cit.; Ryden, op cit.

[83] http://www.pas.gov.uk/documents/332612/1099317/6.+Implementation.pdf/0ee57565-720d-4a57-992e-2a426e6c9d52

- Establishing existing resources and processes in place to collect and enforce contributions;
- identify what processes may be missing in the collection of the levy;
- Defining the administration regime necessary to implement the charges;
- Map the activities required to implement the charges; and
- Ensure that there is sufficient time to test the processes before their full implementation. Evidence to date suggests that the ability of local authorities to properly manage CIL as a Charging Authority varies and often lacks transparency[84], and the arrangements for meeting pre-adoption costs of CIL are often inadequate.[85]

Experience from abroad, particularly in North America, has shown also that in order to reduce the burden on developers, legislation is crucial in ensuring a transparent and robust approach, and may specify exemptions and services eligible for funding. Producing guidance also allows for certainty amongst charging authorities, insofar as examples of charging schedules can be shown to have varied effects on development viability and infrastructure delivery.[86]

In addition to the administrative processes behind the implementation, it is argued by some scholars[87] that the implementation of digital resources is necessary to ensure there is transparency and clarity between key financial management systems and spatial information. By utilising key geographical information systems and marrying this to political or development priorities, the implementation of development charges can allow "for the management of the infrastructure capital plan" while supporting "an accurate delimitation of the infrastructure benefit areas." While the use of tools such as this is commonplace in everyday planning activities, it is unclear how clear methodologies have been established to support the implementation of charges so far in the UK.

Debates around the implementation of supplemental charges in the UK have also considered the use of funds raised as a result of a charge (viz. in the case of PGS) and the ability to 'borrow against' the expected funds raised through a charge. As was the case in England and Wales with respect PGS, it was considered that while forward funding solutions to ensure timely delivery of infrastructure could sit side-by-side the mechanism itself, it was not appropriate for the fund to service debt or enable a local authority to acquire debt. Primary reasons for this was the expense to local authorities and the fact that debt acquisition would obscure the primary purpose of the receipts,

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[84] British Property Federation's submission to the CIL Review (2016).

[85] See Plannign Officers Society submission to the CIL Review (2016). Available at: http://www.planningofficers.org.uk/downloads/pdf/DCLG%20CIL%20Review%202015_POS%20submission_Jan16.pdf

[86] Baumeister, op cit.

[87] Jorge Baptista e Silva, Raquel Faria de Deus & José António Tenedório (2012). *Paying as the urban areas grow – implementing and managing urban development charges using a GIS application*, International Journal of Geographical Information Science.

which was to “provide the resources for infrastructure to free up land for development and support housing growth”.

Implications for State Aid

There is little evidence to support the impact of development charges on State Aid in the United Kingdom. Where development charges in the form of levies are commonplace (e.g. some Canadian provinces), the necessity of development charges is viewed as an “appropriate” way of funding infrastructure—including strategic infrastructure—in such a way that does not burden local taxpayers.[88] The implementation of CIL in England and Wales suggests the importance of providing clear guidance in what circumstances urban development charges may be circumvented and how ‘relief’ is administered.

Using taxpayer-funded resources to provide assistance to one or more organisations in a way that gives an advantage over others may be state aid. According to Department for Communities and Local Government, State Aid is a:

> European Union member state’s support to ‘undertakings’ which meets all the criteria in Article 107(1) of the Treaty on the Functioning of the European Union (Lisbon Treaty 2009). Article 107(1) declares that state aid, in whatever form, which could distort competition and affect trade by favouring certain parties or the production of certain goods, is incompatible with the common market, unless the Treaty allows otherwise

It was considered during the implementation of infrastructure charging noted the importance of meeting State Aid criteria, namely:

- Criterion 1: Is the relief granted by the state or through state resources?
- Criterion 2: Does the relief favour certain undertakings or the production of certain goods?
- Criterion 3: Does relief distort or threaten to distort competition?
- Criterion 4: Does relief affect trade between Member States?

An analysis of consultation documents suggests the importance of considering State Aid in situations where a development may not proceed without the exemption or relief.[89] Guidance from CIL suggests that relief may be granted in certain situations, including charitable relief, social housing relief and exceptional circumstances relief, though the regulations suggest that relief may be designed such that it complies with European Regulations regarding State Aid. [90]

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[88] Baumeister, op cit.

[89] http://www.rbwm.gov.uk/public/meetings_100527_cab_cil.pdf

[90] DCLG (2011), Community Infrastructure Levy Relief: Information Guide. London: Department for Communities and Local

4.4 Summary

This literature review synthesises a suite of high level policy and research documents relevant to infrastructure funding mechanisms and planning for infrastructure and summarises the findings.

By considering a range of publications in academia and commissioned by organisations in the public sector and government, it has delineated the key issues facing the implementation of development charging mechanisms.

The Literature Review briefly considered the perceived impact of value-capture mechanisms. Work on the subject has pointed to the potential impact on a local scale, where specified districts may benefit from an expected increase in property values or business rates. This has been shown, in London, for example, to have successfully funded key infrastructure projects, and is already well underway in Scotland.

The Literature Review has demonstrated that the implementation of an urban development charging mechanism or impact fees is certainly well-evidenced in countries with well-developed planning systems. Its introduction in the United Kingdom faces contextual difficulties, particularly in terms of coexisting with existing contribution schemes.

However, the review also suggests the potential difficulties in establishing equitable geographies, tied to market conditions and local needs. The effective and equitable implementation of development charges and their distribution is also considered in the review of existing literature on the subject to be a difficulty, as is the impact on viability and therefore total receipts.

Overall, the Review suggests the potentially positive impact alternative funding mechanisms, particularly in the form of development charges or impacts, on the deliverability of sustainable settlement growth and infrastructure delivery. A common theme emerging, however, is the necessity of a strong legislative basis, administrative structure, transparent charging system and the demonstrative impact on the deliverability of key public goods.

Government<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6314/19021101.pdf>

5 Consultation & Stakeholder Workshop

5.1 Introduction

Engagement with key stakeholders both within and out with Scotland formed an important component of this research. A series of consultative exercises were conducted to inform the Stage 1 and Stage 2 outputs of this research. This involved a series of interviews and consultations with stakeholders within local government, CIL practitioners, public bodies and within the development industry.

As part of the research brief a **Key Stakeholder Group** was agreed and established with the client team. The Key Stakeholder Group essentially comprised the Infrastructure Working Group established as part of the Scottish Government Planning Review Workshops held between 12th and 13th September 2016. Some additional members were subsequently added to this Key Stakeholder Group, based on the added value that they would bring to the Group in terms of their particular expertise and experience of funding infrastructure.

In addition, an **Executive Focus Group** was recommended by the research team, and subsequently established with client agreement, to comprise of a small group of experts and practitioners with direct experience of developing, applying or being subject to infrastructure charging mechanisms in Scotland and England. The Executive Focus Group comprised:

- Buccleuch
- Ecosse Regeneration
- Murray Estates
- Homes for Scotland (represented by Stewart Milnes and Gladman Scotland)
- Winchburgh Developments
- DCLG CIL Team (Chris Poulton)
- CIL Review Research Team (Liz Peace)

An initial consultation exercise was undertaken with the Executive Focus Group during October/November 2016 to explore the issues and options of a charging mechanism. Albeit initial contact and a preliminary discussion was undertaken with Liz Peace, Chair of the CIL review research panel in relation to the performance of CIL and the output of the review work, discussion has been limited as the CIL Review Panel Report has not yet been formally issued. At the time of writing the current expectation of the research reports is that the CIL Review Panel Report is due to be issued at a similar time as the Housing White Paper, possibly end 2016/early 2017.

A Stakeholder Workshop was held on the 2nd November 2016 to consult on the ‘priorities’ and ‘options’ set out following key consultations emerging from the Scottish Government’s Planning Review Workshop on Infrastructure during September 2016.

The key messages and outputs derived from these key stakeholder consultations are considered in Sections 5.2-5.3.

5.2 Executive Focus Group

The face-to-face meetings and discussions with the various members of the Executive Focus Group were framed around pre-issued high level questions. See Appendix B.

The key issues emerging from the Executive Focus Group consultation are reflected in the outputs from the Stakeholder Workshop as detailed in the proceeding section of this research report and grouped in to ’Priorities’ and ‘Options’. The commentary provides a balanced view, identifying where appropriate strong or even contradictory stances where these are held to be valid by consultees. Not all challenging comments here are “finger pointing”. In many cases these are self-reflections by consultees about their own roles.

5.3 Stakeholder Workshop

Introduction

A stakeholder workshop was held on 2 November, 2016 (Briefing Note and Agenda attached in Appendices C-E) at the Apex Waterloo Place Hotel, Edinburgh. Over 40 attendees were invited, representing various public and private sector representatives.

The workshop built off the Scottish Government’s Planning Review Working Group on Infrastructure (held 12-13 September, 2016) which identified initial priorities for an infrastructure charging mechanism, with particular emphasis on comments drawn regarding Recommendation 18 which highlighted the need to consider “options for a national or regional infrastructure levy”.

Key concerns drawn from this workshop were presented in the event’s Briefing Note and were put to attendees at the workshop. These were grouped according to themes, in relation to priorities and options, for taking forward and shaping the mechanism. Propositions emerging from the Scottish Government workshop were grouped according to ‘Priorities and Options’, and are included in Table 5.1 for reference. A full list of comments from the SG workshop are included in Appendix C.

Table 5.1 Consultation Discussion Points

Priorities	Key Questions	Prompts
	1. What constitutes eligible infrastructure for charging?	A charge should include community infrastructure assets like education and healthcare facilities.
		Affordable housing should be considered.

		Community Planning Partnership investments are key.
		Existing assets should be included and should include infrastructure service upgrades (e.g. water), but should avoid addressing existing deficits.
		The effectiveness of an infrastructure charging mechanism with regard to funding nationally important infrastructure (e.g. HS2) is questionable.
	2. What should the relationship be between charge and Spatial Planning?	City-regions should be clearer about regional infrastructure needed.
		Infrastructure needs to be closely aligned with the development plan.
		Scottish Government Policy objectives need to be considered.
	3. How should funds be used and distributed	There should be a reflection of market need, and investments should be proportionate to need.
		There needs to be transparency in how funds are used and charges set.
		Consideration should be given to other assets, such as schools and hospitals.
Options	4. How could infrastructure charges be combined with other funding sources to facilitate delivery?	Existing funding models should be taken into consideration when implementing a charge.
		There are already regional infrastructure funds.
		Levies could sit along S75 to fund regional infrastructure.
	5. How would development viability and existing processes sit with	Infrastructure items should be costed from an early stage and spread across agencies.

	an infrastructure funding mechanism?	There should be a reflection of market need, and investments should be proportionate to need.
		Value capture mechanisms should not inhibit growth.
		Avoiding double-charging between charge and existing.
	6. What form should an infrastructure charging mechanism take?	A charge should not be a “pay as you go” system but reflect the longer term growth strategies.
		Key Infrastructure should be funded/delivered by the public sector.
		Land value uplift should be captured.
		‘Scale of growth’ for each region should be identified.
		A charge needs to be fairly distributed across local authorities.

Pre-Workshop Comments

Attendees had the opportunity to state initial preferences for ‘priorities’ and ‘options’. Several comments were received prior to the workshop commencing.

Several comments focused on the need to “reflect local demographic/economic positions”, possibly referring to different economic geographies and the need for a charge to take this into account. This difference was articulated by another respondent as local and regional (noting that “Greater Glasgow [is] very different to Edinburgh). The respondent noted that a charging system should “address this”, though whether this relates to overcoming development barriers or fair charge setting is unclear.

Another comment noted that delivery of infrastructure needed to be focused on future delivery, “opening up sites” when needed. This reflects a concern about enabling infrastructure and, potentially, the need to deliver otherwise constrained development. Another comment also noted the need to take an “infrastructure first approach” and certainty to development.

A respondent also focussed on the need for flexibility at the local and regional level. This was reflected in another comment which called for a “fair, proportionate” approach to achieve local “buy-in” from authorities and stakeholders. The need for flexibility, fairness and proportionality reflects a concern raised in the session about unduly charging developers or requiring local authorities to undertake regimes that do not reflect strategic need.

There were fewer comments regarding what constituted eligible infrastructure, though one comment noted that ‘hard’ infrastructure is normally funded. However, infrastructure such as “green infrastructure and strategic active infrastructure” are often “forgotten” and not delivered. This comment suggests the need to approach the definition of infrastructure with a broader brush and focus on local spatial priorities.

Workshop Sessions

The Stakeholder Workshop was formatted so as to reach agreement amongst stakeholders on the main ‘Priorities’ and ‘Options’ for progressing an Infrastructure Funding mechanism in Scotland. Initial presentations (included in Appendix F) provided contextual information and prompts for discussion.

Attendees were arranged in seven working groups, with a broad mix of private, public and third sector experience (see Appendix D). This enabled a varied discussion drawing on multiple perspectives within the development industry, local government, infrastructure providers, professional bodies, and more. Project team members from Peter Brett Associates, Trade Risks, Brodies, and Cushman and Wakefield, were embedded within each group to facilitate discussion. Scottish Government representatives participated in the workshop and shadowed the Workshop Groups.

Working groups were encouraged to identify a ‘Group Leader’ to report back to the workshop. This enabled the project team to identify key themes evolving as the sessions progressed.

Session 1

Structure of Session 1.

Session 1 began with a presentation from Stefano Smith (Peter Brett Associates) on priorities for an infrastructure charging mechanism, drawing on various UK and international examples, and identifying the key themes taken forward from the Scottish Government Workshop held on 12-13 September 2016.

Discussions followed propositions 1-3 in Table 5.1.

Key Outputs from Session 1

Key outputs from session 1 are described according to the session’s constituent themes. Note that questions included in Table 5.1 were provided as prompts. The discussions were wide-ranging and there was significant cross-over between working groups.

Outputs focused on identifying and agreeing key priorities for a charging mechanism in Scotland, including what is included as "eligible infrastructure", how the mechanism relates to spatial planning, and how funds should be used and administered.

1. What constitutes eligible infrastructure for charging?

- Definition of infrastructure

There was minor disagreement about what constituted eligible infrastructure. While 'national' infrastructure was concluded by some to be excluded from the charge, this still required evidence to justify the definition (and a national 'tax' was later identified as an option). Some groups noted that a 'matrix' should be created to define the scale of infrastructure and who benefits. In this regard, it was identified as crucial that charging schedules reflect that there should be a link between development and the infrastructure required and reflecting the relationship between places.

There was a feeling that the process should be 'development plan led' and fully costed and, as some groups identified, should be used to fund the "absolute basics" and other funding mechanisms to deliver the rest. However, there was some disagreement about this as there may be a "long list" of eligible infrastructure. Groups also focused on the need to maintain links between a development and the infrastructure required. This reflected concerns from some groups that it may be difficult to "draw the line" at which level the charge is generated.

There was a recognised issue of scale and of co-operating between local authorities. Some groups identified the need to establish a "regional" list of priorities, but this creates tensions with the plan-making process (i.e. where local authorities do not have plans in place).

Overall, it was suggested by several groups that what is included as eligible infrastructure should be at the discretion of local and regional authorities, although what is included would benefit from Scottish Government policy guidance.

- Purpose of infrastructure

Stakeholder participants also identified differences in terms of the 'purpose' of infrastructure. One group identified "enabling" infrastructure as opposed to "responsive" infrastructure. Some groups identified the 'enabling' aspect as more important for a mechanism, particularly for projects where there are "long lead in times". The former may include transport, decontamination and skills training, while the latter includes provision of educational facilities and health. There was an emphasis within some groups on a focus on "critical enabling infrastructure", excluding infrastructure that should be funded by others and revenue generated paying for it.

There were also differences identified in terms of public and private infrastructure, and capital and revenue funding infrastructure, though no conclusions were drawn in respect to whether public/private, revenue-generating/capital projects should be considered “eligible”. Working groups focussed rather on the need for flexibility in defining eligible infrastructure (though within identified parameters).

There was general agreement that affordable housing should be excluded, in addition utilities (such as electricity), which are regulated differently. There was a recognition that infrastructure provision needs to fit strategically with existing funding sources and mechanisms particularly regarding utilities (e.g. Scottish Water Infrastructure Fund).

Working groups disagreed regarding the eligibility of infrastructure in terms of maintenance. A few groups noted that new and existing infrastructure could be funded by the charge, while others saw this as a difficult option in terms of maintenance.

2. What should the relationship be between charge and Spatial Planning?

- Development Plan Process

There was broad agreement between working groups that a charge should be tied to the development plan and development plan process. Spatial planning was recognised by one group as a “useful mechanism for identifying required infrastructure” though improvements would be required to ensure that local approaches do not conflict. Furthermore, most groups acknowledged that local development plans do not provide enough certainty at the moment due to the long timeframes and there may be a risk of “overreliance” on them.

The development plan preparation process (e.g. examination) could give the authority and approval to an infrastructure plan and associated costs. Working groups noted the importance of bringing in stakeholders in this process and providing the opportunity to “challenge” costings.

For most groups this involved identifying infrastructure and costs at the “earliest” stage possible. This should be set against national, regional and local plans. Infrastructure priorities should be ranked according to these scales, based on “clear costs” and identifying what the contribution funds.

- Scale

The scale of regional level spatial planning was recognised as most appropriate, though one group noted that a national agency may be required where a “bolder approach” is necessary. Local authorities may be put off infrastructure investment where, once costed, the cost is deemed too high. However, where national planning priorities are included, then there needs to be a degree of “transparency” and “reasonableness”. Some groups noted there should be no reason to require an infrastructure charge on the national level.

Most groups identified the need to link local plans with charging schemes, and tying the delivery of infrastructure and collection of funds to a “strategic authority” tasked with this. Some groups identified that different boundaries may be necessary for different infrastructure types (e.g. water). Many groups noted the importance of this authority in working together with infrastructure providers and “aligning investment programmes”, and managing supply-led versus demand-led approaches.

Some discussions revealed a focus on “repurposing” SDPAs to create a model above LPA level; an effective “empowered structure” for joint working with input from LPAs and other appointments (e.g. as in a regional transport partnership). This would set a clear shared objective and, with executive partnerships for constituent local authorities, would help determine appropriate contributions to each local authority particularly where there are different expectations in terms of anticipated or required growth within local authorities.

A strategic body was recognised by many as key to this through a strategic infrastructure plan. Groups identified the importance of a “toolbox” approach in this respect, noting that a charge would only form part of this Strategic Investment Plan, which would be reviewed every one to five years. One group noted that linking the charge to a strategic infrastructure plan would enable a “redistributive” aspect while also providing a necessary constraint in ensuring investment in infrastructure does not fall out with the administrative boundary.

Furthermore, groups tied the charge to the development management process. Some noted the need to link the charge to the consenting process to ensure that schemes proceed. This was further tied to the need to establish an “accelerated consenting process” particularly where the charge is not tied to development.

3. How should funds be used and distributed?

There was a recognition by most groups that market differences should impact the distribution of funds. Incentivised development (e.g. lower charges to enable the delivery of growth) might help direct development in the ‘right’ places. This reflects recognised problem in terms of delivering development in places of need versus places of demand. Some groups did not accept that there could be redistribution or, if so, they felt it would be difficult to achieve and justify.

One example of this was the potential role of decontamination/ site preparation. Often a local authority will have a policy position which is supportive of delivering urban regeneration on brownfield sites, but this fails to materialise because of the impact of site preparation on viability. Thus it creates greater pressure on delivery – resulting in greater emphasis on green field development. There was disagreement about whether a charge would have the potential to deliver constrained regeneration sites. Most groups noted the importance of maintaining a link between a charge, a development and the infrastructure it funds—unless there was an argument for its impact on the cumulative impacts of development, this would be difficult to justify.

- Priority of scale

There was general agreement that infrastructure funding mechanisms should contribute to a central pot, reflecting a broadly “regional” approach. Groups did not reach a consensus on whether charges should be “linked” to development or to prioritise overall need. It was recognised that this would require clear prioritisation within local plans. Groups recognised that a mechanism needs to be put in place to ensure that funds are not used inappropriately—this ties to issues of governance.

Involvement of a ‘national’ agency could importantly monitor the progress of infrastructure delivery and prioritise infrastructure that is not currently being funded/delivered. Several groups identified a “use-it-or-lose-it” approach as key, as this would ensure that infrastructure investment happens and that funds go towards prescribed projects. This was recognised as particularly important if a “link” between development and charges are broken—it needs to be demonstrated that infrastructure is being delivered and that it has a demonstrable effect on addressing the impacts of cumulative development in a region or market area.

There was a suggestion from multiple groups that central government should offer subsidies or otherwise “balance” receipts from the charge. In particular, this may be applied to authorities within a regional partnership where receipts to fund particular infrastructure items fall below certain levels.

Session 2

Structure of Session 2.

Session 2 began with a presentation from Pete Redman (TradeRisks) on options for an infrastructure charging mechanism, drawing on preliminary findings for the potential of a charging mechanism in a Scottish context. An estimate of income derived from eligible infrastructure (excluding affordable housing) was considered and provided a baseline scenario for attendees.

Discussions followed propositions 4-6 in Table 5.1.

Key Outputs from Session 2.

Key outputs from Session 2 followed the same format as Session 1 but focused on identifying a preferred option for taking a funding mechanism forward. Key research questions included how infrastructure charges could be combined with other sources to facilitate delivery, how viability and existing processes may be taken into consideration, and what form a mechanism might take.

4. How could infrastructure charges be combined with other funding sources to facilitate delivery?

It was recognised by all groups that private investment was essential to infrastructure delivery, but this required a clear risk profile/scale for investment/returns to drive growth. Groups noted several options, including infrastructure bonds, pension funds, procurement agencies, prudential borrowing and grants. This was viewed by groups as necessary given the limited receipts expected from a charge.

There was a general consensus that it should play a part in being an “enabler” of infrastructure delivery, and thus development. If the charge stimulates the setting up of competent organisations, with a priority focussed on bringing the necessary stakeholders together to support delivery, then it would have an impact substantially beyond its relatively low level of funding.

While it was recognised in discussion in some groups that a land value tax, if applied, should apply to landowners, it was suggested that valuation, negotiation and administration of such a tax would be too resource-intensive.

Groups were in agreement that ensuring delivery and combining funds required robust spatial plans and some form of coordination between it and an “infrastructure plan”. Linking these would require more proactive planning systems and a clearer approach to what funds infrastructure “in between” S75s and a charge. Groups also noted that there was an issue with “double-dipping” between S75 and a charge which may have an impact on development viability.

The problem of “additionality” was noted by some groups. One group noted an issue with displacement, and the need to link the charge to projected economic growth and low growth areas.

There was agreement between some working groups that a “piggyback” system, attaching to the Land and Buildings Transaction Tax (LBTT) may be required. However, it was also suggested that there would be difficulties in local authorities accessing these funds.

Some groups identified the complexity of implementing S75 in addition to a charge as a challenge. All groups noted the importance of maintaining S75, and some noted that it may be more straightforward to amend S75s to allow for address of regional infrastructure needs (though the priority of one over the other was not agreed upon). The complexity of a “twin track” approach is exacerbated by the fact that there is limited income potential associated with a charge and a significant amount of bureaucratic work involved. One group suggested that this may increase the cost to the public purse. In this sense, it may be the S75 retains primacy over a charge. However, there may be a change in legislation to allow for the mechanism to address regional infrastructure needs (e.g. Aberdeen City and Shire SDPA Strategic Transport Fund).

However, most groups approved of a hierarchy where there may be a national charge or tax, a regional charge (though what constituted “regional” was unclear) for ‘off-site’ works, and S75 for the local level. Conversely, another group noted that S75s—just becoming more rigorous—might be negatively impacted with the introduction of a new system.

Some groups noted that land value uplift should drive the charge, based on a landowner tax, a time-limited agreement linked to development plan allocation, and restricting the proportion of uplift to the landowner. Other options noted included investment infrastructure bonds or pooled resources, or other forms of public/private funding (e.g. DBFO, PFI) in coordination with Scottish Futures Trust.

One working group also suggested that, in order to fund nationally important infrastructure, a tax may be more suitable than a charge. This could, for example, take the form of a 2p income tax, using a simple process and collection method for specific infrastructure costs recalibrated every 5 years or so. The group suggested that this would be led by national infrastructure priorities. As noted, this may be used in combination with other regional/local measures.

5. How would development viability and existing processes sit with an infrastructure funding mechanism?

Several groups noted that the development plan process was essential in ensuring certainty. For example, one group noted that strategic development plans (SDPs) with frequent (e.g. 5 year) reviews would help create certainty and speed up the planning process while sharing risk between multiple stakeholders. This may involve requiring short term, medium term and long term costs, with a greater amount of certainty in the short term costs. This could be reviewed regularly through SDPs or LDPs with stakeholder input.

There was a concern that variable rates, while attractive, could impact viability. However, there are potentially negative consequences to flat rates as well, particularly through displacement. Some groups noted the importance of a flat rate if the receipts could help less viable sites.

- Skills

Some working groups noted that the tools and skills exist to implement a charge within existing processes, but they are not currently dedicated to this purpose nor do they sit within the same organisation. One group noted the place of organisations such as Scottish Futures Trust in coordinating action on behalf of potential charging authorities to limit the risk to viability within local governments. Some groups noted that the skills do not exist within local authorities to properly forecast future infrastructure costs.

- Transformational projects

One group noted that there was an opportunity to think more creatively with respect to infrastructure. Rather than investing in traditional infrastructure assets, perhaps it would be more worthwhile to use charge receipts to fund projects which would not otherwise be delivered. This concern related to various comments responding to the need to identify local spatial planning objectives and planning in a more “visionary” way.

- Exemptions

In terms of exemptions, some groups noted that some employment generating land uses should be excluded from the charge, in addition to affordable housing, and developments in “market failure” areas. One group noted that housing, shopping centres (i.e. out of town), renewables, offices and minerals should be included. It was considered that there would be benefits to using a CIL-style approach where there are gradations in terms of development type, size and geography, but this may require too much work given the receipts generated.

6. What form should an infrastructure charging mechanism take?

Most groups agreed that a charge would need to take into consideration the proportionality of development, phasing of development, and ‘values’ within local authorities. Working groups noted that charges need to be flexible to interest rates and market trends to reflect viability, and perhaps set below market values.

There was general agreement that a charge, should it be instituted, should be regionally specific, and should be fair and transparent. Regional authorities may agree to fund “big-ticket items”, and should use expertise from existing organisations (e.g. Scottish Futures Trust) to administer.

- Tax Options

There was a recognition by some groups that the simplest method would be preferred, however there would be a great deal of complexity involved in all forms. Most groups acknowledged the complexity involved in defining a geography and infrastructure, managing and distributing funds, and questioned whether a tax (e.g. a roof tax) would be more appropriate, or a “piggyback” through LBTT. Alternatives may include a house sales tax.

There was broad agreement that land value uplift (a tax tied to uplift in land value associated with permission) would not be a preferable option given the potential for long negotiation and complexity. There was also a suggestion that development land taxes may be too easy to avoid.

- Economic Geographies

The infrastructure mechanism may either be linked to city regions or strategic development areas. There was an argument that “economic geographies” should be considered, since these do not necessarily reflect local authority boundaries. One group noted that should a regional or national fund be considered and administered on this level, boundaries should be redrawn to reflect these.

- “Big Ticket Items” and Revolving Funds

Some groups noted that a revolving fund for “big-ticket items” may be an option. One group suggested that big-ticket items—transformational projects—should be the focus of a development charge as opposed to projects which may happen anyway.

Other groups noted that revolving concentrated investment into different regions annually—this would reflect different economic geographies and could help “depoliticise” infrastructure funding. It was also suggested that a revolving fund may address “barriers to development” in a general sense.

Summary

The discussion in the Stakeholder Workshop successfully met the objectives set out in the Brief. There was general consensus on the following:

- There should not be a “national” charge, and would in theory be better suited to the regional level, possibly through a partnership approach;
- Local authorities should play a key role in determining a regional list of infrastructure items;
- There may be a role for taxes to fund certain forms of infrastructure (e.g. through LBTT), though this was not seen as attractive for local or regional infrastructure;
- Infrastructure items should either include “absolute basics” or more “transformational items”—LPAs should be realistic about what the charge can fund;
- Affordable housing should not be included as infrastructure funded by the mechanism—this should continue to be funded through S75 obligations;
- Private/public financing options are crucial—infrastructure delivery will depend on a “toolbox” approach. A charge cannot deliver infrastructure by itself;
- Regional funds have the potential to ‘revolve’ to fairly and equitably distribute funds;
- The charge-setting and infrastructure identifying process should be tied to a robust and visionary development planning process and should be subject to scrutiny in examination;
- There should be flexibility with regard to what infrastructure items are included in the scheme; and
- A national or regional agency should monitor the delivery of infrastructure—funding should be contingent on a “use it or lose it” approach.

It should be noted that the conclusions drawn above attempt to distil general agreement from workshop outputs. Every effort has been made to accurately reflect attendee views, though it is acknowledged that the summary items may not represent nuanced differences in positions.

6 Priorities

6.1 Introduction

This section summarises and focusses the key priorities emerging from the preceding chapters. In particular, it synthesizes the outcomes of the stakeholder workshops, focus groups and the literature review, into propositions categorised according to key principles established at the outset of the research.

6.2 Priorities

Several **principles** emerged through workshop, consultations and literature review. These principles identify how an infrastructure charging system should operate, be administered and managed. Participants in the research indicated the importance of establishing these principles at the outset of the scheme.

Outputs from initial consultations indicate that the **'priorities'** for developing an infrastructure charging mechanism in Scotland should be tied to these principles.

1. **Fairness—** The charge should not unduly charge developers or landowners, or burden local authorities. There should be flexibility in determining what is included within the charge to reflect local needs.

Priorities

a. Any charging mechanism needs to address the cumulative impacts of development:

   Any charging mechanism should be directed to impacts related to developments within a defined area and demonstrate a relationship to developments paying towards it. It should address infrastructure challenges at a broader geographical scale.

b. A partnership of local authorities at a regional or city regional level may determine regional infrastructure needs and competently assess market variations. Anticipated growth and low-growth areas should be taken into consideration:

   While a 'national' body may not be appropriate for the administration of a fund, local authorities might promote their own areas over the sustainable development of their respective regions, city regions or market areas. Therefore, an authority at the regional level could provide a forum for local authorities, government appointees, and other stakeholders to determine the fair collection and distribution of funds at a broader geographical scale.

c. Ensure any mechanism is subject to examination—possibly alongside a development plan. Key stakeholders such as infrastructure providers should be able to shape and challenge charging mechanisms:

   Charging schedules, and the infrastructure they will fund, need to be subject to independent review. This principle applies to development plans which may usefully aid the introduction of the scheme. Like development plan preparation, there needs to be clear forums for stakeholder involvement.

   The development plan process could continue to inform essential infrastructure needs within a local authority or within a wider city-region. The evidence submitted in support of required infrastructure and the levels at which charges set and to which developments they apply could undergo a level of scrutiny to complement a plan's action programme.

   Should a wider geography (e.g. City-Regions) be identified as a more appropriate level for application, development plans and processes can provide key evidence and priorities within constituent local authority boundaries, informing the City-Region's total infrastructure requirements.

d. Establish or identify a regional or national agency to monitor, on a regular basis, the fair collection and distribution of funds:

   An authority or organisation should analyse the collection and distribution of funds on a regular basis to provide 'intelligence' with respect to the proper allocation of funds and whether infrastructure is being delivered.

e. Any mechanism needs to be apportioned according to need and supply/demand. It needs to anticipate growth throughout a region while not ignoring areas where there is low market demand.

   Any mechanism should be equitably applied to development types—where there is merit for a flat charge or a graduated charge, it should be shown that this does not prejudice the viability of one development type over another.

2. **Transparent—**It needs to be clear how charges are set, how funds are spent, and whether they go toward projects that are identified by communities and local authorities. The process for developers and infrastructure providers needs to be clear and should identify clear timescales for engagement.

<u>Priorities:</u>

a. Legislation must be clear and ensure any mechanism is robust and does not conflict with existing funding mechanisms or processes:

Legislative requirements should be set out early and should be consistent with current approaches to developer contributions. Legislation should allow some flexibility with respect to defining infrastructure, but also needs to be clear about the differentiation between it and other mechanisms.

b. Retain a “demonstrable link” between development and infrastructure funding mechanisms:

   A charge type mechanism breaks the link between a development and the infrastructure to which it contributes. However, certainty for developers and for communities can be ensured through requiring charges for infrastructure on which developments have a cumulative effect. Clear thresholds need to be established either through policy tests or by the administering authority.

c. “Eligible infrastructure” should be broadly delineated in policy or supplementary guidance. What is included and what is not, while a matter of discretion, should be based on an evidenced rationale:

   Planning Advice Notes and development plans should be clear about what is expected through the scheme and, in the latter, why a charging mechanism is being applied. Guidance issued by the Scottish Government should allow for flexibility. This should be supplemented by infrastructure costings and propositions for the delivery of the regional or cumulative infrastructure asset.

d. It should be clear to developers/applicants what is required under Section 75 agreements or other planning obligations as opposed to a supplementary charging mechanism. There should be safeguards in place to avoid “double-charging”:

   As above, there should be clear guidelines about what is charged through existing mechanisms (Section 75 or other obligations) as opposed to a new charging mechanism. Policy ‘tests’ may help identify infrastructure eligible under this charge. Infrastructure items required by each mechanism need to be clearly delineated.

   While there may be flexibility in determining what is funded, affordable housing should be excluded and should continue to be funded under Section 75 obligations.

e. Stakeholders, including infrastructure providers, developers and communities, need to be involved in the charge setting process:

Discussions around charge setting and identifying infrastructure to be delivered should occur early and often. It should be clear when consultation occurs and should be formalised in legislation.

f. Legislation needs to be clear regarding redress:

If a mechanism unfairly burdens one category of development, if local infrastructure needs are not being met, or receipts inappropriately used, there should be a clear route for redress through an independent body.

3. **Certainty—**Any mechanism should be predictable and well evidenced. It should not be onerous in application and should provide clarity to developers, communities and infrastructure providers.

<u>Priorities</u>

a. Any charging mechanism and distribution scheme should be based on clear, up-to-date evidence. This evidence should identify need, supply and demand in terms of anticipated growth and impacts of development. It needs to be supported by a costed schedule of infrastructure items:

Any charging mechanism should only be applied where there is a clear evidence-base to justify that it is required. This should take viability and deliverability into account and should note anticipated growth within a market area and the charge's impact on development. Infrastructure items included in a schedule should be based on an assessment of need based on projected growth or on their ability to deliver policy objectives. A likely indication of costs (and per cent covered by a new charging mechanism) should form the basis of a charge, as far as practicable.

b. It needs to be clear what sort of infrastructure requires levy funds and where it needs to be spent. Any charging mechanism should be based on an identified need in specific market areas.

An assessment of need should inform evidence base surrounding a charging schedule and distribution scheme. This means establishing the relationship of the infrastructure to future developments in the market area or region, and distributing charges accordingly.

c. Viability assessments, costed infrastructure programmes (where possible), and growth forecasts should inform the charge setting process and charge administration.

It should be clear where growth is anticipated, what regional infrastructure is required to deliver it or mitigate cumulative impacts, and how much that infrastructure will cost.

d. Items requiring support from a charging mechanism should state what wider funding packages are included (e.g. local mechanisms or funding sources):

Any charging mechanism should be part of a larger funding package which may include capital funding, but equally prudential borrowing, grant schemes, TIF programmes, City Deals, business rate supplements and more. Infrastructure funded in part by a new charging mechanism should be funded sustainably to ensure delivery.

e. Establish a regional or national body to have a role in ensuring that local and regional infrastructure priorities are delivered and funded by the mechanism:

Local authorities in a region, city region or market area should have a place in a partnership to determine the direction and delivery of a new charging mechanism. A “central pot” approach would ensure that receipts contribute to regional infrastructure impacting one or more authorities in within its boundaries. Local authorities could play a key part in this process, in addition to other stakeholders and representatives.

f. Administrative boundaries should not be arbitrary:

Local authority and strategic development planning authority boundaries may not be the “best fit” for administering an infrastructure charging mechanism. It should be based on a logical and understandable market area, clearly understood by all stakeholders.

g. Redistribution out with a region or market area should be avoided:

A central pot approach has been identified as attractive, though it needs to be demonstrated that the projects that it funds have a demonstrable link to development. Contributions should address local infrastructure or overcoming local development constraints.

h. Exemptions to any charging mechanism should be driven by encouraging viability:

Exemptions should be based on evidence that the application of a new charging mechanism would unfairly prejudice particular developments, such as those in low demand areas or charitable developments. Exemptions and their implications for State Aid should be clearly articulated.

i. Viability assessments impacting development types across a market area may be completed in implementing a charging schedule:

   The impact of charging schedule options across a market area should be understood before implementation. ‘Testing’ viability and taking a reasoned approach to setting charges may be helpful. Guidance from the Scottish Government may be helpful in reducing the complexity of the task for the administering authority.

j. Principles for sustainable growth should be reflected in charging schedules—there is an opportunity to use charges to encourage development in appropriate places and to promote policy aims:

   Charges may be set at variable rates and should aim to address key policy drivers. Sustainable growth can be encouraged or discouraged based on measured charges, though this should be proportionate to the cumulative impacts expected from the development and should be evidenced.

4. Efficient—A charging mechanism should not delay development, but should be well-integrated in the application process and should not require resource-intensive negotiations on a site-by-site basis. It also needs to ensure that key infrastructure is delivered, requiring a robust investment plan by the authority to ensure that funds raised through the charge are spent appropriately and contribute—as part of a “toolbox approach”—to the delivery of key infrastructure.

<u>Priorities</u>

a. There should be a clear process for collecting funds raised by a new charging mechanism. The process should not impact development viability:

   It should be clear when and how developers/applicants contribute and must reflect development processes and development viability. It is possible that phased charges or development commencement charges may be appropriate.

b. Infrastructure delivery timetables should inform the evidence base for charging mechanisms and the broader infrastructure investment plan:

   In addition to a costed infrastructure programme, it would be beneficial to know the timescale for infrastructure delivery. This principle is applied in many cases in development plans.

c. Other forms of funding need to be established at the outset when a charging scheme is implemented:

   Since the total receipts of a new charging mechanism will cover a relatively minor proportion of infrastructure costs, a suite of funding and financing options should be identified to fund infrastructure identified in the charging schedule to ensure that infrastructure is delivered.

d. The administrative process should not consume local authority resources:

   Many local authorities may lack the skills and resources to develop and implement a charge. Local authorities should work together using shared resources through a partnership organisation to develop, implement and monitor the mechanism.

e. A new charging mechanism should reflect local circumstances and agreed upon to avoid lengthy negotiations:

   Charges should be predictable and easily administered. It should be subject to review, though should be applied uniformly and with respect to clearly identified infrastructure needs.

f. Land value uplift, in the form of a development tax, is too onerous and variable:

   A development charge applicable to all developments is preferable because it is simple and transparent. A ‘land tax’ would require frequent reassessment in valuations and may be open to challenge.

6.3 Summary

The priorities identified above respond to the views and contributions of a variety of stakeholders, and is informed by the findings of the focused Literature Review. It responds to the principles established by the Scottish Government at the beginning of this research. The Priorities identified have been categorised to address the delivery of a charging mechanism within the context of the Principles identified.

These priorities inform and are assessed against the recommended charging scenarios considered in Section 7 of this Report.

7 High Level Options

7.1 Introduction

This chapter considers the advantages and disadvantages of options and concludes with some commentary on the remaining choices.

The range of options for a measured charge fall into two main groups – **the geographical area** over which a charge will be levied and the method for calculating the charge, that is**, the charge mechanism**. There are two additional aspects that also offer a range of options – the **type of infrastructure** that will be funded by the charge and the **type of development** that will be charged, particularly whether some are exempt.

Finally, there remains a range of choices about **administration and collection** of any charge.

Subsection 7.3 provides an analysis of these options against the high level principles and priorities identified in Chapter 6.

7.2 High Level Options

Geography

There are four broad options for the area over which a charge is levied:

- Planning Authority area
- Regional
- A grouping of local authorities for example a city region of combined authorities
- National

Each has its own advantages and disadvantages in terms of appropriately reflecting 'market areas' and the level of political accountability and administrative capacity. The legal context is particularly relevant (see Section 3.4) and overlaps with the method of calculating the charge (see below). A charge collected and used in a local authority area that is based on floor areas or units of output can be easily encompassed by Scottish planning law. City Regions or combined authorities do not at present have planning powers in their own right. A charge with national impact or redistributed between local authority areas by national government, and based on value of output or profits generated, is more likely to be considered a tax that may require UK legislation.

Planning Authority area

The clear advantage of operating a charge within each planning authority (local authority area scale) is that there can be a direct relationship between the development and the infrastructure for which a charge is made, that there is a direct relationship between the developer and that consenting authority, that the planning authority may be requiring closely related planning obligations (Section 75) or conditions, and that the authority is a democratically elected body providing accountability. In other scenarios, the developer may also have to deal with non-planning authorities such as City Deals, combined authority structures, or even national government, as well as the local authority that ultimately decides on consent.

The main disadvantage is that much off site infrastructure, particularly strategic infrastructure, can be located, and provide benefits, over a much wider area than the local authority. Even within a local authority area there are types of infrastructure which are not the responsibility of the local authority but of specialist authorities such as utility corporations whose remit is almost always across a range of areas if not national.

Regional

Infrastructure that enables development—such as highways, utilities or flood mitigation—is often managed at a regional level. A regional charging mechanism would provide a relationship between a contributing development (and its users), and the area benefitting from the infrastructure investment funded, or part funded, by the charge.

The main disadvantage is that there is no longer any democratic accountability, or indeed local government administration, at the regional level. Furthermore, current informal groupings of local authorities, allegiances and cultural associations of old regions, and even national accounting sub-divisions (NUTS3), bear little relationship to zones of economic growth, which almost always span more than one local authority and cross boundaries of these wider regional areas. This is compounded by variation between different types of service provision authorities, for example, health regions, transport regions, and electoral and valuation regions. However, the ongoing Review of the Scottish Planning system emerging from Empowering Planning (2016) may include the "redrawing" of Strategic Planning Authorities, which may provide a vehicle for future strategic infrastructure delivery.

Combined authority areas

Many local authorities collaborate to provide a service across a combined area, managed through a Joint Board or Joint Committee. These have usually been for a specific service, but have also been for a specific item of infrastructure such as a bridge connecting the local authority areas.

More recently there has been a focus on growth areas centred on city regions with the development of City Region Deals, including the Glasgow and Clyde Valley City Deal Region, Aberdeen Region City Deal, and Edinburgh and South-East Scotland City Deal. These are coterminous with Strategic Development Planning Authorities but are not administrated or strongly influenced by them, a fact confirmed in the 2016 Planning Review which noted "a disconnect between strategic level plans and infrastructure across city regions" which has deepened "with the advent of city deals." Similar to the SDPAs, these combinations of authorities are not elected bodies but have representatives from each partner council and it may be possible give them powers to set a charge. They would have two distinct advantages in that they focus of enabling growth and could identify specific infrastructure projects relevant to all localities such as major transport links. The projected income from a charge over say a set period could provide the basis for prudential borrowing to front fund these projects. Some infrastructure projects could lead to more localised charging methods within a City Region for example charges on developments near the Edinburgh Tram line. At present City Regions or City Deals serve as policy co-ordinating bodies with powers resting with the participating authorities. Risk sharing could be achieved by contractual arrangements between authorities, and would probably need to be specific to the development or infrastructure. A general risk sharing agreement might be beyond the power of local authorities. If the partnership took the status of an incorporated body with planning powers, budget and the consequent democratic accountability then risk can be transferred from the local authority.

National

A national charge would enable the highest level of pooling of resources for infrastructure to enable growth. It also offers the prospect of redistribution from areas of greatest land value uplift to areas with low developed land values. There may be a national priority to enable growth in regeneration areas with high remedial or access costs, which can in some cases have negative land values.

The two disadvantages are that, firstly, the charge would have to be set at a low level to minimise the number of developments or areas where a charge would make schemes unviable or impact on the ability of developments to deliver obligations through Section 75. Section 3.4 shows that a charge within the planning competence of a local authority (say per unit of development and for local needs) would not be taxation. Section 75 fits within this competence. A national charge, and by definition for redistribution, might be designed to fit within Scottish planning law if it stayed within the planning remit for example a charge based on size and type of development. But if it was based on output value or had other monetary factors such as a value floor, it could be challenged and found unenforceable without UK legislation. An option might be to include a tax within the existing power of taxation on transactions of land (or interest in land), and this might have to be a duty placed on the purchaser rather than the developer. Although having the same economic effect it would be perceived a tax on ordinary people rather than on developers and land owners. This may lead to challenges on the grounds of justice or human rights, and the plausible claim that there are more progressive forms of redistribution, for example income or corporation taxes.

In conclusion, the main geographical options appear to be a charging mechanism, for enabling infrastructure, to be based on City Region Deals, or to combine those with a national charge to enable redistribution.

Method of calculating the charge

The Stakeholder Workshop identified the full range of possible charging methods. These have been grouped into four types:

- Charges per unit of development
- Charges based on the extent of land value uplift
- Charges based on the quantum of development
- Charges based on the final market value of the development

Each of these types are described below along with a commentary on potential advantages and disadvantages.

Charges per unit of development

A fixed charge could be levied per house built, or per shop or office.

The main advantage is that this would be simple to understand and operate.

The main disadvantage is that it would reflect neither the need for enabling infrastructure for different sized buildings – for example a large retail outlet's requirement for highway improvements, nor the ability of different sized building outputs to support a charge – for example a small apartment could not support the same level of charge as a large detached house.

If the "per unit" concept where refined to differentiate between, say, 1, 2, or 3 bedroomed dwellings then some of the unintended consequences could be avoided but not all, for example, it might cause a proliferation of second living rooms, studies and games rooms in dwellings with few bedrooms. Furthermore, there is the further disadvantage that there could be the unintended consequence of a charge per unit leading to an imbalance in the types of unit developed.

Charges based on the extent of land value uplift

A calculation of the uplift in land value from existing use value to the consented use value could form the basis of a charge.

The main advantage is that this goes to the heart of the ability to capture land value uplift for enabling infrastructure.

The disadvantages are that the infrastructure, that enables consent for a higher use value, may already have been provided. The existing use value would be closer to the proposed use value, leading to a limited uplift on which to base a charge. Secondly, a charge on an uplift could lead to sub-optimal development proposals. Land is a scarce resource and its potential should be maximised. Finally, and perhaps conclusively, the calculation of uplift is a complex matter. Financial viability assessments can provide residual land value figures (of before and after consent) but are not definitive calculations as much depends on the assumptions used, and even on the calculation method. Most “finalised” residual value calculations are the result of long and arduous negotiations between the parties. It is extremely unlikely that such methods could be applied to all developments of all scales.

Charges based on the quantum of development

The actual size of each building could provide a measure on which a charge could be based.

The advantage is that the development industry is used to planning, costing and valuing developments based on the useable floor area created[91]. There are well established definitions and methods for determining the measurement of useable floor area. There is also a strong relationship between amount of floor area and the number of users or traffic generated.

The main disadvantage is that a further set of rules is needed for the practical aspects of the development process. Plans are often changed, or consents revised, during the development period, particularly for phased developments. Furthermore, the floor space of a development is not necessarily additional floor space, for example a refurbishment (even with a change of use) might not generate additional floor space, and a high value development might have smaller floor area than the low value building demolished for the development. Much of the administrative burden, and contented charges, of floor area based mechanisms, stem from these practical difficulties.

Charges based on the final market value of the development

The final market value of a development could be used, with a combination of thresholds to exclude low value schemes and a variable (escalating) rate above the threshold, could be used to set a charge, or to establish the final charge to be levied after several “down payments” from earlier stages of the development.

The advantages are that the charge is clearly related to the ability to pay. It would vary with changing market conditions that can alter dramatically through the development period. And the evidence of actual sales values is generally undisputed especial with cadastral systems such as land registration.

The disadvantages are that the formula for a variable rate would be complex, and possibly hard to understand for, and difficult to justify to, a casual observer. Macro-economic factors, such as interest rates, would need to be built into the formula, for it to stay relevant. And there is the disadvantage, discussed in open debate at the Stakeholder meeting, that it is not always possible to determine either when a final

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[91] There are some built forms and building uses where volume of created space is more relevant than floor area.

sale takes place which could be deferred for years or never even take place, or whether the transaction was at open market value.

In conclusion, it appears that the first two methods have over-riding disadvantages, and that the second two, by floor area added or by value generated, merit further consideration.

Types of infrastructure to be funded

We see from the financial and economic assessment in Chapter 2 that any measured charging mechanism will only provide a small proportion of the funding required for all infrastructure requirements associated with growth. It would therefore be sensible to focus the additional resource on infrastructure that enables growth (for example connectivity), rather than as a result of growth (for example additional services such as education), and for this to be enabling infrastructure that benefits more than one development.

Enabling infrastructure could be defined as that which enables the buildings to be accessed and used, i.e. direct connectivity of people and utilities to the site, or flood prevention measures, whereas resultant infrastructure needs could be those that the building users will use outside of the building and that require mitigation because of the development, for example road capacity further down the highway, bigger schools, and so on.

The dangers with this approach is that it narrows “enabling” infrastructure down to site specific requirements (as in S75) and away from wider area needs such as new motorways and railways where a pooling of resources would be desirable.

The options, therefore, are between setting out a schedule of the individual items of the proposed or planned enabling infrastructure, or to operate a general pooled charge for any enabling infrastructure to be determined in the future.

The former offers some transparency in the purpose of the charge, and possibly greater clarity in its use and in any monitoring reports. The latter would allow greater flexibility for changing circumstances and changing priorities, for example it is not appropriate to schedule, in a list of enabling infrastructure, a road connection to a new area of residential development if that development land has not been allocated in a plan, as this would pre-empt the consultation and political process for that allocation, even though some expenditure of that kind may well be needed within the planning horizon.

Finally, there is the option of distinguishing between the cost of the physical asset of the enabling infrastructure, and the cost of operating that asset. It is quite common for planning obligations to include both, for example, an estimate of 10 years of planting and maintenance of a public open space, or the 20 years of road maintenance often calculated in adoption charges. There is an argument that these operating and servicing costs should be met by the growth revenues from taxes for local services (both local and national), and that the measured charge for enabling infrastructure should be limited to the capital cost of the physical asset, though it is recognised that this distinction in itself leads to definitional problems.

The experience of English planning authorities is that definitions of infrastructure for a charge (known as Regulation 123 Lists) started off being very detailed. They named specific pieces of infrastructure need by location, type, and estimated cost. Over time these lists became out of date, unwieldy and inflexible. The lists have now become much more generic and in some cases do little more than say that charges will pay for, or part pay for, provision, improvement, replacement, operation or maintenance of education, community, public realm, and transport facilities that are not included in planning obligations (S106). There is a growing view in England that such a list serves no purpose and rather than relying on a separate schedule of need for, or type of, infrastructure, that local authority plans should state the infrastructure needs for growth, that the charge is completely pooled, and that annual monitoring reports should specify how much has been collected and how it has been spent.

There are therefore several lines along which infrastructure for the purposes of a charge may be defined. This includes:

- Enabling Growth, as opposed to or in addition to, accommodating growth given existing assets;
- Itemised infrastructure items as opposed to a general ‘pooled fund’ for enabling infrastructure;
- Infrastructure asset as opposed to, or in addition to, infrastructure maintenance.

These considerations should be consistent with the priorities identified in Section 6. As suggested, it is essential that infrastructure provided is ‘strategic’ in the sense that it provides impetus for continued investment and development and meets the needs of a wider geographical area without prejudicing local needs. This infrastructure, of course, may increase capacity for existing developments, but it is primarily focussed on ‘enabling’ new development. It should also be tied to developments requiring the infrastructure—while this may impact the flexibility of use of funds, it is arguably easily understandable and demonstrably linked to developments (i.e. through cumulative impact or direct use), reducing potential for conflict and fulfilling key policy tests in Circular 3/2012. Finally, it should be focused on the provision of infrastructure as opposed to the maintenance of that infrastructure. It is recognised that the ability of a charge to cover the full cost of infrastructure may be limited, but it should be connected to the provision of enabling infrastructure rather than maintenance which may be covered by bespoke obligations when required.

These priorities demonstrate the need for alignment with S75 obligations. Consultations and review of literature indicates continued confidence in S75 agreements to deliver site-specific infrastructure and affordable housing. Regardless of the geography employed for a charging mechanism, continued collection of S75 will continue to make developments acceptable in planning terms, following the policy tests set out in Circular 3/2012. As noted, however, there is a risk of “double-dipping” if guidance regarding eligible infrastructure is not provided.

The type of development that will be charged

The discussions with stakeholders and the review of existing practice suggests that while the charge may apply to a variety of developments, it should not apply to all. Whilst in part any exemptions could be identified on the basis of policy priorities, it emerged that there are three types of development that should not be charged.

The first is any development of infrastructure itself. This might appear a simple statement but it can lead to definitional problems for a measured charge. For example, many large-scale developments include the provision of infrastructure within or adjacent to the site. A sustainable urban extension might include a transport interchange. It would be necessary to have some “offset” mechanism to exempt some of a charge for those developments that provide the infrastructure “in kind”.

The second is any development, or part of a development, that requires public subsidy. A charge, for example, on affordable housing development, would just lead to a higher need for government housing grant for that housing, and in effect there would be a transfer from that budget to the infrastructure budget.

Thirdly, there are developments which do not greatly impact development needs, that is, by requiring substantial public infrastructure investment (e.g. in roads, schools, rail, etc.) as a requirement of their construction or as a consequence of their operation. It may be that some industrial developments, energy developments, or more broadly—as identified in CIL regulations—developments where buildings are those into which people to not normally enter, unless for the purpose of inspecting or maintaining fixed plant or machinery. Given that these are not significant user generating developments it may be sensible to exclude them from a charging mechanism.

Another consideration is whether to apply the charge to revenue generating assets. Not all infrastructure requires public subsidy; some pays for itself where the user pays a fee or charge, for example for utilities. It is not at all clear whether it would be sensible for a power station development, which could be classed as enabling infrastructure, to pay a charge for other infrastructure.

As indicated in the workshop sections and in the review of existing practice, whatever the charging mechanism, or area in which it is levied, there will be a need for a list of exempt development types, and wherever there is a list of inclusions and exclusions there is likely to be dispute in unusual or unpredicted circumstances, requiring some element of negotiation and/or appeal. It could be helpful to set out an initial principle that chargeable developments do not include buildings where people do not normally go, unless for the purposes of inspecting or maintaining fixed plant or machinery. Then from this principle could be made specific exemptions for infrastructure buildings like railway stations, or for buildings requiring public subsidy or for use by charities.

Administration and collection

The final choice of body to administer and collect a measured charge will depend on the choice of geography and of charging mechanism, and other determining factors which influence efficiency and of flexibility.

An important consideration is the capacity of an administering authority to advertise, collect and manage funds. It would be inefficient for a body to administer or collect small amounts, either from each development, or in aggregate. Skills and resources will be needed in publishing the nature of the charge, in identifying appropriate developments to be charged and identifying the development proposals as they come forward, in accounting, debt collection and audit, and in surveying and valuation techniques.

A requirement to redistribute resources, or to pool over a wide area, implies that a regional and/or national body would be appropriate. However, given the fact that this may extend over larger geographical areas incorporating multiple administrative bodies, it would be sensible to elect an existing, independent organisation with resources and expertise to administer the fund. In this case, there is merit in considering whether existing institutions such as the Scottish Futures Trust, or Registers of Scotland in their role with Land and Buildings Transaction Tax, could provide advice or assistance to local authorities, or support wider partners over a market area, or region.

If a charge is based at the local authority level, then there is a case for making implementation by an individual authority voluntary. There will be some authorities where the amount that can be charged is too small to justify the costs of administration (de minimus). The problem with this is that take up over Scotland may become patchy or might be very slow to implement. But if the charge is set by a wider area or nationally then there is a much stronger case for making it compulsory, especially if the charging mechanism includes a value floor so that houses or buildings with a low value, by national standards, do not contribute.

As demonstrated in the literature review, the application of a charging mechanism needs to be commensurate with the ability of the charging authority to properly administer it. Experience from CIL suggests that many authorities do not implement it as it would impact development viability, particularly in ‘growth-orientated’ areas. Pooling restrictions of S106 and regulations alongside their use of CIL has impacted the ability of charging authorities to deliver infrastructure, particularly due to slow build-up of CIL receipts and limitations in S106s. The variable experience reflects the need to be flexible in the application of the mechanism: it would be important to encourage embracing a charging mechanism as an aspect of ‘culture change’ and an orientation towards infrastructure delivery, particularly over wider geographical areas. The clear negative which has emerged is that, where the costs of devising, implementing and ultimately delivering infrastructure charging mechanisms are too high, this is a deterrent to their application and effectiveness.

7.3 Options Assessment

The following tables set out the 'Options' in terms of their geography, the mechanism itself, and administration. These are set against the principles identified at the outset of this research and the priorities identified at the stakeholder workshop and set out in the literature review. Note that the options do not consider the application of funds and arrangements for forward funding and as capital against which to acquire debt. While is it recognised that the issue of timely infrastructure delivery is tied to the availability of resources—which may accrue gradually in the case of a charging mechanism—local solutions to forward funding need to be developed alongside the mechanism.[92]

Based on the combination of the components set out in Chapter 7.2 (including aspects such as geography, means of managing the funds, administration, mechanism, and the possibility of an additional 'national charge'), there are nearly 500 possible combinations. Once further aspects are considered for example, on what the charge may be spent, the combinations are in the thousands. It is impossible to consider each combination of option. The end of this section considers several key options which emerge as a result of assessment against key principles and priorities. Note that it does not represent a full menu of options but rather considers potential combinations based on preferred attributes.

This assessment provides brief reviews of the main components of a charge against the thematic principles outlined in Chapter 6. It does not provide a full assessment of a preferred approach, though should inform the final options taken forward to Stage 3 of this research.

A number of the principles and priorities identified in Chapter 6 are not met by the identified options as a function of the charge itself. Indeed, the implementation of a mechanism requires an accountable administrative structure, an effective market geography and clear legislative and policy guidelines. For example, fulfilling the principles and priorities identified requires assessing a combination of the (1) administrative geography; (2) mechanism; (3) monitoring and implementation process; and (4) identifying what the fund will cover. Considering each aspect of the fully developed mechanism in isolation provides a somewhat incomplete picture of the suitability of each option as they should be seen as one aspect of a potential charging mechanism.

A charging mechanism requires a multidimensional treatment of geography, which is somewhat simplified in the assessment. The intersection of the consenting authority, the planning authority or authorities who are identifying infrastructure needs, the collecting/administering body and the 'market' geography needs to be considered more fully in future assessment. This signals the need for geographies to be flexibly defined to account for changing market conditions, scale of infrastructure requirements—while this is possibly best represented through market geographies, the means by which these shift over time to reflect changing local circumstances.

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[92] See Parliament Briefing Note on the PGS.

The brief assessments contained in the tables immediately suggest that existing administrative geographies (e.g. planning authorities or strategic development planning authorities) may have processes in place to implement a charge type mechanism, but these boundaries may not be reflective of a functional market area, nor do the resources within the authorities exist to adequately assess the viability of a charge or the deliverability of infrastructure projects. This has a concomitant effect on how, as suggested in the stakeholder workshops, the mechanisms may be integrated with development plans. The means by which local authorities work together to effectively identify infrastructure required to deliver development therefore depends on an effective understanding of the management structures behind the scheme. As noted, an organisation such as the Scottish Futures Trust could have resources and expertise that could be used to help administer the scheme. But it also needs to be decided how the application of the scheme is coordinated with existing administrative structures.

The monitoring and implementation process is also considered a crucial administrative aspect of the scheme, particularly in enforcing a “use-it-or-lose-it” approached advocated in the stakeholder workshops. The relationship between this monitoring authority and the authority collecting and administering the fund, and the authority/authorities identifying key infrastructure and setting charges, will ultimately determine the appropriate organisational level at which to monitor it.

The assessment does not consider what a fund might cover in detail, other than specifying the need to meet ‘regional’ infrastructure needs based on cumulative impacts of development at a wider market geography. The principles and priorities focus on the ability to demonstrate a link between the development and the charge, to promote sustainable economic growth, its ability to address need, take account of market variations and be well evidenced. This suggests that there is support for discretion for authorities in deciding which infrastructure is required, so long as the process is fair, efficient, transparent, and provides certainty. Next steps in the assessment should therefore consider the extent to which each mechanism can be combined with existing or alternative funding sources to improve infrastructure delivery.

Table 7.1 High Level Options: Geography

PRINCIPLE	**PRIORITY**	**HIGH LEVEL OPTIONS**			
		GEOGRAPHY			
		Local Authority Option	**Regional Authority Option**	**Combined Authorities Option**	**With National Charging Option**
Fairness	Address cumulative impacts of development	Could address localised issues but may lack the resources and vision to address wider geographical challenges.	Ability to identify required infrastructure but potential conflict with constituent authorities. May be managed through SDPA.	Ability to meet local and regional needs as a partnership: ability to identify common infrastructure challenges	Low level charge may address more strategic development issues, but redistributive nature might mean that charge has a more limited impact on local and regional infrastructure needs.
	Assess market variations on a wider geographical scale	Potentially limited ability to coordinate actions to address market variations.	Ability to address wider market variations, though may not reflect market areas. Less political accountability.	Potential to address complex market areas based on combination of local authority areas. Potential that it does not address market areas.	May address market variations on a much wider geographical scale but may also impact viability.
	Ensure examination and scrutiny	Could be tied to a local authority's LDP process.	Potential for conflict with local authorities. However, SDPs could serve as a vehicle for developing the scheme.	Greater opportunity, depending on structure of partnership, to allow infrastructure providers and other stakeholders to participate in process.	Development and setting of tax would take place at the national level, potentially limiting the impact of local stakeholder involvement.
	Monitor implementation and collection	Potential limitation and conflicts in local authority monitoring.	Regional authority may lack political accountability	Political accountability recognised through membership to board; potential third party members offers some independence	Potentially complex task in monitoring and analysing contributions and use of funds.
	Apportioned according to need, responding to supply and demand	Local authorities may provide an adequate scale in terms of need but may not be coterminous with market areas and therefore may not reflect market need/demand.	Boundaries may not reflect market areas	Market areas within combined authorities need to be established. Better understanding of areas of need within local authorities and potential for agreement amongst partners	Not necessarily based on local or regional need.
Transparency	Clear legislation to avoid conflict with S75	Existing processes in place which would potentially ease transition	Combination with LPAs would require a regional policy document detailing items		
	Demonstrable link between development and required charge	More localised, but limited ability to exact charges from developments for strategic infrastructure impacted by and encouraging development.	Less understanding of local needs—potential to misrepresent areas of growth due to arbitrary boundaries.	Combination of local authorities may agree infrastructure needs and appropriate distribution of funds.	'Tax' breaks link between development and what is being funded.
	Guidelines delineated in policy	Could be issued as Supplementary Guidance.	Requires political authority to delineate policy—may be based on SDP or other regional policies.		Policies regarding Scotland-wide tariffs for strategic infrastructure may be issued at the national level.
	Full stakeholder involvement in charge-setting process	Potential for inclusion at plan-making stage.	Wider geographies will mean greater participation of stakeholders in detailing required infrastructure. Potential for more complex charge-setting process.		Development and setting of tax would take place at the national level, potentially limiting the impact of local stakeholder involvement.
	Clear procedures for redress	Legislation may provide for appropriate mechanism.			
Certainty	Based on clear evidence (need, supply, demand, anticipated growth)	Local authorities may provide an adequate scale in terms of need but may not be coterminous with market areas and therefore may not reflect market need/demand.	Boundaries may not reflect market areas or may incorporate incompatible market areas.	Market areas within combined authorities need to be established. Better understanding of areas of need within local authorities and potential for agreement amongst partners.	Not necessarily based on local or regional need.

	Clarity about what infrastructure is required and where a charge will be spent.	Potential to provide infrastructure in action programmes. Variability in detail.	Regional authority may lack 'buy in' from local authorities.	Group of local authorities can debate and evidence infrastructure required on a larger market area and agree apportionment.	Potential to be tied to capital investment plans (Infrastructure Investment Plan), NPF.
	Charges should be used to encourage sustainable economic growth	Charges can be tied to action programmes and a spatial strategy within a local authority but may not meet wider geographical objectives.	Infrastructure charging funds may be applied to support sustainable growth within regional boundaries, but this may not reflect market areas.	As above, and this can be employed to deliver development in growth areas within the combined local authority area.	May deliver nationally important infrastructure with the aim of supporting policy objectives.
	Clarity over intersection with broader funding packages	May be tied to existing programmes within local authorities (e.g. TIF).	Unclear how a regional authority would access alternative funding.	Best practice shared amongst local authorities; may be based on established City Deal regions and delivery structure. Potential for risk share between Local Authorities?	Additional to capital budget and associated funding/financing.
	Administrative boundaries should not be arbitrary	Local Authority boundaries may not be best suited to capture greater market areas	Regional boundaries may reflect functional market areas but are likely to be based on political or historic boundaries which may not be reflective.	Boundaries may reflect 'growth areas' (not necessarily based on constituent LPA boundaries) and thus reflect functional housing market areas.	Would be redistributive tax and would not depend on an administrative boundary.
	No redistribution out with a market area or region	N/A			
	Exemptions should be driven by encouraging viability	Dependent on Administration and required infrastructure.			
Efficiency	Clear process of collection	Dependent on Administration.			
	Robust details of infrastructure delivery	Could follow development plan process.	Limitation in ability to plan and deliver infrastructure—potential to repurpose SDPs to support this.	Limitation in ability of partnership to 'plan' for infrastructure.	Would be tied to national infrastructure programme.
	Broader funding package established at outset	Would supplement existing funding sources (e.g. TIFs, prudential borrowing through PWLB).	Potential limitation in borrowing power of a regional body. Lack of legitimacy in planning and delivery?	Partnership or area based on City Deals can establish best practice and serve as a basis for identifying additional funding streams.	Additional to capital budget and associated funding/financing.
	Should not consume local authority resources	Potential for constrained resources amongst planning authorities.	Potential to administer large geographical areas, though unclear how this would be resourced.	Broader partnership and ability to share resources and best practice.	Would be tied to national infrastructure programme.
	Avoid lengthy negotiations in payments	N/A			
	Avoid a 'land tax' on a site-by-site basis	N/A			

Table 7.2 High Level Options: Mechanisms

PRINCIPLE	PRIORITY	HIGH LEVEL OPTIONS			
		MECHANISMS			
		Per Unit of Development Option	Charges based on Extent of LVU Option	Charges based on Quantum of Development Option	Charge based on final value of development Option
Fairness	Address cumulative impacts of development	May not address needs and may result in imbalances of unit/development types, resulting in unsustainable development.	Limit to apply to wider range of developments due to complexity and limit of uplift value.	Would adequately identify 'volume' of development in terms of floor space. Could be categorised according to use.	Complexity might impact the delivery of funds and development.
	Assess market variations on a wider geographical scale	As above, per unit of development charges may result in imbalances in limiting the ability to reflect 'floor space' and volume of development.	Potential to reflect market variation but may produce sub-standard development.	Charges on floor space may be set to reflect market variations.	Potential to reflect market variation but onerous.
	Ensure examination and scrutiny	Dependent on governance and administration.			
	Monitor implementation and collection	Simple to administer and understand. Potential for straightforward monitoring.	Potential to be overly complex and difficult to monitor.	Straightforward dissemination but more difficult in administration due to potential for change in floor space, identifying exemptions, etc.	Potential to be overly complex and difficult to monitor as it is difficult to know when a final sale takes place and whether the transaction was at open market value.
	Apportioned according to need, responding to supply and demand	May unfairly prioritise one development type over another and therefore misrepresent the appropriate contribution required to meet a broader infrastructure needs.	Will reflect uplifted values, but this may not accurately represent what infrastructure is needed, what is already provided.	May unfairly prioritise one development type over another and therefore misrepresent the appropriate contribution required to meet a broader infrastructure needs.	Will reflect uplifted values, but this may not accurately represent what infrastructure is needed, what is already provided.
Transparency	Clear legislation to avoid conflict with S75	N/A			
	Demonstrable link between development and required charge	Dependent on administration and geography.			
	Guidelines delineated in policy	May be set out in policy.	More difficult to justify and set out in policy given shift in interest rates, land values, etc. More guidance required regarding negotiation process.	May be set out in policy.	More difficult to justify and set out in policy given shift in interest rates, land values, etc. More guidance required regarding negotiation process.
	Clear guidance to prevent overlap between charging mechanisms	Dependent on administration and geography.			
	Full stakeholder involvement in charge-setting process	Dependent on governance and geography.			

	Clear procedures for redress	N/A			
Certainty	Based on clear evidence (need, supply, demand, anticipated growth)	Mechanisms equally dependent on evidence, though land value uplift mechanism will require frequent reassessment.			
	Clarity about what infrastructure is required and where a charge will be spent	Dependent on governance and administration.			
	Charges should be used to encourage sustainable economic growth	Variable charges may help direct development in most appropriate areas. As noted, potential imbalances depending on the sensitivity of the charging set.	Potential to reflect market variation but may produce sub-standard development.	Variable charges may help direct development in most appropriate areas.	Charges may not accurately reflect sales values and may be difficult to justify.
	Clarity over intersection with broader funding packages	N/A			
	Administrative boundaries should not be arbitrary	N/A			
	No redistribution out with a market area or region	N/A			
	Exemptions should be driven by encouraging viability	Identified in policy.			
Efficiency	Clear process of collection	In all cases would be payable at some point in development process, though may vary depending on system of administration (e.g. whether funds are payable to consenting authority).			
	Robust details of infrastructure delivery	N/A			
	Broader funding package established at outset	N/A			
	Should not consume local authority resources	Relatively straightforward process of implementation and collection.	Potential to be administratively complex and resource intensive.		
	Avoid lengthy negotiations in payments	Less complex as based on standardised rates.	Subject to negotiation and complex.	Could be subject to negotiation where there are changes to applications.	Subject to negotiation and complex.
	Avoid a 'land tax' on a site-by-site basis	Specific to development but based on standardised rates.	Complex and site-specific.	Specific to development but based on standardised rates.	Complex and site-specific.

Table 7.3 High Level Options: Use and Purpose of Fund

PRINCIPLE	**PRIORITY**	**HIGH LEVEL OPTIONS**			
		FUND		**PURPOSE**	
		Itemised Option	**Pooled Option**	**Maintenance Option**	**Capital Costs Option**
Fairness	Address cumulative impacts of development	Can provide evidenced and transparent infrastructure items to meet demands of anticipated growth.	Can provide flexibility in meeting potential infrastructure requirements.	Could meet longer term impacts and administration.	Focusses on meeting infrastructure need rather than maintenance.
	Assess market variations on a wider geographical scale	Less flexibility in meeting market changes in the short term?	Pooled funds may be distributed according to projects as needed over a wider geographical area.	Less concerned with addressing market variations.	May better address infrastructure delivery on a wider scale.
	Ensure examination and scrutiny	Potential to be interrogated at plan stage, for example, as part of an action programme.	Less clarity regarding allocation of funds and required infrastructure.	May be equally subject to scrutiny at examination or similar review.	
	Monitor implementation and collection	Easier to monitor progress against implementation and	Less clarity and not as easy to monitor.	Collection may be straightforward, but use of funds by local authorities less straightforward.	Simplicity Dependent on manner of collection.
	Apportioned according to need, responding to supply and demand	Can be established in an infrastructure investment plan and delivered accordingly.	Pooled resources may anticipate need on a wider geographical scale and delivery infrastructure not otherwise deliverable based on contributions from local developments.	Less based on need in regard to growth but on use of asset.	Contribution to capital costs reflective of need to support infrastructure delivery where required.
Transparency	Clear legislation to avoid conflict with S75	Matter for national legislation.			
	Demonstrable link between development and required charge	Dependent on mechanism employed. Itemised option easier to demonstrate direct link? Pooled option could be more difficult to do this, however, a wider benefit may be determinable?			
	Guidelines delineated in policy	More straightforwardly identifies what infrastructure is to be delivered and by what means. May be tied to an action programme.	More flexibility, though requires additional policy to guide its operation.	Less straightforward to implement in policy as it is unclear when funds will be required for maintenance.	Relatively straightforward to delineate in plans and policies, depending on mechanism, governance and administration.
	Clear guidance to prevent overlap between charging mechanisms				
	Full stakeholder involvement in charge-setting process and identifying infrastructure	Dependent on geography and governance.			
	Clear procedures for redress	Each method would require a system for redress set out within the administrative process.			

Certainty	Based on clear evidence (need, supply, demand, anticipated growth)	Both methods would require evidence to support allocation of funds in addition to charge applied.		Dependent on type of asset, though maintenance could be based on expected use and an agreed 10 or 20-year plan. Potential to be well-evidenced based on anticipated use.	Capital costs included in action programmes would be costed and based on anticipated need for infrastructure
	Clarity about what infrastructure is required and where a charge will be spent	More straightforwardly identifies what infrastructure is to be delivered and by what means.	Dependent on geography and governance (i.e. if there is a spatial plan or infrastructure plan).		
	Charges should be used to encourage sustainable economic growth	Can aid in delivering a spatial plan and addressing development constraints in a measurable fashion.	Potential to apply funds on a wider geographic scale and respond to changing circumstances.	Does not necessarily respond to priorities for economic growth.	Responds more appropriately to growth.
	Clarity over intersection with broader funding packages	Dependent on geography and governance.		Dependent on geography and governance.	
	Administrative boundaries should not be arbitrary	Dependent on geography selected.			
	No redistribution out with a market area or region				
	Exemptions should be driven by encouraging viability	Matter to be delineated in policy.		N/A	N/A
Efficiency	Clear process of collection	Dependent on mechanism employed.		Dependent on mechanism employed. Potential issue in terms of access to funds by infrastructure providers.	Dependent on mechanisms employed.
	Robust and evidenced details of infrastructure delivery	More clarity with regard to what is required in terms of funding and when it is expected to be delivered.	Potential for evidenced and robust delivery plan—dependent on the mechanism and geography.	Dependent on mechanism and governance.	
	Broader funding package established at outset	Both would require additional funding and financing sources to deliver infrastructure.		Dependent on mechanism and governance.	
	Should not consume local authority resources	More complex in identifying infrastructure up front, but potentially less resource intensive in project delivery.	Potentially complex in administering and therefore resource intensive.	Dependent on system of administration.	
	Avoid lengthy negotiations in payments	Dependent on mechanism.			
	Avoid a 'land tax' on a site-by-site basis	Dependent on mechanism.			

7.4 Summary

The high level assessment provided in the accompanying tables in 7.3 indicates the potential for components of the charging system to be combined in such a way to satisfy the Principles and Priorities set out in Chapter 6. As noted, an assessment of each component as demonstrated in table 7.3 only provides a partial picture of a potential charging system and will depend on further refinement of each component to allow a more robust analysis of options.

Nonetheless, in combination with the themes emerging from the stakeholder workshop, executive focus group and literature review, 'preferred options' begin to emerge principally differentiated along the lines of geography and in terms of the broad mechanism employed.

The analysis of high level options, aided by the contributions at the Stakeholder Workshop, seems to favour four options for further consideration and consultation based on geography and mechanism.

In terms of geography, the options should consider:

A. City Region Deals, or other forms of growth areas of combined authorities
B. Or the above combined with a national charge

Varied in each case by the two charging mechanism options recommended for consideration:

1. A charge based on quantum of development output
2. Or a charge based on the value of development output.

The ultimate combination of the components indicated in Tables 7.1-7.3 will require additional analysis. Based on the assessment in Tables 7.1-7.3, a series of scenarios were produced with the most desirable attributes for the charging system (Table 7.4). These are purposely simplified for high level consideration and may be subject to significant variation, including considerations around whether charges are fixed/graduated, how exemptions are considered, and how it is tied to existing planning processes. Nonetheless, it is clear that the 'preferred options' set out in this Summary can be applied somewhat flexibly to account for existing structures of governance and other local circumstances. Note that the consideration of a 'national charge' is not considered in the scenarios as this may be seen as additional to the regional charge as suggested in B, above.

It is also essential that the implementation of the charging mechanism sits with a realistic means of forward funding to limit the 'time gap' in infrastructure delivery. While previous debates on the discouraged the use of funds for servicing and acquiring debt, local solutions determined over an appropriate geography may employ different (e.g. rolling funds or revolving loan funds) as a means of ensuring timely infrastructure delivery.

Table 7.4 Charging scenarios--top ten varied by attributes

	Scenario 1	This option would reflect areas of potential growth. A combined authority, based on existing City Deal regions, would deliver specific projects specified in action or investment programmes. It would charge on the volume of development, based on floor space, which can be differentiated by use and varied according to market area.	**Scenario 2**	As in the previous scenario, though would be delivered administered by SFT or a similar body with expertise and resources. Market or growth area coterminous with City Deal regions or SDPA area.	**Scenario 3**	As in Scenario 1, though covering a wider geographical area, which may extend beyond a functional market area and consider areas of varying market value.	**Scenario 4**	As in Scenario 3 though administered by SFT or a similar body. The organisations and authorities involved in setting charges and identifying infrastructure would need to be determined.
Geography	Market/ Growth Area		Market/Growth Area		Regional Boundary		Regional Boundary	
Administering Authority	Combined Authority		SFT or Similar		Combined Authority		SFT or Similar	
Itemised/Pooled Funds	Itemised		Itemised		Itemised		Itemised	
Charge Mechanism	Per PSM		Per PSM		Per PSM		Per PSM	
	Scenario 5	As in Scenario 1, though administered by individual local authorities possibly through agreement with joint local authority body (covering market area).	**Scenario 6**	As in Scenario 1, though funds are pooled to apply to infrastructure delivery on a more flexible basis. Potentially difficult to justify costs, less clarity over items involved.	**Scenario 7**	As in Scenario 1, but charges are based on the number of units. As noted in assessment, could	**Scenario 8**	As in Scenario 2, though mechanism is determined on a per unit basis rather than PSM. This may create
Geography	Market/Growth Area		Market/Growth Area		Market/Growth Area		Market/Growth Area	
Administering Authority	LPA		Combined Authority		Combined Authority		SFT or Similar	
Itemised/Pooled Funds	Itemised		Pooled		Itemised		Itemised	
Charge Mechanism	Per PSM		Per PSM		Per Unit		Per Unit	
	Scenario 9	As in Scenario 2, though charges are set on a per unit basis. This may create imbalances given the lack of sensitivity to size of developments (in terms of sq. m).	**Scenario 10**	As in Scenario 3, though funds are pooled to apply to infrastructure delivery on a more flexible basis. Potentially difficult to justify costs, less clarity over items involved.				
Geography	Market/Growth Area		Regional Boundary					
Administering Authority	SFT or Similar		Combined Authority					
Itemised/Pooled Funds	Pooled		Pooled					
Charge Mechanism	Per Unit		Per PSM					

*PSM= Per Square Metre

8 Way Forward

8.1 Introduction

This Chapter provides further context with respect to work undertaken to date and the next steps in progressing this Research Programme.

8.2 Programme to Date

This Report compiles evidence and provides analysis with respect to Stage 1 and Stage 2 of the research programme. The completion of this Report therefore concludes and provides evidence of the following stages:

Stage	Task	
Stage 1	• Inception Meeting	Complete
	• Literature Review	Complete
	• Desk-Based Assessment of Legislative Requirements	Complete
	• Establish Key Stakeholder Group	Complete
	• Initial Consultation with Key Stakeholder Group	Complete
	• Key Priorities of a Charging Mechanism for Scotland	Complete
Stage 2	• Identify High Level Options for a Charging Mechanism	Complete
	• Review Stage 2 Progress	Complete
	• Re-consult Key Stakeholder Group	Complete
	• Prepare First Report (Stage 1 and 2 Outputs) for Consideration in Consultation Paper	Complete

The key output of this programme, contained in this report, is a set of key priorities and the identification of high level options emerging from these priorities. This has been evidenced through a Stakeholder Workshop, focus group meetings and discussions, and a targeted literature review examining existing practice.

8.3 Future Work Programme

Stage 3 of this research will involve a more robust consideration of the options set out in this research and intensive investigation of how the priorities and principles may be fulfilled through the application of a charging system.

This Stage will be informed by the outcome of the Consultation following the publication of the Scottish Government's consultation paper on the review of planning in Scotland. The outputs of this Consultation will inform a further refining of the options identified in this Stage 1 and Stage 2 Report.

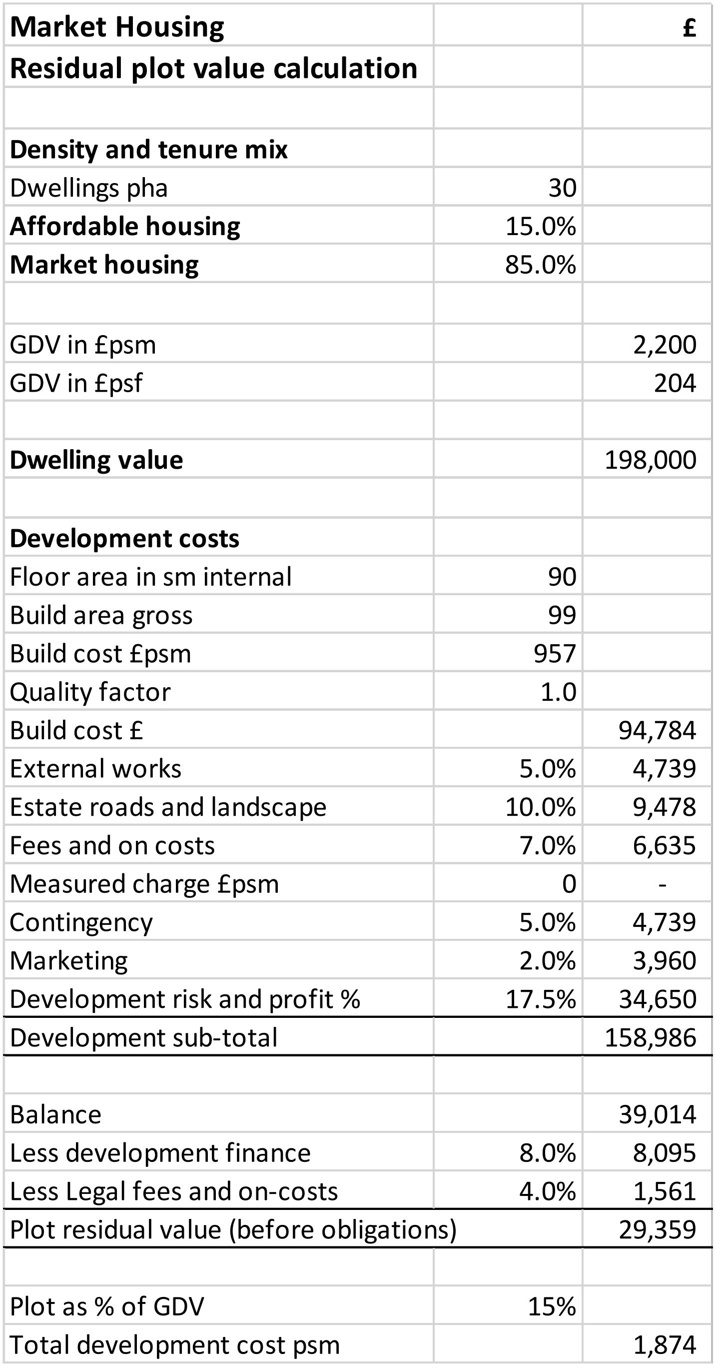
Stage 3 work will drive this work forward by establishing a detailed framework for the preferred option emerging from the Consultation.

	Task	
Stage 3	• Preferred Option	April-May 2017
	• Prepare Timeline for Preparation of Charge	April-May 2017
	• Prepare Final Report (to add Stage 3 Output) and Executive Summary	April-May 2017

Appendix A

The figures below show the assumptions made for the average new build dwelling. These can be varied to test sensitivities or to explore different measured charge designs.

Average site start to sale = one year



Market Housing		**£**
Residual plot value calculation		
Density and tenure mix		
Dwellings pha	30	
Affordable housing	15.0%	
Market housing	85.0%	
GDV in £psm		2,200
GDV in £psf		204
Dwelling value		198,000
Development costs		
Floor area in sm internal	90	
Build area gross	99	
Build cost £psm	957	
Quality factor	1.0	
Build cost £		94,784
External works	5.0%	4,739
Estate roads and landscape	10.0%	9,478
Fees and on costs	7.0%	6,635
Measured charge £psm	0	-
Contingency	5.0%	4,739
Marketing	2.0%	3,960
Development risk and profit %	17.5%	34,650
Development sub-total		158,986
Balance		39,014
Less development finance	8.0%	8,095
Less Legal fees and on-costs	4.0%	1,561
Plot residual value (before obligations)		29,359
Plot as % of GDV	15%	
Total development cost psm		1,874

Appendix B

High Level Questions Submitted to Expert Focus Group

RESEARCH PROJECT TO IDENTIFY AND ASSESS THE OPTIONS FOR THE INTRODUCTION OF AN INFRASTRUCTURE CHARGING MECHANISM IN SCOTLAND ON BEHALF OF SCOTTISH GOVERNMENT

High Level Questions

General

- Should a charge be applied at only one administrative level or should there be the ability to apply it at varying levels, e.g. national / regional / local?
- Is it realistic to expect that a charge will meet a high proportion of infrastructure costs? Should the proportion of costs met through charges and other funding sources be specified at the LDP stage?
- Should a requirement for local authorities to extract levies for strategic infrastructure be set at a strategic level? How might infrastructure be delivered equitably within local authorities?
- How might Planning Obligations and levies be balanced? Is there a potential conflation between requirements for planning obligations and charges?
- To what extent might major infrastructure projects be dependent on additional funding sources? Would these sit comfortably with charging mechanisms and planning obligations?
- Should local authorities provide a list of infrastructure categories requiring contributions and the expected proportion to each category to be funded by the charge (e.g. primary schools 10%, Roads 20%, new rail station 5%, etc.)?
- In the context of enabling development, what do we mean by infrastructure? Should "infrastructure" be defined in legislation, or should the charging authority have flexibility to define it?

Pooled Funds

- Should local authorities contribute a proportion of funds raised to a regional or national 'infrastructure fund' to pool resources for strategic infrastructure? Who would manage this fund and how would it be distributed?
- To what extent would local authorities be allowed to 'pool' resources from planning obligations when charges are imposed?

Exemptions

- Should development levies be mandatory in every local authority, regardless of market conditions?
- Should local authorities determine exemptions from charges? For example, where affordable housing is considered, should exemptions toward this charge be determined by an independent body?
- How will impact from exemptions and reliefs be managed to prevent impacts on overall funds raised?

Charge-setting and Viability

- What can be done to ensure charging systems fairly reflect what development can sustain? Could a standardised mechanism be in place to ensure charges are fair and reflect locational and market conditions? If so, who should administer and audit these tools?
- Once charges are set, how might levels of funds raised through charges affected by viability concerns be addressed?
- What are the benefits of delivering affordable housing through a charging system as opposed to obligations?
- How is multi-stakeholder engagement ensured at the charge-setting stage? To what extent would the development industry be consulted in this process? Should charges be subject to scrutiny through the development plan process? If so, how?

- How can development charges be more closely tied to actual uplift in land values? May charges be tied to specific geographies or localities and proposed use types to reflect expected uplifts from change of use and local markets?
- Should there be a requirement to review charging schedules at set times? Who should be responsible for the review of charges (e.g. local authorities or an independent body)?
- What should the process be for setting charges? Should it be local authority led?
- How will the allocation of charging funds to specific projects be monitored?
- What level of connection should there be between the development paying the charge and the infrastructure intervention? Is a redistributive approach reasonable?
- Will development plans and strategic development plans be expected to identify infrastructure assets requiring charges? How much detail should be required at this stage to aid developers in assessing project viability?
- How can communities be involved in charge-setting and identifying projects to be funded? Does this engagement occur primarily at the plan-making stage?

Stefano Smith (Director of Planning, Peter Brett Associates)

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October 2016

Appendix C

Agenda for Stakeholder Workshop, 4 November, 2016.

Infrastructure Charging Mechanism Stakeholder Workshop - Agenda

2 November 2016, 9am – 3.30pm

Apex Waterloo Place Hotel, Edinburgh

Introduction

- Registration (9 am – 9.30 am)
- Workshop Introduction (9.30 am – 9.40 am)

Session 1. Priorities (9.40 am – 12.30 am)

- Introduction/Presentation (9.40 am – 9 55 am)
- Group Discussions – Key Priorities for Charging Mechanism (10 am – 11.00 am)

Comfort Break (11.00 am – 11.15 am)

- Group Discussions – Key Priorities for Charging Mechanism (11.15 am – 12.30 pm)

Lunch, Networking (12.30 pm – 1.30 pm)

Session 2. Options (1.30 pm – 3.30 pm)

- Introduction/Presentation (1.30 pm – 1.45 pm)
- Discussion of Options (1.45 pm – 2.45 pm)
  Group Discussion
- Summary of Groups (2.45 pm – 3.15 pm)
- Final thoughts (3.15 pm – 3.30 pm)

Note: Seats will be assigned to ensure a mix of organisations and sectors. Please see the seating plan upon arrival at the venue. Attendees may be asked to move seats if necessary to enable productive workshop sessions.

Appendix D

Stakeholder Workshop Attendee List

Number	First Name	Surname	Position	Organisation	Accept/ Decline
1	Adam	Priestley		Transport Scotland	Decline
2	Aileen	MacKenzie		Scottish Water	Accept
3	Alasdair	Morrison	Head of Regeneration	Renfrewshire Council	Accept
4	Alastair	McKie	Convener of Sub-Committee	Law Society Scotland	Accept
5	Archie	Rintoul		RICS Scotland Chairman	Accept
6	Bruce	Kiloh	Head of Policy and Planning	Strathclyde Partnership for Transport (SPT)	Accept
7	Catherine	Wood		Gladman Scotland	Decline
8	Craig	Clement	Head of Resources & Performance	Association of Directors of Education	Accept
9	Craig	McLaren		RTPI	Accept
10	Craig	Wallace		JLL	Accept
11	David	Melhuish	Director	Scottish Property Federation	Accept
12	Douglas	Duff		Falkirk Council	Accept
13	Elaine	Farquharson-Black	Partner	Burness Paull LLP	Accept
14	Esther	Wilson		Chartered Institute of Housing	Accept
15	Fiona	Stirling		SNH	Accept
16	George	Eckton		SEStran	Accept
17	Stephen	Page		Dundee City Council	Accept
18	Helen	Carter		Scottish Government	Decline
19	Ian	Aikman		Scottish Borders Council	Accept
20	Ian	Jessiman	Customer Connections Manager	Scottish & Southern Electricity Network	Accept
21	James	White		SG – Infrastructure Investment Unit	Accept
22	Jim	Grant		Moray Council	Decline
23	John	McKechnie	Legal, Risk & Equivalence	Openreach	Decline
24	Kate	Leer	Infrastructure Project Manager	Scottish Cities Alliance	Accept
25	Keith	Winter	Executive Director	Fife Council	Tentative
26	Kenny	Stott	Transmission Policy Manager	Scottish & Southern Electricity Network	Request a place
27	Lisa	Bullen		SG - Housing	Accept
28	Lisa	Cameron	Town Planner	Network Rail	Accept
29	Margaret	Bochel	Director	Burness Paull LLP	Decline
30	Mark	Hunter		Scottish Water	Accept
31	Mark	Smith	Head of Planning and Investment	Scottish & Southern Electricity Network	Request a place
32	Pauline	Elliott		South Lanarkshire Council	Accept

33	Rosemary	Greenhill		Scottish Government	Accept
34	Ross	Martin		SCDI	Accept
35	Sara	Thiam	Director	Institution of Civil Engineers Scotland	Accept
36	Steve	Loomes		Homes for Scotland	Decline
37	Stuart	Forrest		Scottish Gas Networks	Accept
38	Tammy	Adams		Homes For Scotland	Decline
39	Colin	Park		SCOTS	Accept
40	Amanda	Burgauer		Scottish Rural Action	No response
41	John	Kerr		Chartered Institute of Housing	No response
42	Susan	Lane		SG Housing – Financial Innovation	No response
43	Robert	Gray		Aberdeenshire Council	Accept
44	David	Jennings		Aberdeen City & Shire SDPA	Accept
45	Ken	Ross		Scottish Property Federation	No response
46	Stephen	Doran		Fife Economy Partnership	No response
47	Colin	Proctor		Scottish Futures Trust	Decline
48	Tony	Rose		Scottish Futures Trust	Accept
49	Carroll	Buxton		Highlands & Islands Enterprise	Decline
50	Derek	McCrindle		Scottish Enterprise	No response
51	Alastair	Watson		Valuation Office Agency	Accept
52	Alison	Irvine		Transport Scotland	No response
53	Neil	MacDonald		Network Rail	No response
54	Gordon	Nelson		Federation of Master Builders	No response

Appendix E

Infrastructure Charging Mechanism Stakeholder Workshop - Briefing Note

Introduction

This briefing note has been prepared by Peter Brett Associates (PBA) who is leading the multi-disciplinary Research Team to inform the forthcoming **Stakeholder Workshop** to be held in Edinburgh on 2 November 2016. It represents the views of the Research Team and not Scottish Government. It provides a consideration of key themes emerging from the research project thus far and comments and issues arising from the Scottish Government Planning Review Workshops (esp. Infrastructure) held on 12 and 13 September 2016.

The **Planning Review (2016), Recommendation 18,** highlighted the need to consider "options for a national or regional infrastructure levy". The Brief provided by the Scottish Government specifies a number of issues arising from the formulation and delivery of an infrastructure charging mechanism, including a consideration of geographical scale, scale of infrastructure, value uplift, what items are included, legislative requirements, and balancing existing funding mechanisms.

Clear delivery plans ('roadmaps') for the delivery of infrastructure, and the development of skills needed to get the infrastructure put in place, cost effectively, is of key importance. If the charging mechanism is targeted at a very broad range of infrastructure requirements for both stimulating and accelerating development, as well as solving the wider infrastructure deficit, then there may be the challenge to meet its objectives, both because of affordability, and because of complexity.

The tables contained in the sections below set out high level questions for a charging system in a Scottish context. These are categorised in terms of 'Priorities' and 'Options' according to six key questions, as follows:

1. Key Priorities

    7. What constitutes eligible infrastructure for charging?
    8. What should the relationship be between charge and Spatial Planning?
    9. How should funds be used and distributed?

2.Options

    10. How could infrastructure charges be combined with other funding sources to facilitate delivery?
    11. How would development viability and existing processes sit with an infrastructure funding mechanism?
    12. What form should an infrastructure charging mechanism take?

Suggested prompts and key research questions are included to help frame the discussions and inform the stakeholder workshops.

9 Priorities

This section sets out the key thematic priorities and key issues emerging from them. It aims to frame a discussion around key priorities identified in the 12 and 13 September Workshops and identify and agree the specific objectives associated with the implementation of a charging mechanism in Scotland.

1. Identifying eligible infrastructure

The application of an infrastructure charge in Scotland may cover a variety of assets, from transport to education. Infrastructure charges in the form of an infrastructure charge in some contexts have the ability to help cover costs of essential transport infrastructure in addition to municipal services.[93] In the case of CrossRail in London, for example, the application of the Community Infrastructure Levy (CIL) and additional business rate supplements were instituted to cover limited costs of the project. In such cases, a suite of funding and financing mechanisms help meet specific city-regional infrastructure needs.

More importantly, the potential for an infrastructure charge reflects the needs of local authorities or regional planning authorities, to plan more strategically and providing certainty for development within their administrative boundaries.[94] In this sense, infrastructure requiring a charge is closely aligned to the delivery of key policy objectives which may include the provision of affordable housing, key transport infrastructure, schools and more.

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[93] This is the case in most Canadian cities and provinces.

[94] See the debates on the Planning Gain Supplement in England and Wales. Available at http://www.publications.parliament.uk/pa/cm200506/cmselect/cmcomloc/1024/1024i.pdf

Table 9.1 Defining Infrastructure

Key comments from review workshop	**Key Research Question:** 1) What constitutes eligible infrastructure for charging?
A charge should include community infrastructure assets like education and healthcare facilities.	➢ How might local authorities, SDPs or the Scottish Government set out categories of eligible infrastructure?
Affordable housing should be considered	➢ Should an infrastructure charge focus on national or regional infrastructure assets or also include local, community infrastructure? ➢ Does affordable housing delivery qualify as essential infrastructure to be delivered by or on behalf of local authorities?
Community Planning Partnership investments are key	➢ What should the relationship between Community Planning objectives and Single Outcome Agreements be?
Existing assets should be included and should include infrastructure service upgrades (e.g. water), but should avoid addressing existing deficits.	➢ Should infrastructure include maintenance of existing assets? If so, where is the line drawn between 'need' and 'deficiencies'? ➢ Would an infrastructure charge fund primarily infrastructure required to 'unlock' development or can it fund the maintenance of existing assets?

The effectiveness of a charge in regards to funding nationally important infrastructure (e.g. HS2) is questionable	➢ Should the ‘scale’ of infrastructure influence projects for which charges are applied?

2. Establishing a relationship between the charge and spatial planning

Scottish Planning Policy articulates the role of planning in delivering sustainable economic growth, and legislation provides that local authorities may exact contributions to achieve land use strategies consistent with this policy. Literature examining the use of infrastructure charges in other contexts are sensitive to market conditions can help achieve national, regional and local spatial policies and influence the shape of development in cities and regions.[95]

Indeed, it has been suggested in previous debates surrounding the Planning Gain Supplement (PGS) in England and Wales that the provision of additional resources to deliver infrastructure may result in more appropriate development, and to fund required infrastructure for developments within Development Plans. It was considered that this had an important role in achieving national strategic outcomes and meeting more localised needs.[96]

Table 9.2 Charges and Development Plans

Key comments from review workshop	**Key Research Question:** 2) what should the relationship be between charge and Spatial Planning?
City-regions should be clearer about regional infrastructure needed	➢ Is the regional level the most appropriate administrative level for setting and applying the charge? ➢ What role should constituent authorities play in identifying infrastructure projects, setting and collecting charges for ‘city-regional’ infrastructure.

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[95] See Skaburkis and Tomalty (2011) for an international perspective.

[96] Communities and Local Government Committee (2006)

Infrastructure needs to be closely aligned with the development plan	➢ Should infrastructure charges be prepared in alignment with development plans? If so, how? ➢ Where should infrastructure prioritisation, costing information and levels of funding expected to be secured through infrastructure charges be set out? Spatial Plans / capital investment plans? ➢ Should charges be consulted upon at the development plan stage or as supplementary guidance? This presupposes it will be the responsibility of the local authority to set the charge. ➢ How should projects eligible for infrastructure charge funding be prioritised within action programmes?
Scottish Government Policy objectives need to be considered.	➢ Should there be prioritisation of nationally important infrastructure projects (e.g. identified in subsequent National Planning Frameworks)? ➢ Should charging authorities be required to expect contributions for nationally important infrastructure for developments within their administrative boundaries?

3. Use and Distribution

Desk-based research demonstrates that, in England and Wales, infrastructure charges or taxes are not always sufficient to meet the full costs of future infrastructure delivery and requires **a clear financial package** which may include revenue from taxes and charges, but not wholly dependent on them. There is a suggestion that, with the development of infrastructure levies in England and Wales, a collection system' approach has not necessarily resulted in the timely delivery of infrastructure, in part due to the lack of coordination between development sites and the destination of the collected funds.

The application of these mechanisms needs to be considered based on needs and used effectively to encourage development. A perceived benefit of charging mechanisms is the wider enjoyment of public benefits as costs for infrastructure are shared, and this may be felt across areas with varying land values, depending on the extent of the charging area. However, the implementation of an infrastructure charge should accommodate other leveraged funds to deliver key infrastructure for growth.

‘Accelerating’ growth in development entails the provision of **development incentives**. For example, a report for the Department for Communities in Northern Ireland noted that consultation with the development industry with respect to affordable housing revealed the importance of supply side or demand side. Most relevant is the consideration of ‘supply side’, which includes strategic infrastructure funds, relaxed planning requirements for certain developments, in addition to infrastructure charges itself.[97]

Guidance in the Republic of Ireland, for example, notes that growth can be prioritised by:

- Incentivising activity through **lower development contributions in the areas prioritised for development** in the core strategy and guided by the settlement hierarchies set out in Development Plans
- Prioritising investment in infrastructure in those areas designated as **priority locations** for future development particularly those locations with a strong employment capacity and potential, and which have appropriate plans in place; and
- Ensuring that there is **regional coherence** in terms of policy and levels of contributions set to minimise unsustainable development diversion across authority boundaries.

This suggests the importance of reflecting different markets and charging according to regional and local plans for growth.

Table 9.3 Use and Distribution

Key comments from review workshop	Key Research Question: **3) how should funds be used and distributed?**
There should be a reflection of market need, and investments should be proportionate to need.	➢ How may infrastructure charges reflect the need to encourage development in regeneration areas or in areas with low market values? Would this be through differential rates or through other incentives? ➢ Should funds raised go to a central pot to fund infrastructure projects within a specified area? ➢ On what scale is redistribution of funds equitable? ➢ How might charges be applied to positively enable growth and direct development?

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[97] Three Dragons, Heriot-Watt University (2015)

There needs to be transparency in how funds are used and charges set	➢ Who should be required stakeholders in setting charges? How frequently should they be consulted? ➢ If charges are redistributed via a central fund, what level of certainty can be achieved that the charges paid will by a development will benefit that development? ➢ What process of interrogation / testing should go through? ➢ Should a fully costed infrastructure programme be a prerequisite for charge setting?
Consideration should be given to other assets, such as schools and hospitals.	➢ What will be required to ensure that community infrastructure assets (e.g. schools, hospitals, parks, etc.) are swiftly delivered to enable growth? ➢ Should certain assets be prioritised over others? ➢ Who should have authority for determining the priority of infrastructure items?

10 Options

The second anticipated outcome of Stage 1 of this research is an identification of **options for an infrastructure charge mechanism**. This section therefore considers a series of infrastructure financing options and key questions surrounding delivery.

4. Utilising existing funding sources to facilitate delivery

The experience of regeneration projects funded by Tax Incremented Financing (TIF), the Growth Accelerator Model (GAM) or otherwise enabled as Business Improvement Districts (BIDs) suggests that the need for development is highly dependent on geography and market conditions to leverage finance and infrastructure charges should reflect the need to encourage growth.

However, infrastructure delivery also requires a substantial amount of forward funding and 'pump priming' from central or local government to ensure the successful operation of the system.[98] A consideration in debates surrounding the Planning Gain Supplement in England and Wales focused on the need to avoid substantial debt on the part of local authorities (e.g. through prudential borrowing).

Effectively delivering key infrastructure relies on ensuring a well-costed and deliverable infrastructure projects. Experience from the Republic of Ireland suggests the importance of maintaining a robust capitally funded project pipeline in the form of a Capital Investment Strategy and clear implementation and funding strategies. In Ireland, these sources include:

- Direct Exchequer Expenditure
- 3rd phase Public-Private Partnerships
- State Sector Investment (energy, utilities and water)
- Irish and European Strategic Investment Funds

The varied sources of infrastructure funding show that effective private capital remains an important part of strategic infrastructure delivery. The expected contribution of infrastructure charges therefore needs to be balanced against other funding sources.

Table 10.1 Funding and Delivery

Key comments from review workshop	**Key Research Question:** 4) how could infrastructure charges be combined with other funding sources to facilitate delivery
Existing funding models should be taken into	➢ Which combination of funding mechanisms/sources would provide the most

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[98] See, for example, http://www.publications.parliament.uk/pa/cm200506/cmselect/cmcomloc/1024/1024i.pdf

consideration when implementing a charge.	sustainable form of infrastructure finance and funding? ➢ Is it viable to allow local authorities to borrow against the expected revenue from infrastructure charges?
There are already regional infrastructure funds	➢ How might an infrastructure charge work within and across administrative boundaries to complement existing infrastructure funds? ➢ Should monies raised from an infrastructure charge go directly to a regional infrastructure fund? If so, should infrastructure funds be mandatory bodies throughout Scotland?
Levies could sit along S75 to fund regional infrastructure	➢ Could infrastructure charges be used to leverage private sector funding for future infrastructure delivery? ➢ Can infrastructure charges be used as a sustainable source of funding for leveraging infrastructure financing?

5.Coexisting with current processes and development viability

Project viability and ensuring the attractiveness of development sites to developers is necessary in achieving sustainable growth. Additionally, it was suggested in the debate regarding PGS in England and Wales that the consultation of stakeholders and involvement of regional and local planning authorities would not be "remote" to local needs and would be more closely aligned to existing development plan processes.[99] The implementation of CIL in England and Wales is tied closely to the development plan and management process.

However, the experience of implementing a charging mechanism in England and Wales has had variable impacts. Since it is intended to be "mandatory with a few exceptions" it may often lead to certain sites not being brought forward which cannot bear the burden

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[99] Communities and Local Government Committee, 2006.

of a charge.[100] Yet, in high-growth, high-demand areas like London, a marginal CIL rate had not affected the viability of identified opportunity areas in its plan.[101] However, this has not been the experience of every local authority where variable CIL rates have been employed ("nil" rates) to encourage the development of key sites.

While there have been concerns over the impacts of 'taxes' on viability, it has been argued that ensuring a simple, effective and desirable spatial policy outcome through a system such as this is only possible through avoiding exemptions or providing advantages on the basis of concerns over viability for specific projects (Parliamentary Report, 2006).

As such, key concerns for the reflection of project viability are included in Table 1.4 and sets out guiding questions with respect to how infrastructure charges reflect viability

Table 10.2 Process and Viability

Key comments from review workshop	Key Research Question: 5) how would development viability and existing processes sit with an infrastructure charge?
Infrastructure items should be costed from an early stage and spread across agencies	➢ Should a common 'viability tool' be created to establish appropriate charging levels for market areas? ➢ If tied to a development plan, at what stage in the development plan process should the charge be applied? ➢ What authority should be responsible for negotiating with and across agencies to cost infrastructure and set charges?
There should be a reflection of market need, and investments should be proportionate to need.	➢ Could infrastructure charges be implemented on a wider geographic scale without prejudicing one development over another? ➢ If infrastructure charges are implemented, how can impacts on affordable housing delivery be mitigated?
Value capture mechanisms should not inhibit growth.	➢ If a development charge is implemented, what safeguards should be in place to ensure that value uplift required does not impact economic growth?

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[100] http://www.trics.org/conference09/john_qualtrough.pdf

101 https://www.lbbd.gov.uk/wp-content/uploads/2014/12/EV20-Mayoral-CIL-Final-Report.pdf

	➢ Should regeneration areas be exempt from value capture charges? ➢ How could infrastructure charges work with forms of funding (e.g. grants through City Deals or TIFs) and other funding mechanisms to effectively encourage swift delivery of development? ➢ To what extent may legislation or the charging body allow for exemptions based on geography / market conditions / development type?
Avoiding double-charging between charges and existing mechanisms	➢ If an infrastructure charge was introduced, what changes would be required to the use of S.75? I.e. should S.75 contributions be limited to site-specific requirements? ➢ What mechanism should be employed to ensure some developers are not unfairly charged?

6. What form should an infrastructure charging mechanism take?

The review has suggested that development levies cannot be the sole means of achieving an "infrastructure first" approach to development[102] Alternative funding mechanisms, in addition to current public sector funding, are therefore crucial in ensuring the delivery of infrastructure. For example, the application of Business Rate Supplements in other parts of the UK[103] has shown to be a useful complement to infrastructure charges in meeting strategic infrastructure costs. This suggests that infrastructure charges should be sensitive to local conditions and reflect priorities on multiple scales.

There are few examples of 'infrastructure or development charging' models implemented in the United Kingdom on wide geographical scales (e.g. Milton Keynes) aside from statutory negotiated charges set through S75 or S106, and more recently,

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[102] This is also reflected in Recommendation 19 of the Planning Review though have implications for the scope and delivery of Infrastructure charges in a Scottish context.

[103] See BRS in addition to CIL the case of CrossRail

the Community Infrastructure Levy (CIL).[104] For example, a tariff-based model exists in Milton Keynes, whereby a "single body" is able to provide forward funding in largely greenfield sites, a local solution that coexists with additional statutory charges. However, it has been noted by Savills (2015) that the operation of a statutory charge has the potential to 'stall' development[105], more importantly, only covers a small percentage of infrastructure costs of larger infrastructure assets.[106]

Amendments to legislation to improve the process by which developers contribute development-specific levies based on a 'betterment tax' (Planning Gain Supplement) have been considered in England and Wales. These yielded issues in terms of:

- the **timely delivery** of infrastructure;
- establishing land valuations;
- detail of how it may sit with **other funding mechanisms**;
- identifying **'local solutions' for funding**; and
- potential impact on viability when considered alongside existing obligations.

While infrastructure charges themselves can influence the level of development, they therefore need to be examined in conjunction with other options for funding. A menu of infrastructure financing mechanisms is provided in Table 2.2. It considers the main forms of infrastructure finance which may be used in combination with charging systems (Table 2.1).

Table 10.3 Form of Mechanism

Key comments from review workshop	**Key Research Question**: 2) What form should an infrastructure charging mechanism take?
A charge should not be a "pay as you go" system but reflect the longer term growth strategies.	➢ Which combination of funding mechanisms would best fulfil national, regional and local infrastructure priorities? ➢ Do 'local solutions' to infrastructure funding (e.g. GAM as employed in Edinburgh St James Quarter) have a greater capacity to deliver essential infrastructure than charges?

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[104] A review of the latter expected imminently.

[105] Savills (2015) note that this would be primarily through uncollected CIL receipts required to make a development acceptable in planning terms.

[106] The most successful CIL, the London Mayoral CIL, raised £300 million as of February 2016 but this was only a small percentage of the total CrossRail cost (See GLA's Crossrail Funding Supplementary Planning Guidance, 2016).

	➢ How might project-based finance be supplemented by charges?
Key Infrastructure should be funded/delivered by the public sector	➢ How could a regional charge relate to locally planned infrastructure? ➢ Should local governments utilise prudential borrowing based on expected development levies? ➢ Should more TIF districts be established to assist in infrastructure delivery and complement potential infrastructure charge?
Land value uplift should be captured	➢ How can the infrastructure charge capture land value uplift? ➢ Who would be responsible for providing evidence of potential uplift? ➢ Can a charging mechanisms accurately and effectively capture land value uplift?
'Scale of growth' for each region should be identified	➢ Should the charging body be required to prepare a long-term business case before implementing a charging mechanism? ➢ Should there be a 'geographic' threshold for developments expected to contribute to regional infrastructure? ➢ Should charging authorities only be able to collect charges within identified boundaries (e.g. within a 'charging district')?
A charging system needs to be fairly distributed across local authorities.	➢ Should monies be raised on a project -by-project basis, alongside other capital funding models? ➢ Should an infrastructure charge be determined according to use, location, potential uplift, or a combination? How might the structure of the charge reflect this? ➢ If a 'central pot' approach is used, how can charging authorities distribute monies raised fairly to projects?

Table 10.4 Alternative Charging Mechanisms

Mechanism	**Description**
Community Infrastructure Levy, or similar charge	➢ The Community Infrastructure Levy is a tax on development applied by charging authorities in England. This sits alongside S106 Agreements.
Section 48 and Section 49 Irish Planning Act (2000), or similar legislative instrument	➢ Section 48 and 49 of the National Planning Act (2000) effectively removes the need for the infrastructure to be tied to a specific development. This covers both the mitigating works such as open space provision and sanitation, but also allows for the provision of public infrastructure works, such as light rail based on 'functional areas' within the planning authority.
Planning Gain Supplement	➢ As considered in England and Wales, this was a means to capture value uplift through "splitting" the compensatory and revenue-raising functions by retaining developer contributions for site specific mitigation and affordable housing) and levying PGS to capture a portion of any land value uplift consequent upon the granting of planning permission.107

While the list provided in Table 2.4 is exhaustive, other mechanisms including taxes such as use taxes and land taxes (e.g. PGS) should also be considered as potential sources of funding.

Taken together, a number of issues emerge from a consideration of more innovative funding sources in literature and in particularly where private finance is concerned. These include:

- Whether infrastructure is funded 'upfront' (e.g. through borrowing or private capital);
- Identifying costs and ensuring value for money;
- Identifying private sector partners;
- How to effectively bridge a period between receipt collection and infrastructure provision;
- Potential for leverage;
- Ability to service debt;
- Continued availability of funding; and

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[107] http://www.publications.parliament.uk/pa/cm200506/cmselect/cmcomloc/1024/1024i.pdf

- Sustainability of funding source.

A variation of these issues is framed by questions in Table 2.4 and should inform the coordination of a potential funding mechanism and alternative funding and financing sources.

Table 10.5 Infrastructure Financing Options

Finance	Type	Raised/Levied by	Use	Leveraging Private Finance
Institutional Finance	Project, corporate financing or leasing structure.	Institutional Finance	Any	Large-scale. Depends on steady cash flow.
Private Equity	Project or corporate finance.	Private Sector	'Risk Capital' between bank funding and project costs	Represents balance of funding between project cost and bank debt.
Prudential Borrowing	Loan Finance	Local Authority	Any	Can be loaned
Bank Debt	Loan Finance	Private Sector Partner	Any	Not Applicable
Infrastructure Guarantees	Full security package	HM Treasury	Infrastructure (as defined in legislation)	Work alongside private sector loan and equity funding
City Deals	Devolved grant funding	Government	Various	Aim is to leverage private sector funding
Single Local Growth Fund	Grant fund	Government	Various	Framework establishes an investment strategy
EU Structural Investment Funds	Grant or Financial Investment	Various funds	Various and thematic, including Less Developed Regions, Transition Regions, etc.	Requires match funding

Regional Growth Fund	Loan or Grant Fund	BIS	Growth and Job Creation	Supports projects and programmes which lever in private investment.
Local Infrastructure Funds	Loans and some equity	Government Agencies	Funding Infrastructure	Total public funding for the wider project must be below 50% of the total project costs.
CIL	Levy on development	LPA	Supporting Infrastructure	Possibility for match funding
Section 106/ Section 75	Contractual Contribution	LPA	Affordable housing and site specific infrastructure	Commuted sums could be levered.
Retained Business Rates and TIF	statutory charge against revenues of the local authority	LPA	Upfront infrastructure costs.	New sector and funders currently unlikely to accept pure covenant for future payments.
Enterprise Zone	Retention of Business rate revenues alongside Business rate discounts/ simplified planning.	Enterprise Partnerships (England/Wales)	Inward investment	Reduced operating costs will allow greater debt service. Ability to use revenues from business rates to invest alongside private sector
BID	General revenues	Local Authorities	Promoting economic development	Yes
Green Investment Bank	Loan and equity finance	Treasury	80% of capital to be deployed in offshore wind, waste recycling and energy from waste, non-domestic energy efficiency and Green Deal.	Private finance must be provided as a condition.
Revolving Investment Fund	Any security taken will depend upon the nature of	Public or private sector funding (or both) deposited in a fund to	Any	Possibility of match funding

	the investment whether loan or equity.	be invested in strategic projects as debt or equity.		
EIB/JESSICA Fund	Loans, equity and guarantees taken against land	European Investment Bank	Sustainable urban development	Yes - pari passu co-financing
Local Asset Backed Vehicle	Public sector assets are generally contributed by way of unsecured loans (i.e. equity).	Private/Public venture against public sector assets	Any	Large scale private sector investment
Social Impact Bond	Improved Outcomes	Private or Third Sector Investors	Used for intended output	Yes, not large scale.
Service Concession	Project finance deriving from cash flows from service contract geared to performance	PFI involving private sector partner	Any	The services concession raises all privately financed (equity and loans) against the contractual public sector revenue stream
Growth Accelerator Model	Project finance	Private and public sector enabling investment based on anticipated income streams	Primarily infrastructure funding	Yes- large scale private and public sector investment

Source: Pinsent Masons, 2014 with PBA additions

11 Summary

This document has been prepared in advance of the Stakeholder Workshop informing Stage 1 outputs of the Scottish Government's Research aiming to identify possible options for the implementation of an infrastructure charge in Scotland.

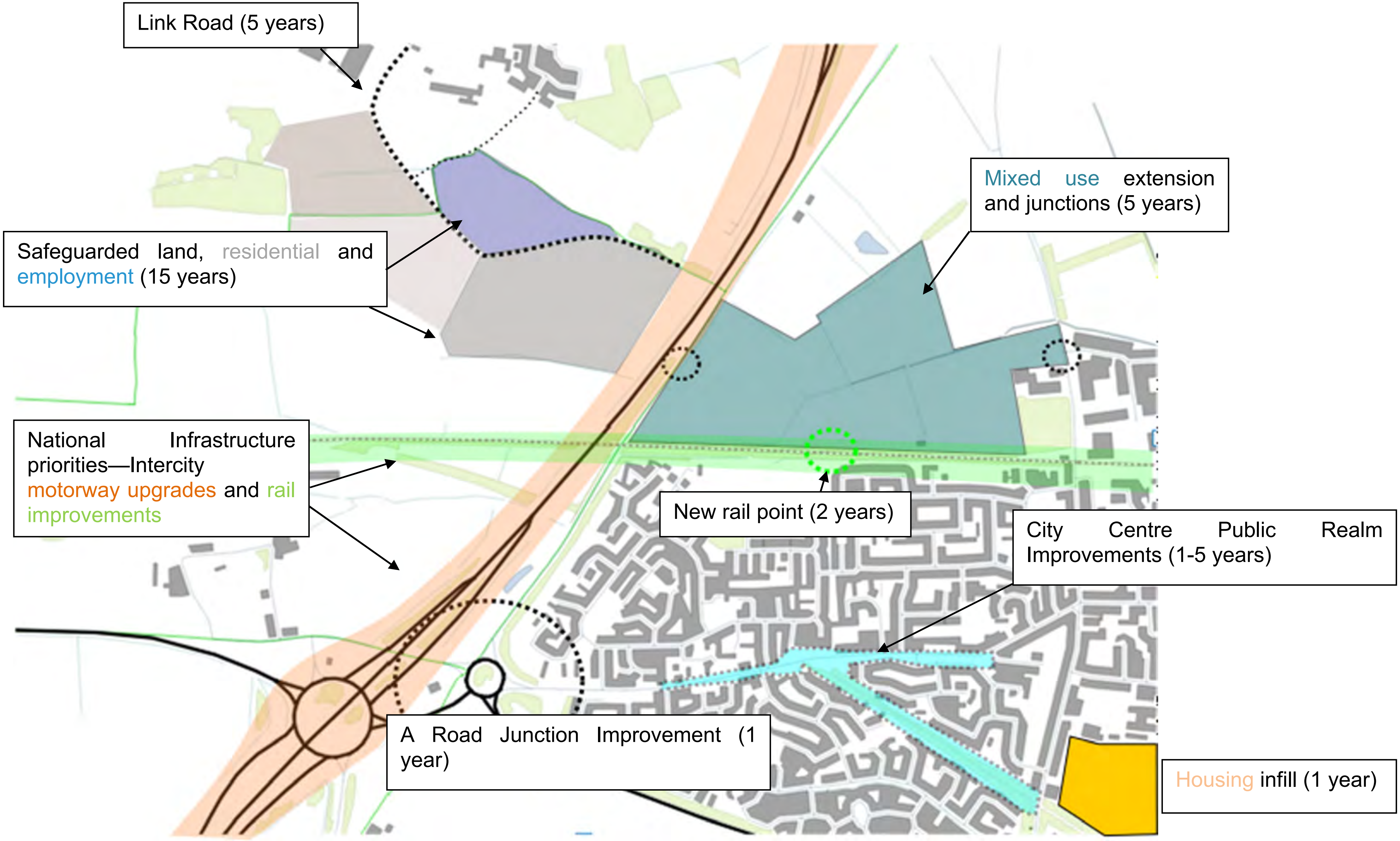
It has covered the main themes emerging from the literature review and emerging workshops and has posed further questions to aid the development of coherent arguments for a development charge in Scotland. It has considered alternative funding mechanisms and has posed questions as to how infrastructure charges will sit among within a complex fiscal and policy framework.

Next Steps

The outcome of the Stage 1 Workshop will establish key priorities, objectives and preferred options for a charging mechanism in Scotland. Stakeholder input will inform the evidence base supporting the case for the preferred methods.

Working Figure

It is desirable that **case studies** are cited by participants during the workshops. Where examples in practice are not used, it is helpful to understand your ideas and concerns about infrastructure charge implementation spatially.



Link Road (5 years)

Safeguarded land, residential and employment (15 years)

Mixed use extension and junctions (5 years)

National Infrastructure priorities—Intercity motorway upgrades and rail improvements

New rail point (2 years)

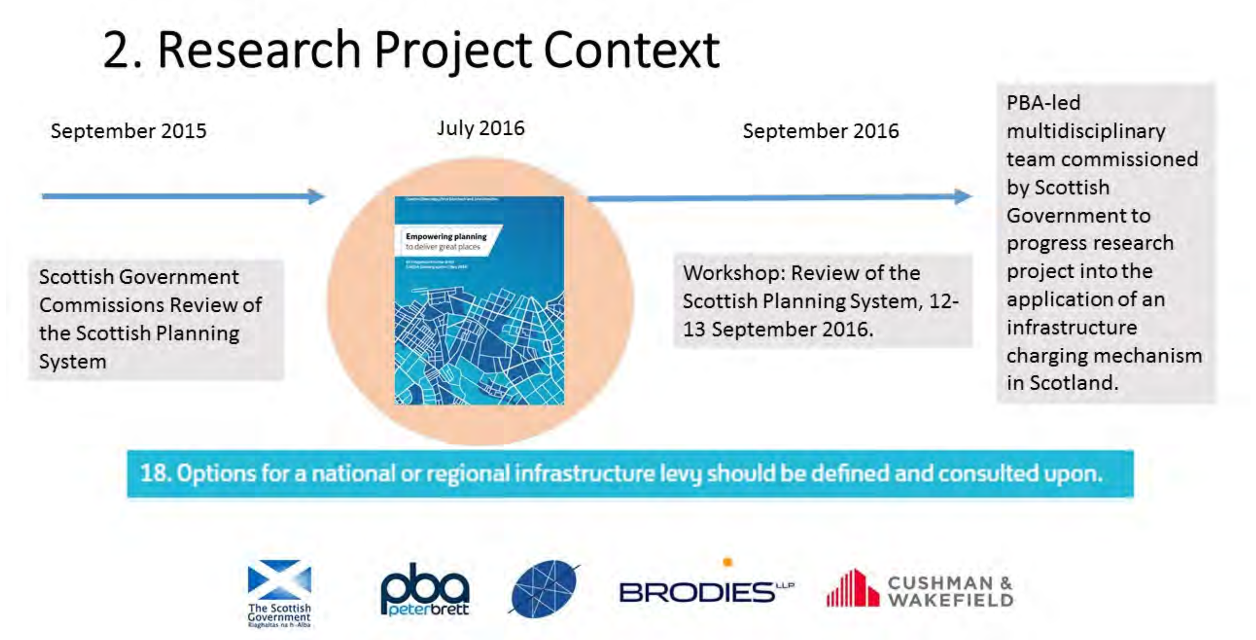
City Centre Public Realm Improvements (1-5 years)

A Road Junction Improvement (1 year)

Housing infill (1 year)

Appendix F

Slide 1	 Infrastructure Charging Mechanism Stakeholder Workshop Wednesday 2nd November 2016
Slide 2	 Introduction 1. Welcome + Housekeeping 2. Research Project Context 3. Purpose 4. Stakeholder Workshop Ground Rules Agenda Structure & Outcomes

Slide 3	 2. Research Project Context September 2015 Scottish Government Commissions Review of the Scottish Planning System July 2016 Empowering planning to deliver great places September 2016 Workshop: Review of the Scottish Planning System, 12-13 September 2016. PBA-led multidisciplinary team commissioned by Scottish Government to progress research project into the application of an infrastructure charging mechanism in Scotland. 18. Options for a national or regional infrastructure levy should be defined and consulted upon.
Slide 4	 2. Research Project Context An 'infrastructure first approach' to planning and development *'We want to see planning regain confidence in **infrastructure delivery**. **Infrastructure investment** should be proactively managed and directed towards areas of growth. We believe this will significantly increase housing delivery. Our recommendations aim to achieve co-ordination and collaboration to provide **new funding options**.'* The Independent Panel appointed by Scottish Government (May 2016)

Slide 5

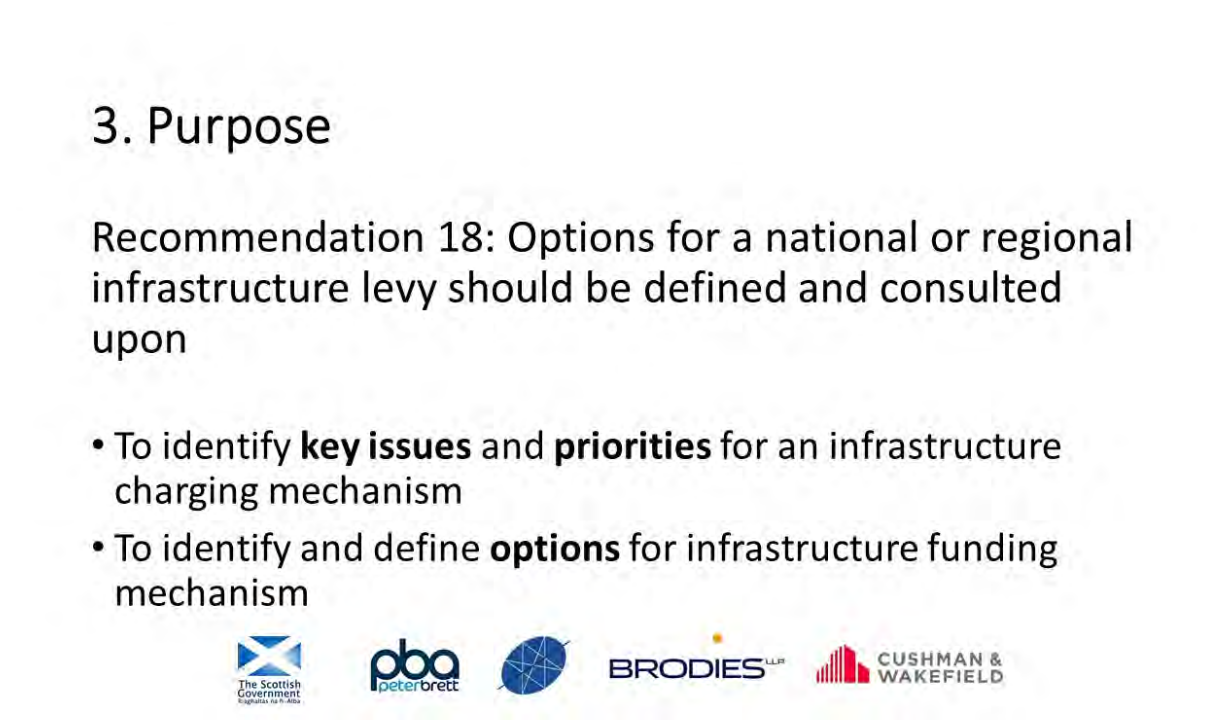
2. Research Project Context

Recommendation 18: Options for a national or regional infrastructure levy should be defined and consulted upon

- Need for **long term** sustainable delivery mechanism; not short term initiatives
- Levy should reflect **geographic and market differences** e.g. variable rates
- Levy should be used to fund **infrastructure growth** not fund infrastructure deficits
- Levy will not pay for all infrastructure requirements; part of **'cocktail of funding'**
- Levy **'fit'** with the use of Section 75 planning obligations

Source: Scottish Government Planning Review Working Groups Workshop (12-13 September 2016)

Slide 6



3. Purpose

Recommendation 18: Options for a national or regional infrastructure levy should be defined and consulted upon

- To identify **key issues** and **priorities** for an infrastructure charging mechanism
- To identify and define **options** for infrastructure funding mechanism

Slide 7

4. Stakeholder Workshop – Ground Rules

- Solution-focussed discussions
- Non-attributable comments
- Respect for each others views and opinions
- Roles & responsibilities
  - SG & PBA-led Research Team coordinators and facilitators
  - Working group members
- Working groups will create and document their own process

Slide 8

4. Stakeholder Workshop – Agenda (Part 1)

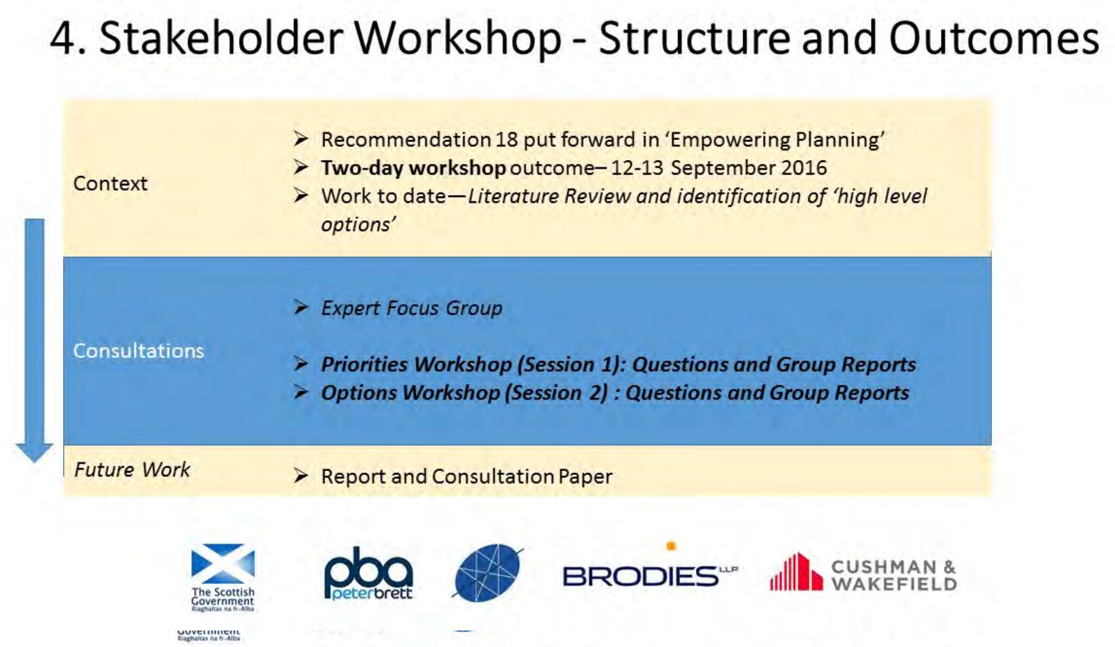
TIME	SESSION
9am-9.30am	**REGISTRATION**
9.30am-9.40am	**WORKSHOP INTRODUCTION**
9.40am-12.10pm	**SESSION 1 - PRIORITIES FOR CHARGING MECHANISM**
9.40am-9.55am	Introduction Presentation
9.55am-12.10pm	**Working Group Discussions**
9.55am-10.25am	1. Eligible infrastructure for Charging
10.25am-10.40am	Group Report Back
10.40am-10.50am	*Comfort Break*
10.50am-11.20am	2. Relationship between charge and spatial planning
11.20am-11.50am	3. Use & distribution of funds
11.50am-12.10pm	Group Report Back
12.10pm-12.55pm-	**LUNCH + NETWORKING**

Slide 9

4. Stakeholder Workshop – Agenda (Part 2)

TIME	SESSION
12.55pm-3.30pm	**SESSION 2 - OPTIONS FOR CHARGING MECHANISM**
12.55pm-1.10pm	Introduction Presentation
1.10pm-3.25pm	**Working Group Discussions**
1.10pm-1.40pm	4. Combination with other funding sources for delivery
1.40pm-1.55pm	Group Report Back
1.55pm-2.05pm	*Comfort Break*
2.05pm-2.35pm	5. Relationship with viability and existing processes
2.35pm-3.05pm	6. Form of charging mechanism
3.05pm-3.25pm	Group Report Back
3.25pm – 3.30pm	**NEXT STEPS**

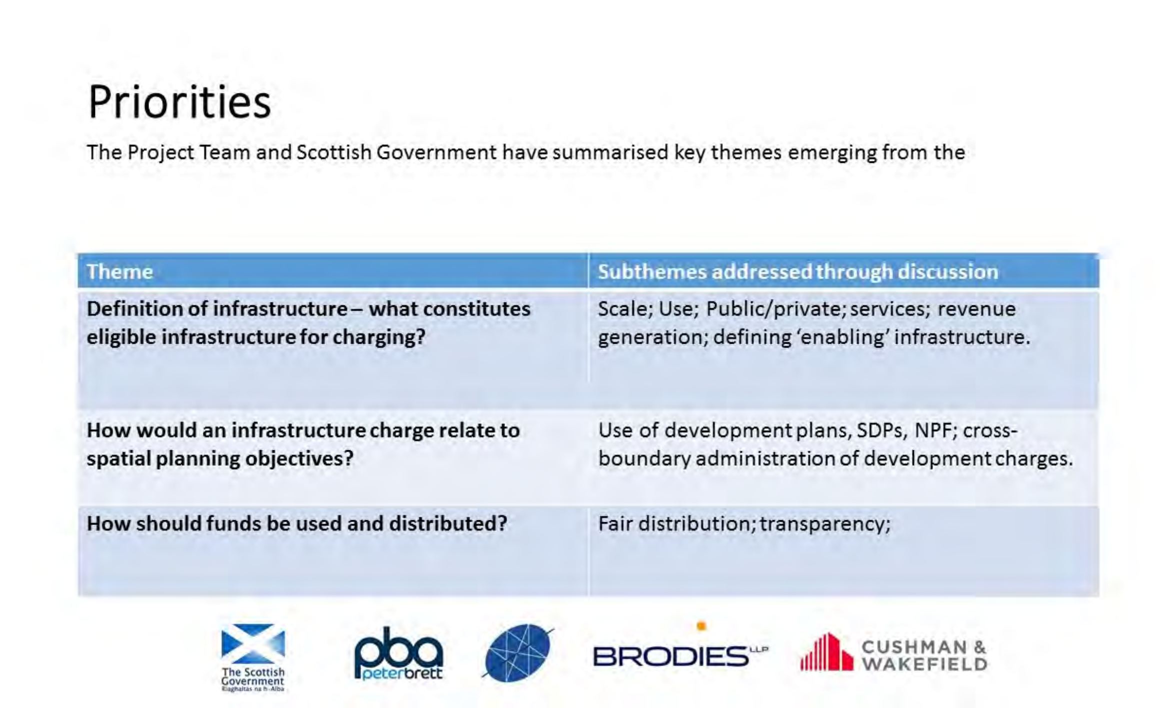
Slide 10



4. Stakeholder Workshop - Structure and Outcomes

Context	➢ Recommendation 18 put forward in 'Empowering Planning' ➢ **Two-day workshop** outcome– 12-13 September 2016 ➢ Work to date—*Literature Review and identification of 'high level options'*
Consultations	➢ *Expert Focus Group* ➢ ***Priorities Workshop (Session 1): Questions and Group Reports*** ➢ ***Options Workshop (Session 2) : Questions and Group Reports***
Future Work	➢ Report and Consultation Paper

Slide 11

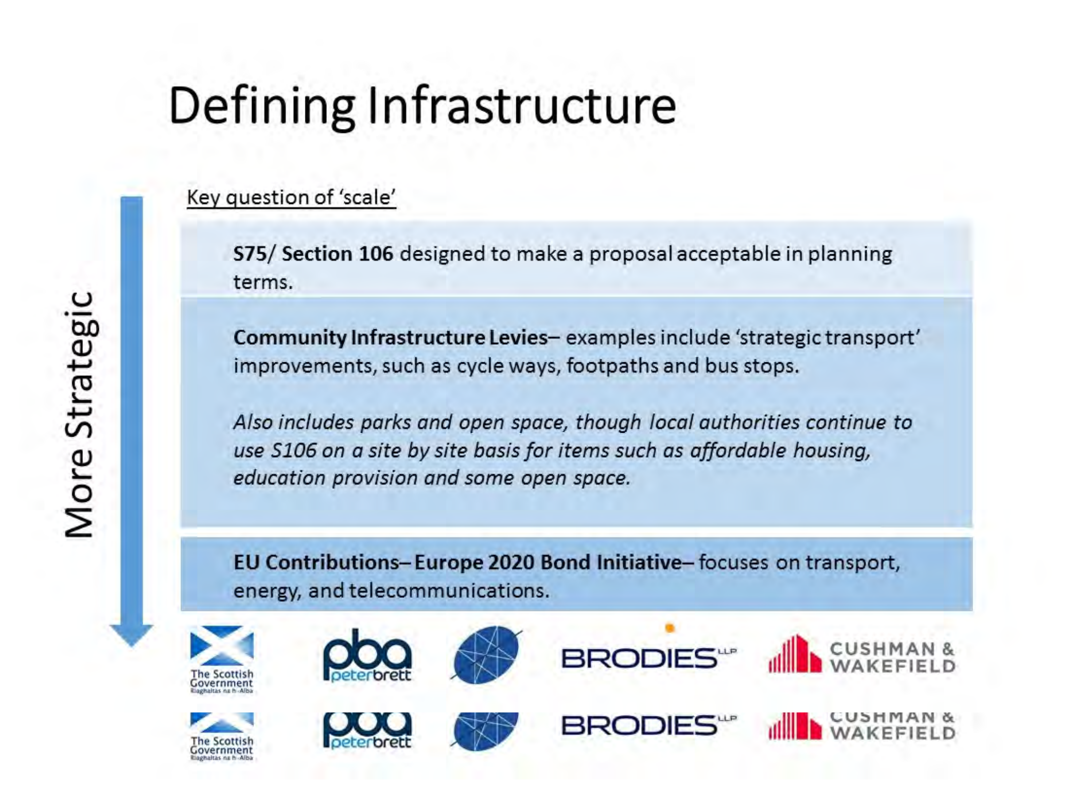


Priorities

The Project Team and Scottish Government have summarised key themes emerging from the

Theme	Subthemes addressed through discussion
Definition of infrastructure – what constitutes eligible infrastructure for charging?	Scale; Use; Public/private; services; revenue generation; defining 'enabling' infrastructure.
How would an infrastructure charge relate to spatial planning objectives?	Use of development plans, SDPs, NPF; cross-boundary administration of development charges.
How should funds be used and distributed?	Fair distribution; transparency;

Slide 12



Defining Infrastructure

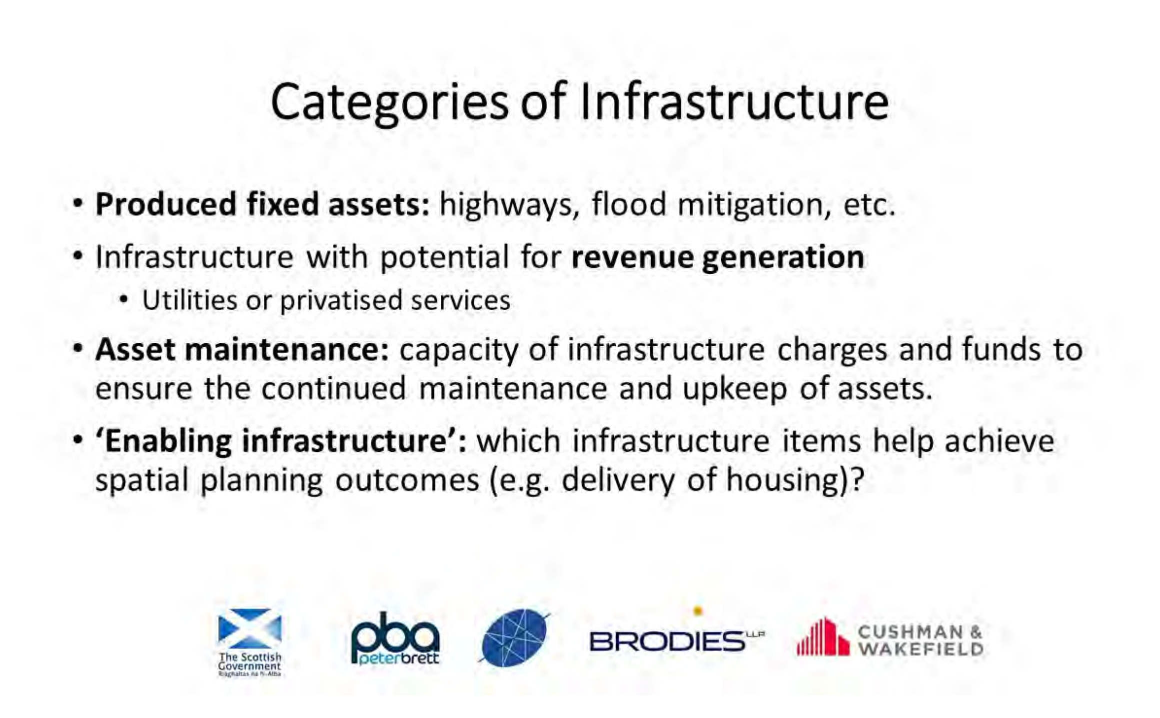
Key question of 'scale'

S75/ Section 106 designed to make a proposal acceptable in planning terms.

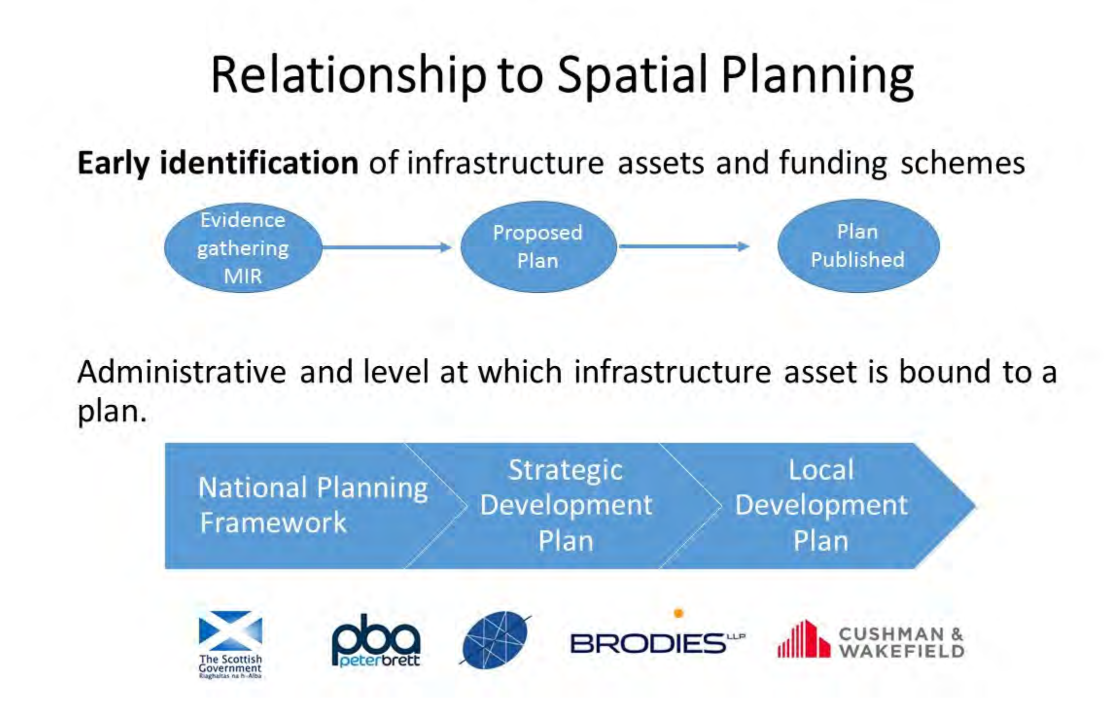
Community Infrastructure Levies – examples include 'strategic transport' improvements, such as cycle ways, footpaths and bus stops.

Also includes parks and open space, though local authorities continue to use S106 on a site by site basis for items such as affordable housing, education provision and some open space.

EU Contributions – Europe 2020 Bond Initiative – focuses on transport, energy, and telecommunications.

Slide 13	 **Categories of Infrastructure** • **Produced fixed assets:** highways, flood mitigation, etc. • Infrastructure with potential for **revenue generation** • Utilities or privatised services • **Asset maintenance:** capacity of infrastructure charges and funds to ensure the continued maintenance and upkeep of assets. • **'Enabling infrastructure':** which infrastructure items help achieve spatial planning outcomes (e.g. delivery of housing)?
Slide 14	 Improved strategic road network; new intercity bus routes Improved Local Road Network Rail network improvement Upgraded electricity transmission lines Improved station facilities Community facilities or services Site enabling works

Slide 15

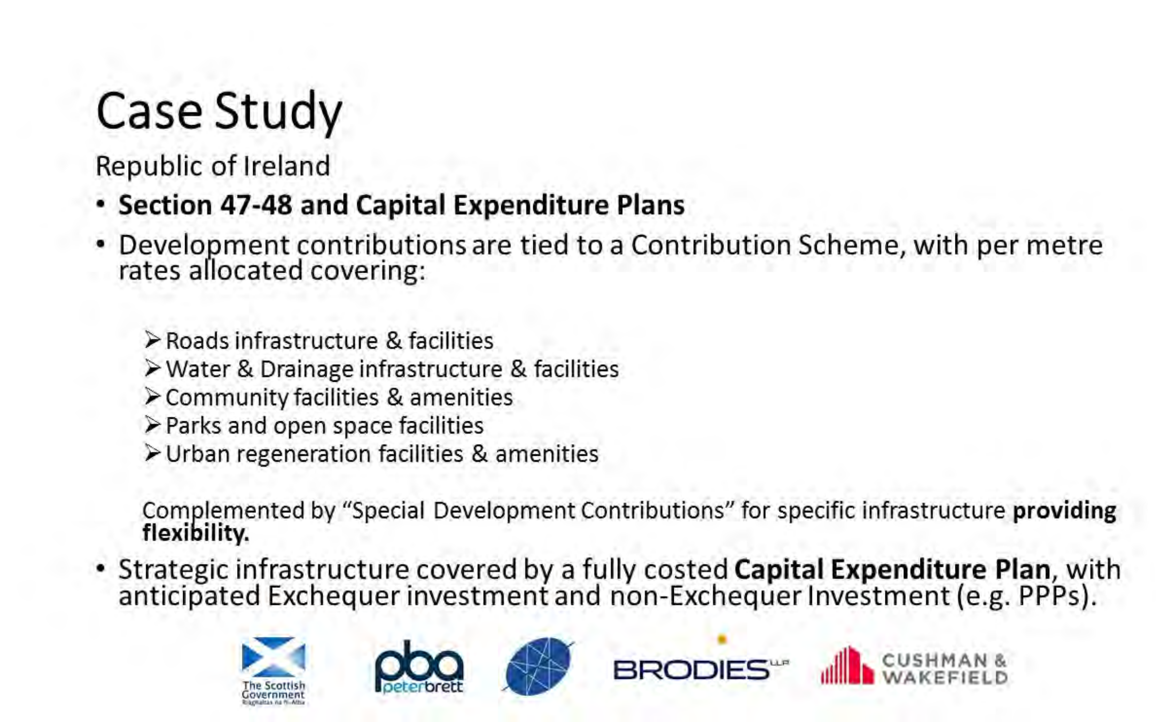


Relationship to Spatial Planning

Early identification of infrastructure assets and funding schemes

Administrative and level at which infrastructure asset is bound to a plan.

Slide 16



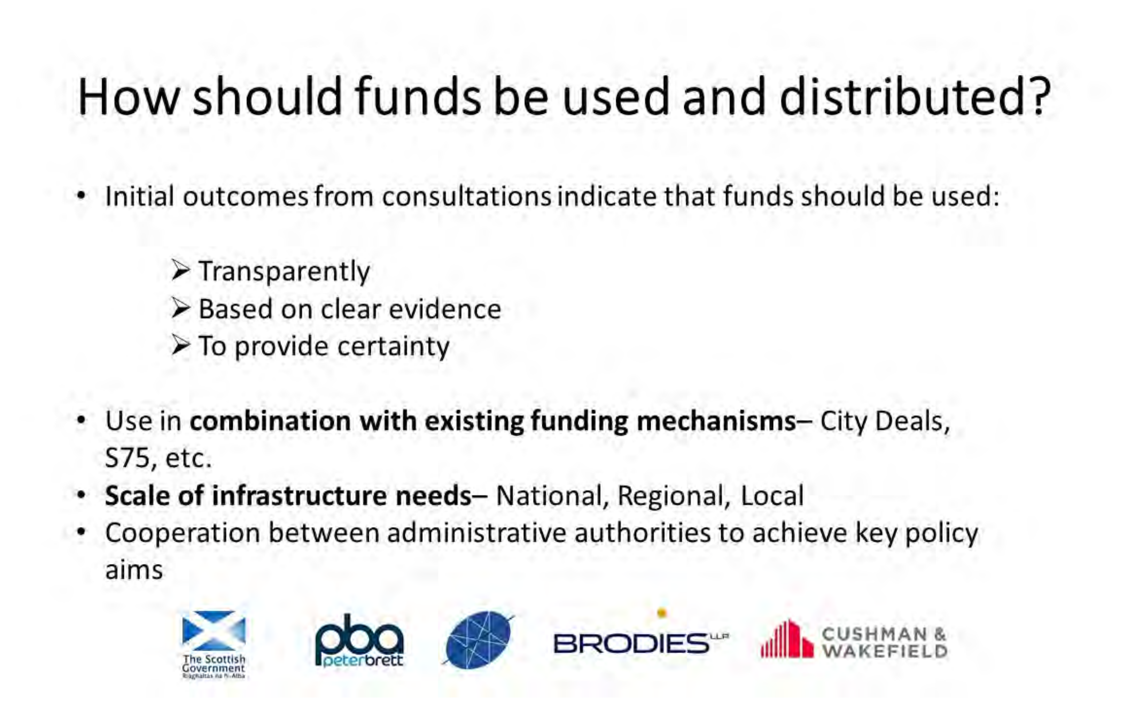
Case Study

Republic of Ireland

- **Section 47-48 and Capital Expenditure Plans**
- Development contributions are tied to a Contribution Scheme, with per metre rates allocated covering:
    - Roads infrastructure & facilities
    - Water & Drainage infrastructure & facilities
    - Community facilities & amenities
    - Parks and open space facilities
    - Urban regeneration facilities & amenities

  Complemented by “Special Development Contributions” for specific infrastructure **providing flexibility.**
- Strategic infrastructure covered by a fully costed **Capital Expenditure Plan**, with anticipated Exchequer investment and non-Exchequer Investment (e.g. PPPs).

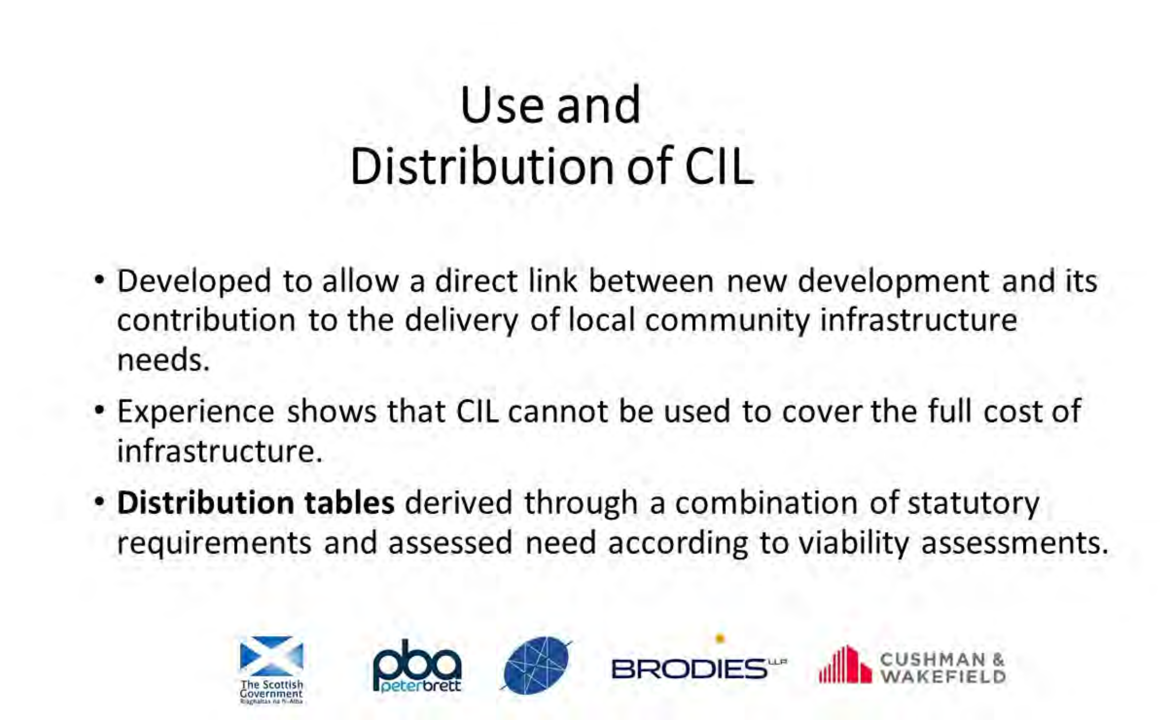
Slide 17



How should funds be used and distributed?

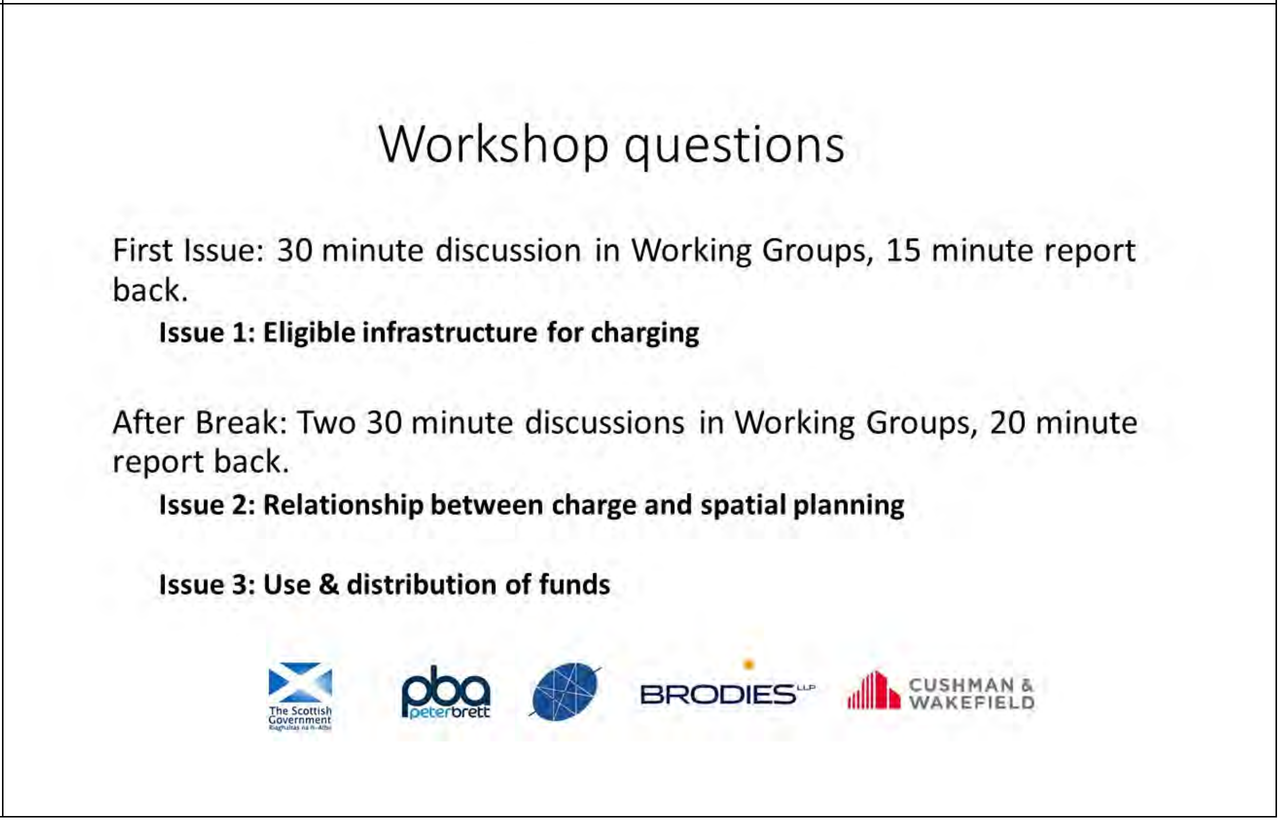
- Initial outcomes from consultations indicate that funds should be used:
  - ➢ Transparently
  - ➢ Based on clear evidence
  - ➢ To provide certainty
- Use in **combination with existing funding mechanisms**– City Deals, S75, etc.
- **Scale of infrastructure needs**– National, Regional, Local
- Cooperation between administrative authorities to achieve key policy aims

Slide 18



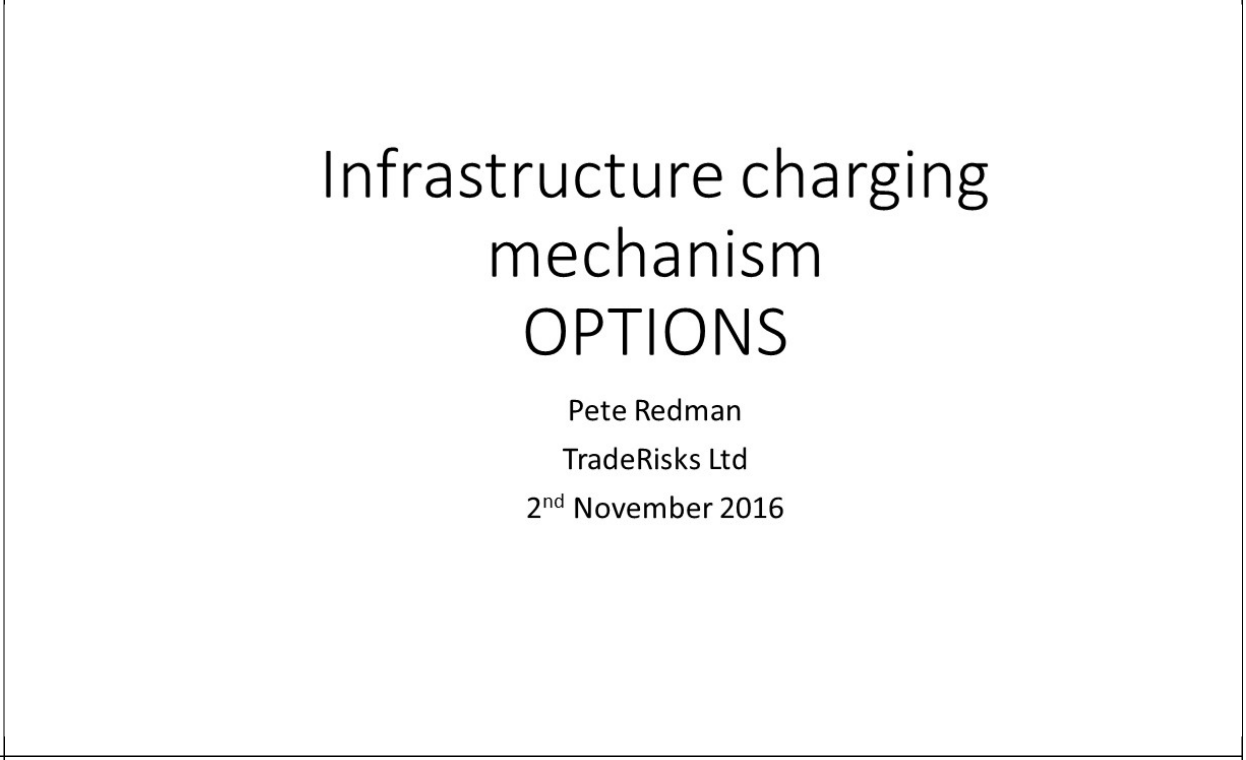
Use and Distribution of CIL

- Developed to allow a direct link between new development and its contribution to the delivery of local community infrastructure needs.
- Experience shows that CIL cannot be used to cover the full cost of infrastructure.
- **Distribution tables** derived through a combination of statutory requirements and assessed need according to viability assessments.

Slide 19	 CIL in London • Most lucrative CILs is the London Mayoral CIL, which applies to most new developments in London granted planning permission on or after 1 April 2012. The Levy raises money towards **Crossrail** and is collected by the London boroughs. • Distribution based on 'flat rates' between £20-£50 psm across **three charging zones**. • Anticipated £600 million raised, currently £300 million raised (Feb 2016).
Slide 20	 Workshop questions First Issue: 30 minute discussion in Working Groups, 15 minute report back. **Issue 1: Eligible infrastructure for charging** After Break: Two 30 minute discussions in Working Groups, 20 minute report back. **Issue 2: Relationship between charge and spatial planning** **Issue 3: Use & distribution of funds**

P. Redman (TradeRisks) Presentation

Slide 1



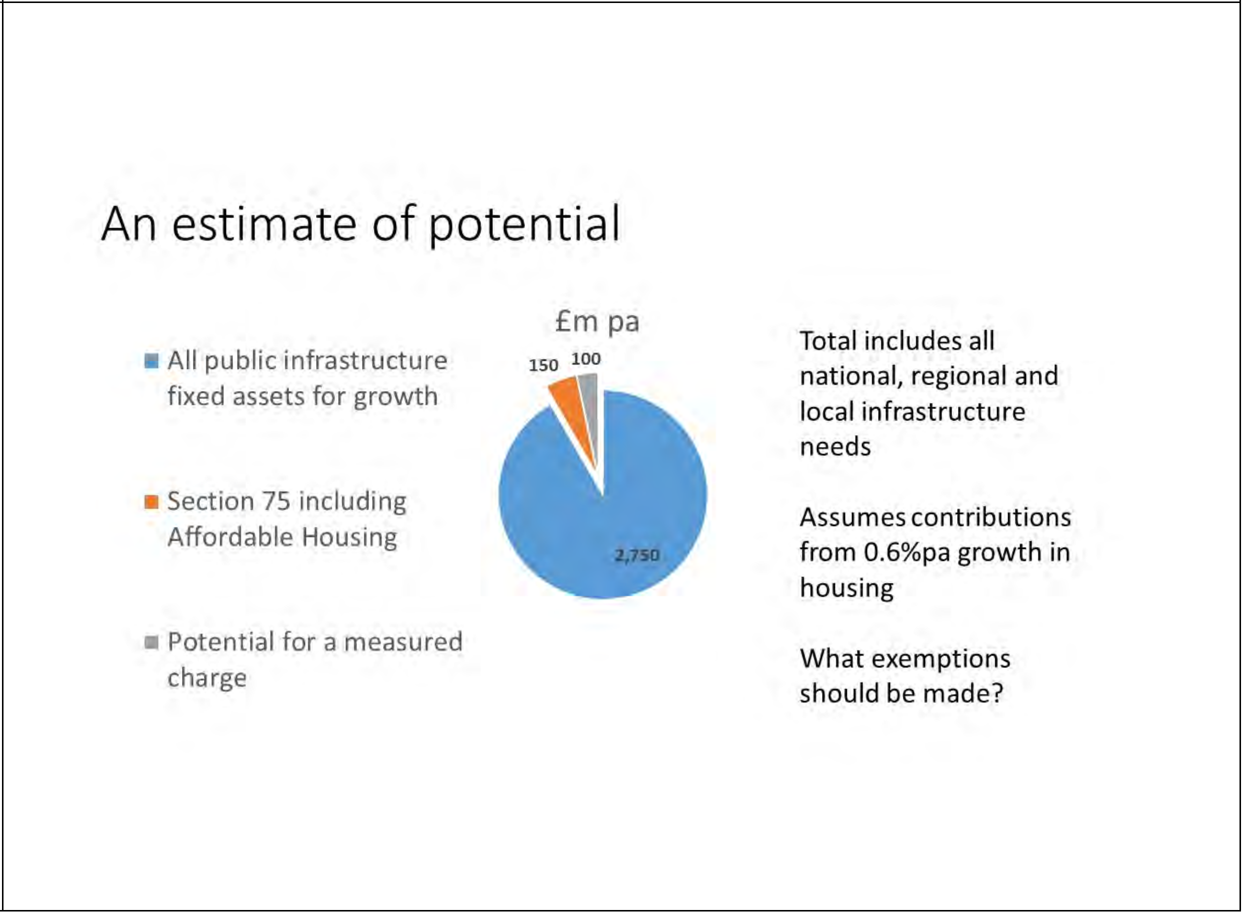
Infrastructure charging mechanism
OPTIONS

Pete Redman

TradeRisks Ltd

2nd November 2016

Slide 2



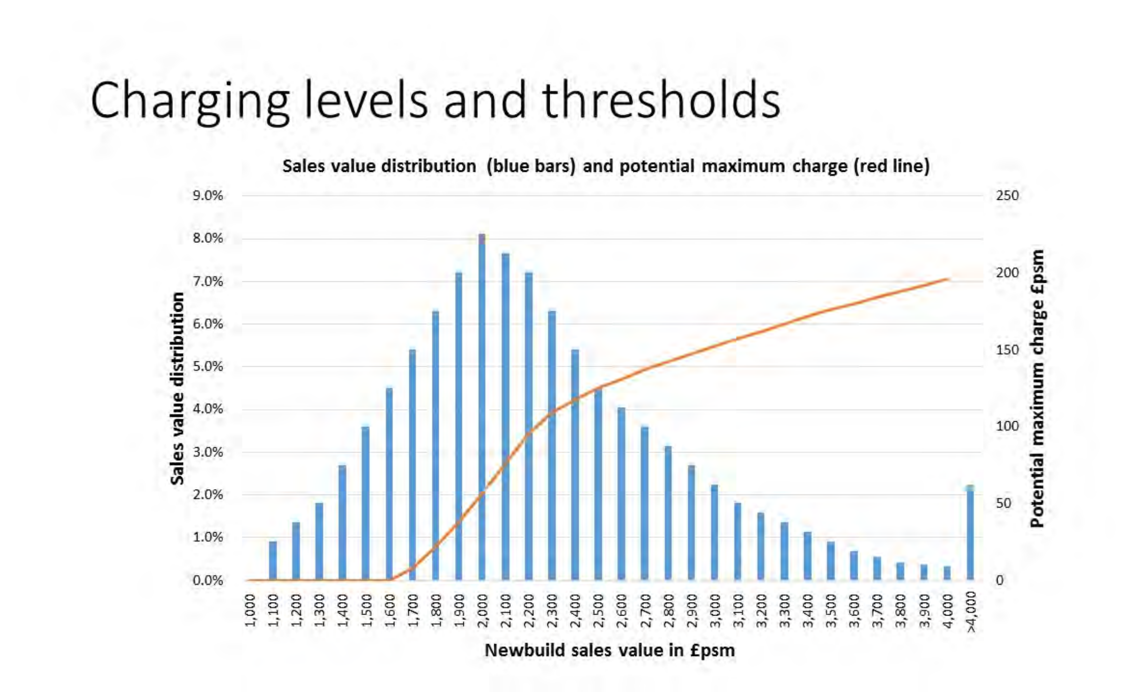
An estimate of potential

Total includes all national, regional and local infrastructure needs

Assumes contributions from 0.6%pa growth in housing

What exemptions should be made?

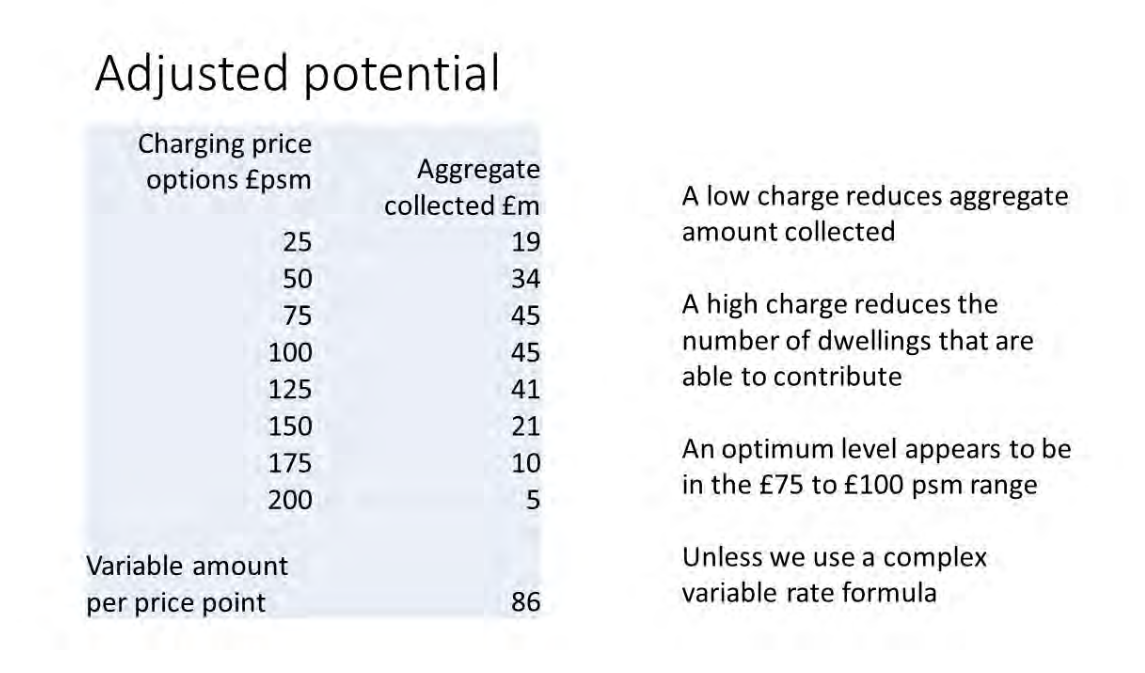
Slide 3



Charging levels and thresholds

Sales value distribution (blue bars) and potential maximum charge (red line)

Slide 4



Adjusted potential

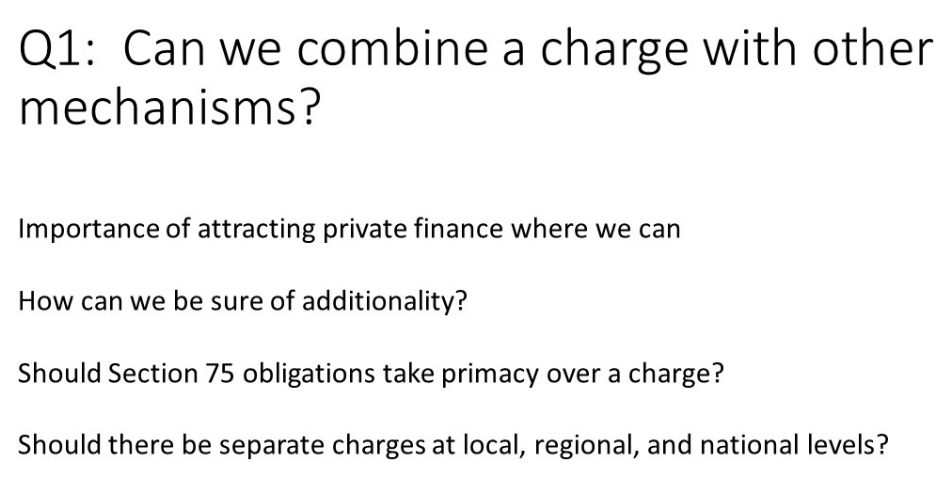
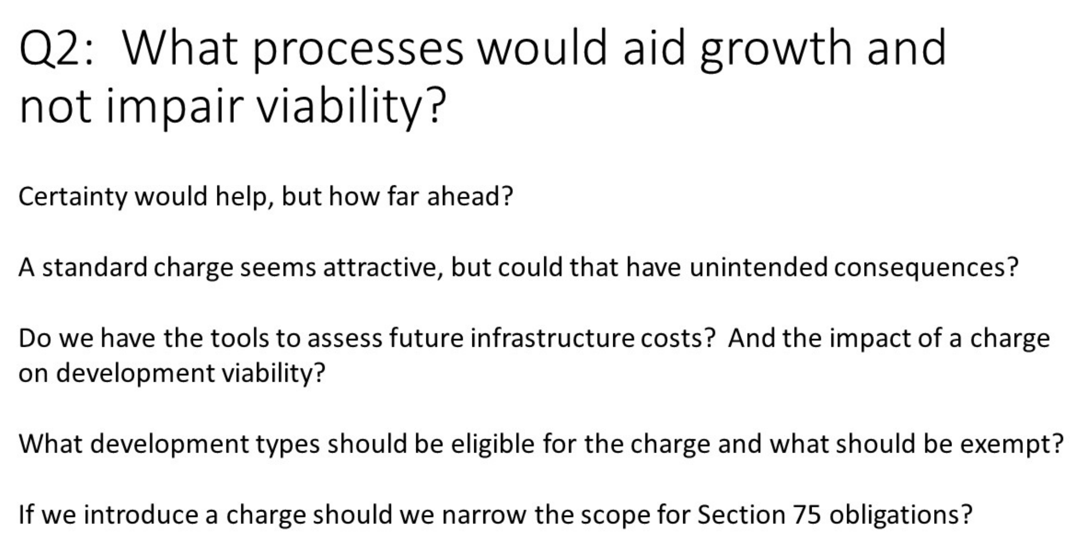
Charging price options £psm	Aggregate collected £m
25	19
50	34
75	45
100	45
125	41
150	21
175	10
200	5
Variable amount per price point	86

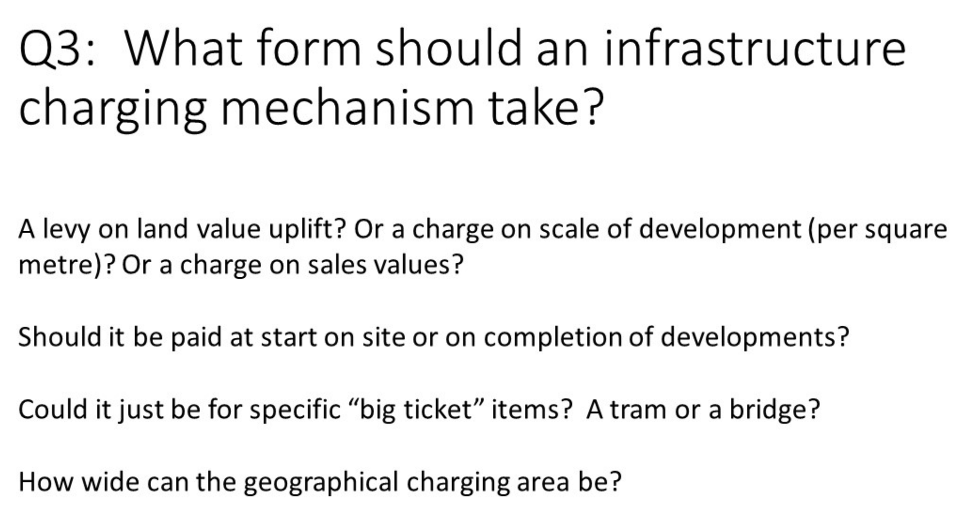
A low charge reduces aggregate amount collected

A high charge reduces the number of dwellings that are able to contribute

An optimum level appears to be in the £75 to £100 psm range

Unless we use a complex variable rate formula

Slide 5	 Q1: Can we combine a charge with other mechanisms? Importance of attracting private finance where we can How can we be sure of additionality? Should Section 75 obligations take primacy over a charge? Should there be separate charges at local, regional, and national levels?
Slide 6	 Q2: What processes would aid growth and not impair viability? Certainty would help, but how far ahead? A standard charge seems attractive, but could that have unintended consequences? Do we have the tools to assess future infrastructure costs? And the impact of a charge on development viability? What development types should be eligible for the charge and what should be exempt? If we introduce a charge should we narrow the scope for Section 75 obligations?

Slide 7	 Q3: What form should an infrastructure charging mechanism take? A levy on land value uplift? Or a charge on scale of development (per square metre)? Or a charge on sales values? Should it be paid at start on site or on completion of developments? Could it just be for specific “big ticket” items? A tram or a bridge? How wide can the geographical charging area be?

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