

Jersey Infrastructure Levy Proposal

A proposed land development charge
to fund community investment



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Minister's Foreword

The spaces around and between buildings including parks, squares and streets, has a major part to play in the character, attractiveness and success of places. The creation and maintenance of a healthy public realm together with vital community infrastructure such as transport services and facilities, is essential to the achievement of an attractive, thriving, and sustainable Town that everyone can enjoy and take pride in. The delivery of a successful place requires strong partnerships between the government, land owners, developers and the public. My role is to try to balance that delivery within a planning framework that facilitates the provision of homes, business development and the regeneration of St. Helier.

When planning permission is given for development of land, the permission itself generates an immediate increase in the land value. This was acknowledged in a 2015 property tax review consultation which supported the principle of equitable development by taxing the gains which came about as a result of rezoning or planning approvals.

I think that the time is right to propose a fair way of ensuring that land owners and developers who benefit from the increase in land value that comes from development permission make a contribution to the impact of that development on the local community.

In this consultation, with the support of Jersey's Housing Minister, I am proposing the introduction of a Jersey Infrastructure Levy of a standard £85 per square metre on all new residential, office or retail developments of more than 75 square metres. This rate is calculated to make it viable for land owners to sell land and for developers to build new developments for profit.

The Jersey Infrastructure Levy will only apply to new buildings or extensions larger than the equivalent of a two-bedroom flat in size. It won't stop developers making a profit - our feasibility study makes that clear. And it won't make homes for people in Jersey more expensive. But it will ensure that through a straightforward, transparent and up-front process, a small percentage of the profit from land development will go directly towards improvements to community infrastructure, to help improve the quality of places for people to live, work and visit.

The Jersey Infrastructure policy proposals follow six months of stakeholder consultation during which the measures were refined and tested. This public consultation now seeks everyone's view on the introduction of a small levy that will help us balance the impact of land development, with investment in essential community infrastructure, particularly in St Helier.

This proposal is an essential component in our government's commitment to create a vibrant, compact and characterful town that is worthy of its role as Jersey's capital and principal settlement, with an economically sustainable future which offers the highest quality of life for its communities.



Deputy Steve Luce
Minister for the Environment

A handwritten signature in black ink, appearing to be 'Steve Luce', written over a horizontal line.

Executive Summary

The Minister for the Environment is consulting on the principle of introducing a Jersey Infrastructure Levy.

The decision to propose a levy follows a viability study which concluded there was scope to introduce a levy in Jersey and it would introduce a number of significant benefits.

The viability assessment was carried out between September 2016 and May 2017. It included consultation with developers, agents, valuers and other stakeholders in the construction and related sectors.

The introduction of a levy recognises that new developments put pressure on existing community infrastructure so the developer should contribute to facilities and services to offset that impact and help improve the quality of places for people to live in, work and visit. It is in line with good practice elsewhere and aims to be a fair way of paying for the essential community infrastructure that is necessary to support new development.

The levy would be set at a standard non-negotiable rate of £85 per square metre for all residential or commercial developments which result in new floor space.

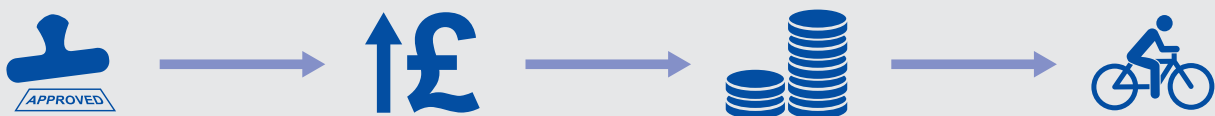
The levy would be aimed at larger-scale development, and apply to all new residential, office and retail developments of more than 75 square metres¹ except those developed by charities or social housing providers. All new developments or extensions under 75 square metres would be exempt, except new residential units.

Developments that do not require planning permission, i.e. permitted development, will not be liable for the levy. Where a planning permission has been granted before the introduction of JIL, a development will not be liable for the new levy.

It is proposed that a percentage of JIL funds raised from development in a parish will be used for local community improvements. This proportion may be higher if the local area has adopted a Village Plan and it remains up to date.

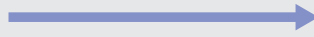
Levy funds will be pooled into one 'pot' to be spent on essential community infrastructure required to help improve the quality of places for people to live, work and visit. The fund will be managed by the Minister for the Environment and spent on a range of infrastructure projects across Jersey which may not be directly related to a specific development. These include, but will not be limited to:

- new and improved streets, safe play spaces and recreational facilities, parks, tree planting and community gardens, such as the Millennium Town Park and the Weighbridge
- improvements to public transport services and facilities, like more bus shelters and improved services
- pedestrian improvement schemes and new footpaths, such as improvement to town streets already completed in Conway Street and Broad Street
- new cycle routes, such as the Eastern Cycle Network or the St Peter's Valley Cycle Path
- improvements to make local areas more resilient to climate change, by introducing sustainable urban drainage schemes to help manage surface water; more tree planting to provide shade and cooling; and better flood defences.



Principle of JIL diagram

¹ 75 square metres is roughly equivalent to the size of a two-bedroom apartment



Community share

Regulations will set out how these projects are identified and prioritised and the list will be published.

The levy will be clear and straightforward to reduce the risks and uncertainties that can arise from the current Planning Obligation Agreements system. The number of exceptions and variations in the proposal has been deliberately limited to reduce complexity. This takes account of a recent review of the community infrastructure charge in the UK which recommends keeping the levy and supporting legislation simple, transparent and clear.

Accordingly, JIL would apply to all new residential, office and retail development, with the exception of the following:

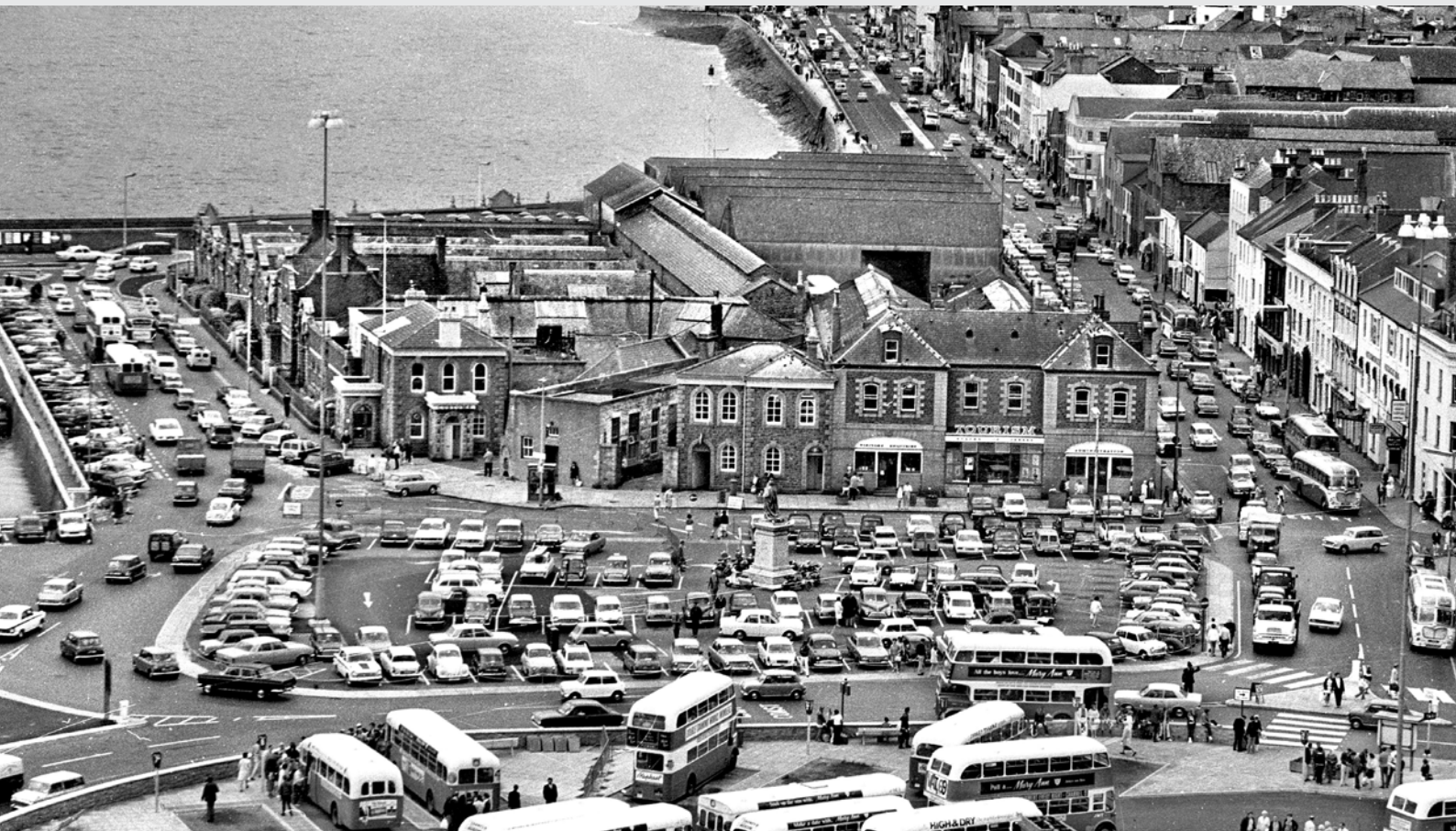
- Development resulting in the creation of less than 75 square metres of floor space, unless it involves the creation of a new residential unit.
- Homes built by registered affordable housing providers
- Developments built by registered charitable trusts
- Refurbishment of existing floor space unless it results in an increase of floor space over 75 square metres

An updated and improved Planning Obligation Agreements (POA) system will remain in place to ensure the provision of community investment for individual developments that don't come under JIL, where planning permission wouldn't otherwise be granted if the essential infrastructure that would be delivered by the POA isn't provided.

JIL may be payable in instalments with the commencement of development. There will be an appeal process for a review of charges, liability or exemptions.

JIL proposals have been developed by the Department of the Environment supported by Arup, and HDH Planning and Development Ltd. Two Jersey-based consultancies have provided local information; the Colin Smith Partnership has advised with regard to local costings and Sarre and Company has advised with on values.

If the levy is approved by the States of Jersey and the necessary laws, regulations and policies adopted, then the earliest the levy could be in place would be April 2019. The Minister for the Environment is committed to not introducing JIL before that date.



Summary of benefits

The decision to propose a land development charge to fund community investment follows a viability study which concluded there was scope to introduce a levy in Jersey and it would introduce a number of significant benefits. These could include:

- The whole Island community benefits when someone is given permission to develop land in Jersey. Jersey will be able to put some of the profit from land development towards improvements to community infrastructure, and relieve some of the pressure that a development places on services, facilities and amenities, particularly in St Helier.
- Parishes will receive a portion of the Jersey Infrastructure Levy raised from new development in their area.
- A levy will provide more certainty to developers about what they will have to pay for infrastructure compared to the existing system of Planning Obligation Agreements (POAs). That should help developers decide on an appropriate price to pay for development land.
- A levy will provide more certainty for the States of Jersey on what funds it can expect to receive, resulting in timely and efficient delivery of projects.
- The system will be transparent. The public and developers will be able to see how funds have been allocated and spent.
- A new system will be faster because the policy will be clearer and more straightforward.
- A levy will be fairer than the POA system as it will apply to all residential, office and retail developments above 75 square metres. So far, under the current POA system, very few sites have made a contribution towards the impact on public services.
- Most people won't pay JIL. They will only pay the land development charge if they create a new dwelling or develop new land over 75 square metres and it's not for affordable homes or they are not a charity.

Consultation

This document contains more detail on the proposed levy to enable people to provide informed feedback on the detail of the proposal. The consultation is open for 10 weeks. It is asking for views on the principle of introducing the levy, and invites everyone's views on the broad detail of the proposed levy. For example:

- Is the charge set at the right rate?
- Are the exemptions and the threshold the right ones? Are there others we should consider
- Is the percentage proposed for parishes – 10 per cent of the levy derived from a development in that parish appropriate?
- Are there any other considerations we need to take account of?
- What should the levy be spent on?



JIL Proposal

£85
/sqm

**Standard
JIL Rate**



**Net New
Development**



**75+ sqm
Floorspace**



**Community
Share**

Exemptions



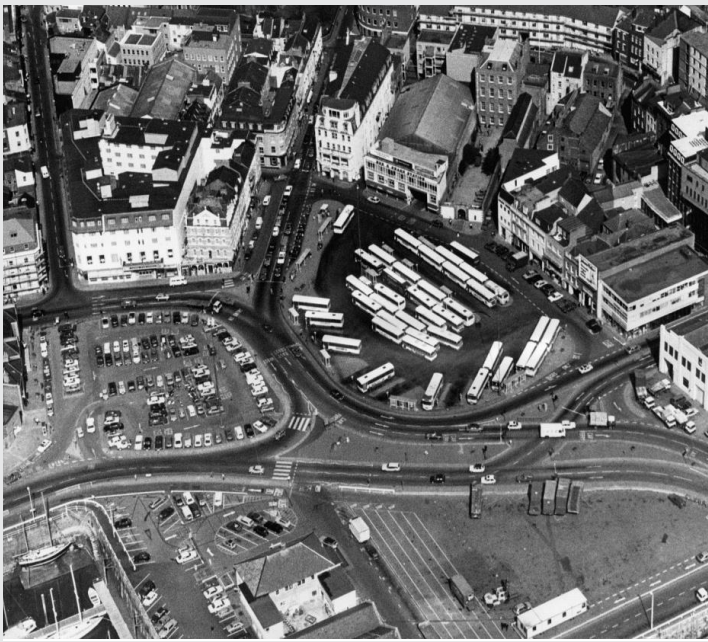
**Permitted
Development**



**Affordable
Housing**



**Charitable
Development**



Making your comments – Online

The draft proposal for the Jersey Infrastructure Levy is available online (<http://consult.gov.je/portal/policy/jil> and <https://www.gov.je/government/consultations/Pages/default.aspx>), where responses to the proposals can be completed and submitted. We would encourage as many people as possible to use this way of responding to the draft proposal.

Making your comments – In writing

Alternatively, you can submit your comments in hard copy, or by email.

Please send all written representations marked 'Jersey Infrastructure Levy proposal' to:

Ralph Buchholz

Department of the Environment,
South Hill,
St. Helier,
JE2 4US
Email: r.buchholz@gov.je

Please note that responses submitted to all States public consultations may be made public (sent to other interested parties on request, sent to the Scrutiny Office, quoted in a final published report, reported in the media, published on a States of Jersey website, listed on a consultation summary etc.). If a respondent has a particular wish for confidentiality, please indicate this clearly when submitting a response.

Timescale

Consultation on the draft Jersey Infrastructure Levy starts on Friday 23 June 2017 and ends on Friday 1 September 2017.

Hard copies

Hard copies of the draft proposal and viability report can be viewed at the Department of the Environment (South Hill offices), Department of the Environment (Howard Davis Farm), Cyril Le Marquand House reception, the Public Library and Island parish halls.

Copies are also available for direct printing from the website or on request.

More information

If you have any queries, or require further information, please contact Ralph Buchholz

Email r.buchholz@gov.je or telephone +44 (0) 1534 448443

FAQs

See the appendices for frequently asked questions (FAQ) on the Jersey Infrastructure Levy proposal.

1. Review of developer contributions

Project Team

A review of the existing system for developer contributions, and consideration of a new approach to infrastructure funding has been led by officers from the Department of the Environment, supported by Arup, with HDH Planning and Development Ltd acting as the principal sub-contractor providing the viability expertise. In addition, two Jersey-based consultancies have provided more local detail. The Colin Smith Partnership has advised with regard to costings and Sarre and Company has advised with regard to values.

1.1 The current planning system and infrastructure

The planning process recognises and makes provision for the fact that successive new developments put pressure on existing infrastructure, such as drains, roads, schools, or open spaces, so the developer should contribute to facilities and services to offset that impact.

The various types of developer contribution are detailed below.

Planning conditions

Where only limited changes are needed to offset the impact of a development on infrastructure, these can often be achieved by a condition attached to planning permission. Conditions don't have a monetary value, but are used by the Department of the Environment to ensure that certain aspects of a development proposal are carried out in a particular way to make it acceptable in planning terms. These conditions don't necessarily relate to infrastructure, but may concern relate to a very wide variety of subjects. For example, a condition may require a certain number of car parking spaces to serve the new homes.

Planning Obligation Agreements (POAs)

Planning obligations are used specifically when the planning permission is considered to have significant impact on a local area which can't be offset by planning conditions.

The legal framework for planning obligations is set out in Section Planning and Building Law (Jersey) 2002. They are widely referred to as Planning Obligation Agreements or POAs.

POAs usually take the form of a legal agreement between the developer/landowner and the Minister for the Environment, under which the former is legally bound to carry out specific actions (which can include providing funding) to meet the essential infrastructure demands necessary to enable a development to proceed.

Updated guidance states that POAs must also be:

- necessary to make the development acceptable in planning terms
- directly related to the development, and
- fairly and reasonably related in scale and kind to the development

The POA process will be changed if a Jersey Infrastructure Levy (JIL) is introduced. This will see more emphasis on the role of planning obligations as a mechanism for site-specific mitigation rather than more general infrastructure.

1.2 Review of the current approach

The Minister for the Environment is reviewing the current system of Planning Obligations Agreements (POAs) and wants to introduce a simplified standard charge or charges to replace some elements of the current POA system. In early 2016, Deputy Steve Luce published a background paper on the possible introduction of JIL and improvements to the POA process². This paper identified a number of potential benefits of an infrastructure levy:

- It would be set at a level that ensures it is affordable / viable
- It would be fairer, faster and more transparent than existing Planning Obligation Agreements (POAs)
- It would give the States and parishes more freedom to set infrastructure priorities that are justified
- A predictable funding stream would make infrastructure delivery more efficient
- It would give developers certainty and quicker planning decisions

² <https://www.gov.je/planningbuilding/lawsregs/lawregulations/pages/communityinfrastructurecharge.aspx>

- It would provide certainty to communities that the impact of new development in their area would be considered and compensated for
- It would provide a focus on delivering new homes and businesses as set out in the Island Plan spatial strategy

The background paper concluded that there is merit in exploring the introduction of a charge like England's Community Infrastructure Levy (CIL). In England CIL is a charge on new development that was introduced in the UK under 2008 legislation³.

The UK Department for Communities and Local Government (DCLG) carried out a recent review of CIL and in February 2017, it published a report, the 'Value, impact and delivery of the Community Infrastructure levy'⁴. The broad conclusions of this report were favourable and addressed a number of key areas that have been raised by the local development industry in Jersey:

- CIL has been most widely adopted in the more affluent areas where values are higher
- Development modelling shows CIL on its own has not made developments unviable
- CIL is a relatively minor development cost of around 2% of total market value
- The majority developer view is that CIL payments 'come off the land'.

The review also highlighted an important lesson from a review of the introduction of CIL in the UK, suggests that a complex system with variable charging rates and numerous exemptions can lead to a system which is difficult to understand, expensive to operate and uncertain in its implementation and that it's important to keep the legal framework, simple, clear and transparent.

In addition to the DCLG review, a UK-government-appointed CIL Review Group was formed to assess the extent to which CIL does or can provide an effective mechanism for funding infrastructure, and recommend changes to support housing and growth. The group consisted of advisers from the private house building sector, local authority planners, the Planning Advisory Service and planning consultants.

The findings, published in 'A New Approach to Developer Contributions', included the following:

- CIL is yielding between 5% and 20% of funding for new infrastructure in an area
- CIL has been particularly successful when funding a specific piece of infrastructure, such as London's Crossrail where relatively small amounts of funding have been drawn from many projects to create a large funding 'pot'
- The overall complexity of the system, in terms of the variable rates and exemptions has led to a system which can be difficult to understand and expensive to operate

In response to the issues raised, the CIL Review Group propose a new 'Local Infrastructure Tariff' which would apply to almost all development and would be calculated using a national formula based on local market value and set at a rate of £ per square metre⁵. This regime is seen as a simplified mechanism with no or very few exemptions and would not include an examination process.

If Jersey adopts a levy then it can learn from the early implementation lessons of CIL in the UK and the current draft proposals take account of these findings.

1.3 Viability assessment

Viability

Before such a JIL or similar policy can be developed, a report has been commissioned to assess the effect that a levy may have on development viability. This report⁶ has now been published as part of this consultation and used to inform the rates of a standard levy if introduced.

The consultant has used industry-standard methodologies to assess viability. The assessment is based upon the residual valuation method. (using the Royal Chartered Institute of Surveyors' Harman Guidance).

The essential balance in viability testing is around the land value and whether or not land will come forward for development.

The viability assessment was carried out between September 2016 and May 2017 and included informal consultation with individual developers, small groups of developers, agents, valuers and other key stakeholders in the construction industry. The findings of the Viability Assessment for Review of Developer Contributions report are that there is scope to apply a levy to Jersey developments:

³ [CIL Review Group \(2016\) 'A New Approach To Developer Contributions'](#)

⁴ [Department of Communities and Local Government \(2017\) 'The value, impact and delivery of the Community Infrastructure Levy'](#)

⁵ The report says (at 5.1.2) 'DCLG will need to do further work on how the calculation could best be set. However one possible methodology for arriving at the square metre charge would be to take a sum of between 1.75 and 2.5% of the sale price for a standardised 100 square metre, three-bedroom family home, and divide that by 100 to reach a square metre rate, which would then be applied to all residential development'.

⁶ [Viability Assessment for Review of Developer Contributions, Arup and HDH Planning and Development Ltd – May 2017.](#)

The level of a charge was considered on three bases:

- a. As a percentage of residual value – showing how much the residual value would fall if the charge was introduced. Developer contributions as the proportion of the residual value, in approximate terms, represent the percentage fall the amount a developer may bid and therefore the fall in land value that a landowner may receive. It is inevitable that an increased level of developer contributions, if introduced, would depress land prices.
- b. As a percentage, residential land values.
- c. As a percentage of gross development value (GDV) – indicating the scale of the charge relative to scale of the overall project.

A charge set at a low proportion of the total project value (the GDV) may well be within a margin of 'error' and the reasonable tolerances of the appraisal process. This does not mean that it would be an insignificant cost – or that it is not a real cost that needs to be paid from the project's revenue, but it provides context to the level and subsequent effect of a new charge or levy (is it a large or small amount relative to the value of the project?).

The key recommendations of the viability assessment were:

- Consideration is given to a new standard developer contribution for residential development that falls in the range of £50/m² to £125/m².
- The recommended rates for residential development also extend to residential extensions, however careful consideration should be given to households' ability to raise additional funds in this regard and of perhaps adopting a threshold as used in England.
- The results for older people's housing is rather better than for most of the mainstream market housing, so there is no viability reason for this type of development to be treated differently to other residential development.
- For non-residential development, maximum rates of a standard developer contributions of £80/m² for offices and £150/m² for retail development are recommended.
- Whilst the assessment found that values and viability does vary across the Island, there was not sufficient evidence to robustly suggest different rates of a levy in different areas.

A clear and appropriately set charge will provide clarity to the development industry and should reduce the risks and uncertainties that can arise from the current POA system. At the same time, it would add predictability with regard to the receipt of income to the government, allowing timely planning and provision of infrastructure (and community benefits).

Through the informal consultation with the development industry that was carried out to inform the viability assessment, concerns were raised that the levy would be added to the sale prices of developments, thus increasing already high house prices in Jersey.

The department has had initial discussions with the States Economics Unit and its view is that charges like the Jersey Infrastructure Levy (JIL), that intend to capture a small fraction of the uplift in land values that arise when a site gets permission for development, would normally be expected to impact land values.

In a competitive market developers would have a strong incentive to make sure the charge leads to lower land values because if not, new built properties would become relatively more expensive than similar properties that have already been developed and were not subject to the levy.

New-build homes only form a minority of homes sold each year and in a competitive market prices will be determined by the interaction of overall supply and demand for properties, and therefore general conditions in the market.

Landowners should be in position where they are less able to resist any downward pressure on land values, as all land getting permission would be subject to the levy. In some situations developers may already have purchased land and so won't be in a position to adjust land values but this is being mitigated by the Minister for the Environment's clear, early signals to the industry of his intent to not introduce the levy until 2019 at the earliest and the fact the levy is being set at a low rate to maintain the incentives to develop.

Overall, there should be little impact on the supply of land for development as landowners still have a significant incentive to sell land for development and cannot avoid the impact of the levy.

If evidence arises from the consultation that that the levy could lead to higher prices and/or reduced supply in Jersey then further economic advice will be sought from the Economics Unit.



*"I have to do something for
another woman's son"*

*Louisa Gould
Islander who perished at Raye
having been denounced for
escaped slave worker*

2. Jersey Infrastructure Levy Proposal

This section puts forward the key procedural components which are being considered for future inclusion in the drafting of legislation for the Jersey Infrastructure Levy (JIL). The components of the legislation have been based on the recommendations set out in the 'Viability Assessment for Review of Developer Contributions' (Arup & HDH Planning, 2017) which accompanies this consultation, as well as other evidence including the findings of the UK CIL Review (2016⁷ & 2017⁸). The draft proposals have been tailored to meet the Island's economic context and the specific infrastructural requirements of the States of Jersey.

The proposed legislation will enable regulations to be put in place to govern the key areas of the policy. The sections below will be bound by this new legislation and further detail will be produced in the form of a Jersey Infrastructure Levy Policy once the principle of the new levy has been approved by the States of Jersey. These policy proposals will be subject to further extensive public consultation at that time.

Commencement Date

The possible introduction of a levy or tax similar to England's CIL was first discussed in the Island in January 2016 and the technical research into the scope of such a charge started in October 2016. It is recognised that reasonable notice should be given to any new charge as the process of acquiring / securing land and then securing planning approvals can be time consuming. If the levy is approved by the States of Jersey and the necessary laws, regulations and policies adopted, then the earliest the levy could be in place would be April 2019. The Minister is committed to not introducing JIL before that date.

Transitional Period

Where planning permission has been granted before the implementation of JIL a project will not be liable for the new levy.

Once JIL is in place, liability will only arise if applications approved prior to the start date are revised, and then only in relation to any additional floorspace which is introduced and added to the original development approval.

Calculating the Levy

The procedure for calculating the 'chargeable amount' of JIL for a given development will be set out in JIL regulations.

Based upon the recommendation set out in the 'Viability Assessment for Review of Developer Contributions' report which accompanies this consultation document, it is proposed that a standard developer contribution of £85 per sqm is introduced for all residential, office and retail developments which results in the creation of new floor space.

The decision to propose a JIL flat-rate is informed by the findings of the UK CIL Review, which suggests that a complex system with variable charging rates and numerous exemptions can lead to a system which is difficult to understand, expensive to operate and uncertain in its implementation.

In order to create a system that is simple to implement, the number of exemptions would be restricted. JIL would apply to all new residential, office and retail development, with the exception of the following:

- Development resulting in the creation of less than 75 sqm of floorspace, unless it involves the creation of a new residential unit.
- Dwellings constructed by Registered Affordable Housing providers⁹
- Developments constructed by Registered Charitable Trusts¹⁰
- Refurbishment of existing floorspace unless it results in an increase of floorspace over 75 sqm

The viability assessment indicates that careful consideration should be given to the implementation of a levy for residential extensions to existing dwellings. It is considered that householder development that results in the creation of an additional 75 sqm or greater would be liable for the levy.

Developments that do not require planning permission, i.e. permitted development, will not be liable for the levy.

⁷ CIL Review Group (2016) 'A New Approach To Developer Contributions'
⁸ Department of Communities and Local Government (2017) 'The value, impact and delivery of the Community Infrastructure Levy'

⁹ [As defined within the Income Support \(Jersey\) Regulations 2007](#)

¹⁰ [As defined within Charities \(Jersey\) Law 2014](#)

Community Share

There is significant value in introducing a proportionate community share regulation. One of the principal reasons local communities oppose new development is the perceived impact upon local infrastructure, such as increased traffic on roads.

Including a community share of JIL to allow parishes to receive a proportion of JIL receipts arising from development in their area would empower communities to address very local issues.

It is proposed that provision will be made within the JIL regulations for 10% of JIL funds raised from development in a parish to be used for local community improvements. This proportion may be higher if the local area has an up-to-date, adopted Village Plan.

Relationship between POAs and the levy

Planning Obligations Agreements (POAs) are between the Minister for the Environment and the developer and help offset any really obvious impact on the immediate site or neighbourhood, whereas a levy is about the wider impact on the surrounding area.

A review of existing POA charges will be included in the development of a levy and restrictions will be put in place, through regulations, to ensure that developers are not charged twice (sometimes known as double dipping) for the same item of infrastructure.

It is therefore likely that if adopted the existing POA requirements will be significantly reduced and simplified to cover only site-specific issues and the new levy will cover area wide improvements.

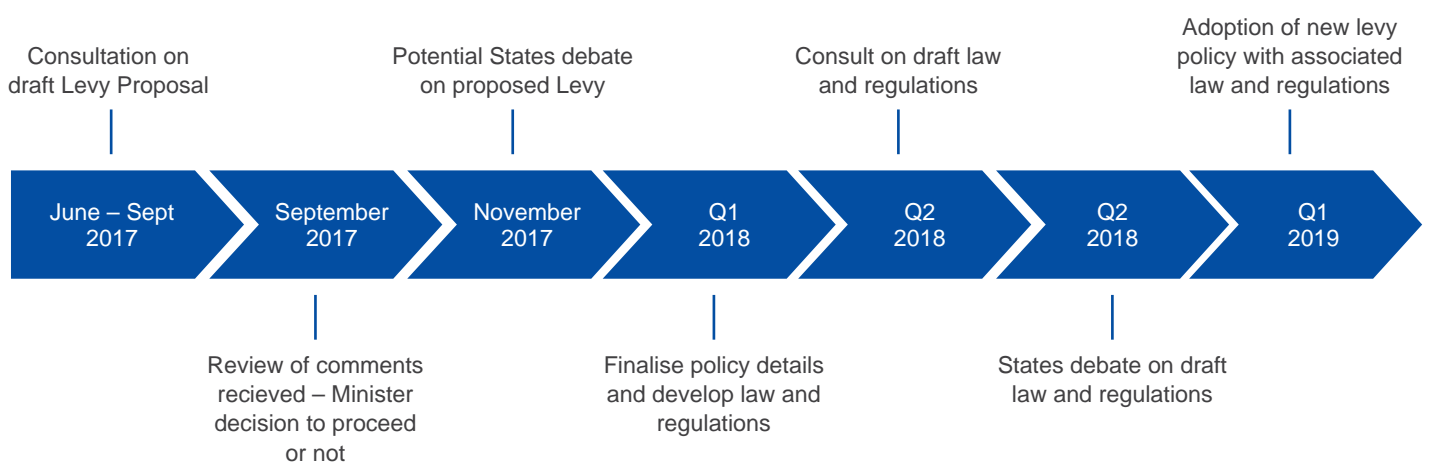
Liability

The person(s) intending to pay the JIL due on a liable development will be required to make a formal declaration of liability when applying for planning permission.

Regulations will be put in place to ensure that where a JIL liable development commences without anyone having assumed liability, a surcharge may be applicable, and liability to pay JIL will normally fall by default on the owner(s) of the relevant land.

Payment

The Viability Assessment for Review of Developer Contributions and the CIL Review highlight the benefits of introducing an instalment policy in terms of practicality and



the benefit to a developer’s ability to finance and deliver projects. This must be balanced with the need to ensure that infrastructure is delivered in a timely manner.

It is proposed that where the total JIL liability is above a certain cost threshold, the regulations would make provision for payments to be made in instalments over the life of the project. This cost threshold will be defined upon approval of the legislation. In order to ensure the timely delivery of infrastructure, it is proposed that an upfront payment is made within 60 days of the commencement of development. Within the English system this first instalment is typically around 20% to 30% of the total levy liability.

Appeals

The JIL charge itself will be non-negotiable, and it is proposed that the number of exemptions and variations are limited to reduce the risks of dispute or miscalculation. If dispute does occur, or claims of miscalculation are made, the regulations will include provisions for a number of actions, including an appeal process that could be made available to persons liable for payment of JIL.

Enforcement

Regulations will set out the means of enforcement which are available to the Minister. Where the correct procedure is not undertaken the surcharges may apply that are proportionate with the application of the levy. Penalties, to be defined within the regulations, will be incurred for non-payment.

Spending the levy

JIL is proposed to be spent on a variety of community infrastructure projects across Jersey, these may be more strategic projects which are not directly related to a specific development. The regulations will include the process of identifying these projects, and how these will be compiled.

It is proposed that a list detailing infrastructure projects and requirements would be produced by the States of Jersey, similar to that of the ‘Regulation 123 List’ legislated for in England and Wales CIL regulations.

The creation of a community infrastructure list will enable the prioritisation of projects which are suitable for collecting community infrastructure levy receipts.

Separate to the community infrastructure list, it is proposed that provision will be made within the regulations for a proportion of JIL receipts to be passed to parishes to be used for local community improvements.

Administration

The regulations will be written to minimise the administrative process and coupled with the anticipated reduction in POA’s it is not anticipated that the new levy will have a significant impact upon the department resources. A small percentage of the receipts may be used to cover some of the potential costs should they arise.

Regulation 61 of 2014 The Community Infrastructure Levy (Amendment) Regulations 2014 in England and Wales sets out that charging authorities may take administrative expenses into account when setting their levy. For reference this administrative expenses is set at 5% of total CIL receipts in England and Wales.

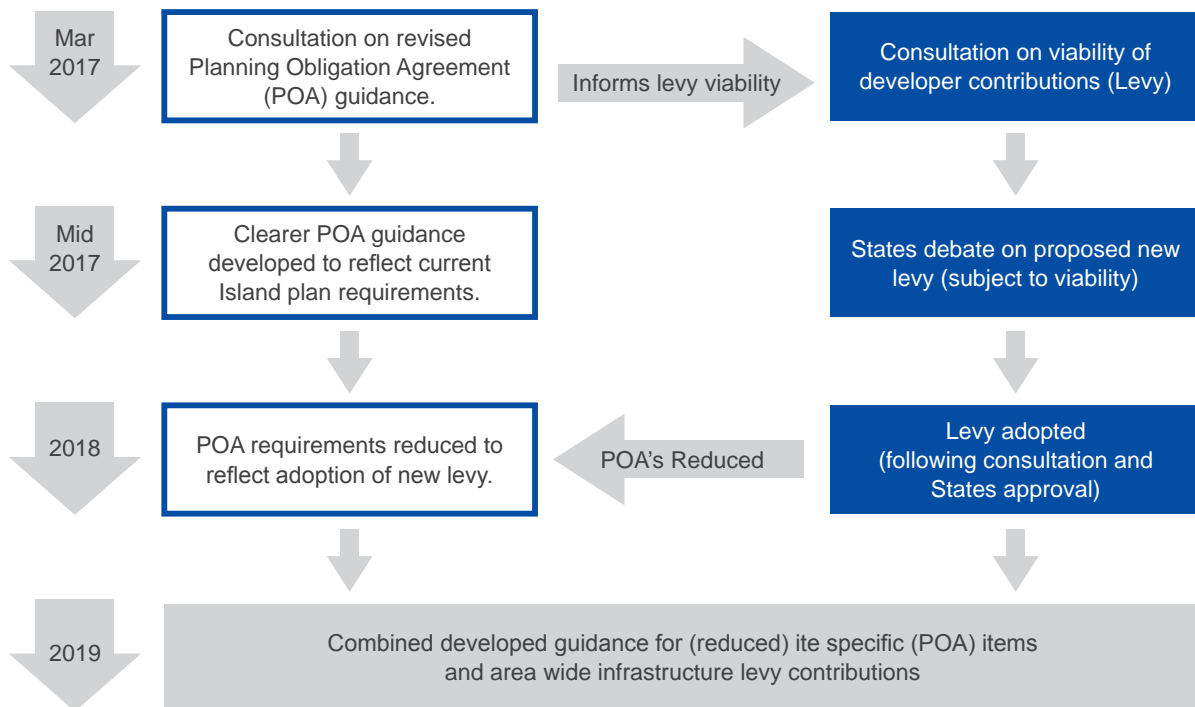
Governance

Arrangements for JIL governance and the allocation of JIL income are to be decided by the Minister, working in consultation with the other Ministers and the community.

Monitoring is necessary to measure the effectiveness of the levy, and to ensure payments are forthcoming. The levy should be reviewed to ensure it remains proportionally appropriate to market value and/or development costs.

It is planned that the levy will be reviewed every five years or in the event of a change in values of more than 10%.

Development	Charge (per SQM)
Residential – Over 75 sqm or that results in the creation of a new dwelling	£85
Office (class C) – Over 75 sqm	£85
Retail (class A) – Over 75 sqm	£85



Jersey Infrastructure Levy Q&A

What is the proposed Jersey Infrastructure Levy (JIL)?

JIL is a proposed charge of £85 per square metre on new residential, office and retail developments which create over 75 square metres of new floorspace. It is being proposed by the Minister for the Environment to help offset the impact of development in an area and ensure a small portion of the overall profit realised when land secures planning permission is remitted to government and parishes to relieve some of the pressure that a development places on essential local community services and facilities.

Why does the Environment Minister want to introduce a Jersey Infrastructure Levy?

A Jersey Infrastructure Levy aims to be a fair way of ensuring that developers who benefit from the increase in land value that comes from development permission, make a contribution to the impact of that development on the local community.

When planning permission is given for development of land, the permission itself generates an immediate increase in the land value. This was acknowledged in a 2015 property tax review consultation which supported the principle of equitable development by taxing the gains that came about as a result of rezoning or planning approvals.

The introduction of a levy is in line with practice elsewhere and is a way of ensuring that through the planning process, a small percentage of the profit from land development is allocated to improving or providing new community infrastructure to improve the quality of life for people living, working and visiting that area.

JIL will also directly support the government's commitment to create a vibrant, compact and characterful town worthy of its role as Jersey's capital and principal settlement, with an economically sustainable future which offers the highest quality of life for its communities.

What are the benefits of a levy?

The whole Island community benefits when someone is given permission to develop land in Jersey. Jersey will be able to put some of the profit from land development towards improvements to community infrastructure, and relieve some of the pressure that a development places on neighbourhoods, particularly in St Helier, by providing investment to make them better to live, work and visit.

- A levy will provide more certainty to developers about what they will have to pay for infrastructure compared to the existing system of Planning Obligation Agreements (POAs). That should help developers decide on an appropriate price to pay for development land.
- A levy will provide more certainty for the States of Jersey on what funds it can expect to receive, resulting in timely and efficient delivery of projects.
- The system will be transparent. The public and developers will be able to see how funds have been allocated and spent.
- A new system will be faster because the policy will be clearer and more straightforward.
- A levy will be fairer than the POA system as it will apply to all residential, office and retail developments above 75 square metres. So far, very few sites have made a contribution towards the impact on public services.

How much money will the levy raise?

Based upon current build rates for commercial and residential developments, a levy rate of £85 per square metre on developments over 75 square metres is expected to raise between £1.5m and £2.5m a year.

How will communities benefit? What changes will they see?

Levy funds will be pooled into one 'pot' to be spent on a range of community infrastructure projects.

Examples of what a levy could fund include:

- new and improved streets, safe play spaces and recreational facilities, parks, tree planting and community gardens, such as the Millennium Town Park and the Weighbridge
- improvements to public transport services and facilities, like more bus shelters and improved services
- pedestrian improvement schemes and new footpaths, such as improvement to town streets already completed in Conway Street and Broad Street
- new cycle routes, such as the Eastern Cycle Network or the St Peter's Valley Cycle Path
- improvements to make local areas more resilient to climate change, by introducing sustainable urban drainage schemes to help manage surface water; more tree planting to provide shade and cooling; and better flood defences.

If the levy is approved by the States, the regulations will set out how these projects are identified and prioritised and the list will be published. It is proposed that a percentage of JIL funds raised from development in a parish will be used for local community improvements. This proportion may be higher if the local area has an up-to-date, adopted Village Plan.

Will a levy put house prices up?

The levy is not expected to increase house prices. The levy will be a small part of the overall cost of building a home, and it is expected that developers will either negotiate to pay less for land they buy in time, or absorb some of the cost.

The levy will only be applied to new housing (about 30% of annual housing sales in Jersey) and will exclude affordable homes or developments by charitable trusts.

Developers set asking prices for new developments, but values are set by the market and this is usually based on what similar houses in the area sell for, as well as the formal valuation carried out by a bank's appointed valuer, if the buyer is applying for a mortgage for the property.

A buyer of a new property will only pay a premium for a new property if it is more attractive than those in the wider market.

In the long-run, a fixed levy will provide certainty about the level of charge that a developer must pay and they will be able to factor this in to the price that they pay for land.

The JIL proposals have been examined by the States Economics Unit. It concludes that JIL is unlikely to affect land values because, in a competitive market (Jersey's residential, commercial and land markets are all competitive), developers have a strong incentive to factor in a levy and push for a drop in the price of land. Otherwise, new built properties would become relatively more expensive than existing, pre-levy properties.

How will a Jersey Infrastructure Levy affect land values in Jersey?

In the long run land prices are expected to be marginally reduced to cover the cost of a levy.

Who will have to pay the levy?

Ultimately the responsibility to pay the levy rests with the owner of the land on which the development will be built. Although liability rests with the land owner, the regulations will recognise that others involved in a development may wish and be eligible to pay.

How will the levy be paid?

JIL may be payable in instalments once development commences. There will be an appeal process for a review of charges, liability or exemptions.

Shouldn't the States pay for additional infrastructure and community improvements through general taxation?

The States pays for infrastructure and community improvements and plans for these a long way ahead. However, when new land is developed, the new homes or workplaces can have a big effect on the local infrastructure over a period of time and put pressure on the local area.

If, say, ten new slightly bigger houses were built where there were five and a field before, that means more people in the area, who will need to travel, by foot, bike, bus or car; who will want to have access to local facilities, such as open space or a community facility. There may be no or limited community infrastructure and JIL can help to provide these or to improve existing infrastructure. All of these things are essential to make our neighbourhoods better places in which to live, work and visit.

Currently, the land owner and the developer will make money on the scheme, but they don't have a responsibility to ensure the wider community infrastructure can cope with the new arrivals. JIL is a way of them paying their dues and making a contribution, while still making a profit.

Almost all development has some impact on the need for infrastructure, services and amenities - or benefits from it - so it is only fair that all such development pays a share of the cost. It is also right that those who benefit financially when planning permission is given should share some of that gain with the community which granted it, to help fund the infrastructure needed to make development acceptable and sustainable.

Don't developers already contribute to infrastructure costs through tax on their profits?

The standard rate of company taxation in Jersey is 0 per cent, although local company owners will be taxed on their personal income. The principle of a levy is to acknowledge the impact of development on the whole community.

Developers make a contribution already through Planning Obligations Agreements (POAs) don't they? What's the difference?

Planning Obligations Agreements help offset impact on an immediate site or neighbourhood. The POA ensures the developer provides essential infrastructure, without which, planning permission wouldn't otherwise be granted. The Jersey Infrastructure Levy is designed to help offset the impact of development in a wider area and to improve the quality of the local environment for its residents and visitors.

A review of existing POA charges will be included in the development of a levy and restrictions will be put in place, through regulations, to ensure that developers are not charged twice for the same infrastructure.

It's likely that if JIL is introduced, the existing POA requirements will be significantly reduced and simplified to cover only site-specific issues, while the new levy will cover area wide improvements.

The existing POA requirements will remain in place until a decision on the introduction of JIL is made by the States.

How does the Jersey Infrastructure Levy compare to the UK Community Infrastructure Levy?

The Community Infrastructure Levy (CIL) is a way for local authorities in the UK to raise funds for infrastructure within their district through new developments. CIL is a charge paid per square metre for new developments.

CIL funds are put towards infrastructure improvements such as:

- New or safer road schemes
- Schools
- Hospitals and other health and social care facilities
- Park improvements
- Green spaces
- Leisure centres

Affordable housing and developments for charitable purposes are exempt from being charged CIL.

The UK recently reviewed the introduction of CIL and changes have been proposed. The proposed Jersey Infrastructure Levy takes account of the review findings and has been adapted to work for Jersey.

There was a recent review of how the UK's Community Infrastructure Levy is working. What were the main findings?

In February 2017, the UK Department for Communities and Local Government published a report on the Value, impact and delivery of the Community Infrastructure Levy. <https://www.gov.uk/government/publications/community-infrastructure-levy-review-report-to-government>. The broad conclusions of this report were:

- CIL has been most widely adopted in the more affluent areas where values are higher.
- CIL is a relatively minor development cost of around 2% of total market value.
- Development modelling shows CIL on its own has not made developments unviable.
- The majority developer view is that CIL payments "come off the land" and in a rising market this would not be an issue.

The Jersey proposals have already taken account of early lessons learnt in the introduction of the UK Community Infrastructure Levy and adapted to Island conditions and context to make it relevant and pragmatic.

Can a levy deliver affordable housing?

Affordable homes will be exempt from JIL so will not affect developers or affordable housing providers wishing to develop affordable housing schemes.

It is not presently envisaged that funds derived from JIL will be used to help fund the provision of affordable homes.

How was the levy be calculated?

In working on the JIL proposals, the first stage was to understand current development costs and values in Jersey to ensure that any levy would be viable and paid for from the increase in land values that typically happens after planning permission is granted.

The Department of the Environment commissioned Arup Limited to carry out viability testing and made a number of cautious assumptions using industry-standard methods. The viability assessment was carried out between September 2016 and May 2017. It included consultation with developers, agents, valuers and other key stakeholders in the construction industry.

The study was intended to gain an understanding of all the costs of development in Jersey (including the developer profit), the typical values of developments sold and then make a judgement about how much was left over to contribute to a levy.

For example, building costs were taken from industry-published building cost information service (BCIS) tables along with professional input from local quantity surveyors. Sales values were based on actual sales recorded through Jersey's Royal Court. Further input included professional fees and current planning requirements. A developers' profit was built into the modelling; that meant they had a minimum protected profit level of 20% on any development before any levy could even be considered.

The viability report is published here:

<http://consult.gov.je/portal/policy/jil>

Why is the levy set at £85 a square metre?

The levy has been set at a rate that will still make it viable for land owners to sell their land and for developers to continue to build new developments for profit.

The standard rate of £85 per square metre will apply to residential, retail and office developments. This rate is in line with a recent review of the equivalent UK levy (the Community Infrastructure Levy), which recommended that a levy rate be set at between 1.75% and 2.5% of the overall development value of a new home, shop or office.

This rate is broadly similar to other areas in the UK with house prices that mirror Jersey's.

It is worth noting that in the UK, developers also have to build up to 50% of affordable housing on sites they develop, as well as making a levy (CIL) payment. This hasn't stopped development. In Jersey, developers don't have to provide affordable homes on private sites and that isn't changing.

In some cases, the 'developer' may be a family, which wants to improve a semi-derelict property – isn't that actually improving the environment, not putting extra pressure on it?

If they're only renovating what's already there, the levy won't apply to them. If they're increasing the size of the development by over 75 sq.m, then they will, at some point now or in the future, be realising the uplift in land value and in this situation, it's fair to impose a small percentage charge on that uplift.

How will a JIL affect a modest homeowner who wants to build a small extension?

Any development of new land below 75 square metres would be exempt from the levy under these proposals. The threshold of 75 square metres is the equivalent to the size of a 2 bedroom apartment.

How has the Department for the Environment consulted the construction and development industries?

The local development industry has been involved in early discussions about the viability of a levy report and asked for their views on what would keep their sectors viable. The Department of the Environment has listened to their views and incorporated them into the draft policy proposals. There's a further opportunity for people to give their views in a public consultation, which runs from Friday 23 June 2017 to Friday 1 September 2017.

<http://consult.gov.je/portal/policy/jil>

What happens next?

The consultation asks for people's views on both the broad principle of the levy, and the detail such as the rate, and exemptions. After the consultation responses have been considered, and the draft policy updated accordingly, the Minister for the Environment will lodge a proposition to be debated in the States in the autumn of 2017.

If the States approves the Jersey Infrastructure Levy proposal, then the necessary legislation will be drafted and further consulted on in 2018 before final approval by the States. The regulations governing the charge will also be drafted in such a way that the Minister can waive the payment of a charge in genuinely exceptional circumstances.

It is not anticipated that the levy will in place and applied to new developments until the start of 2019.

Any developments approved by the Minister before the levy is in place will not be subject to the levy.

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