



SOLIHULL MBC

COMMUNITY INFRASTRUCTURE LEVY (CIL)

FREQUENTLY ASKED QUESTIONS

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CIL Frequently Asked Questions¹

BACKGROUND

1. What is CIL?

The Community Infrastructure Levy (CIL) is a planning charge, introduced through the Planning Act 2008 (as amended) as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. CIL takes the form of a tariff per square metres of additional floorspace and is only payable for certain types of development in certain locations. Full information is contained within the Council's [CIL Charging Schedule](#).^[LB1]

2. What is defined as 'infrastructure'?

The definition of 'infrastructure' for the purposes of CIL includes:

- Roads and other transport facilities
- Schools and other educational facilities
- Flood defenses
- Medical facilities
- Open spaces
- Sports and recreational facilities

It does not include affordable housing.

The revenue from the levy must be used for supporting the development of an area by 'funding the provision, replacement, operation or maintenance of infrastructure'. More information is contained within the Council's [Regulation 123 list](#).^[LB2] In 2020, the Regulation 123 list is to be replaced by the [Infrastructure Funding Statement](#).^[LB3]

3. How were the CIL charges decided?

The CIL charging rates are based on viability testing, and an identified need for infrastructure. The Charging Schedule was subject to two rounds of consultation, as well as an independent Examination.

The independent Examiner concluded in his [report](#).^[LB4] that the CIL rates proposed by the Council set an appropriate balance between helping to fund necessary new infrastructure and the potential impact of the proposed rates on the economic viability of development across its area.

The documents presented to the Examiner and the Examiner's report can be found on the Council's [CIL Examination webpage](#).^[BL(GaCD5)]

4. When did the CIL charges come into effect in Solihull?

The Council's CIL Charging Schedule came into effect on Monday 4th July 2016.

¹ This advice is given to the best of the Council's knowledge at the time of writing. 'Regulation(s)' refer to the relevant section of the CIL Regulations 2010 (as amended). PPG refers to the national Planning Practice Guidance.

LIABILITY

5. Will I be required to pay CIL on my proposed development?

A development will be liable to pay CIL if:

- It is of a type and location for which a rate has been set in the Charging Schedule;
- It is a building into which people normally go, and if upon completion of the development the increase in floorspace will be at least 100 square metres;
- It is creating 1 or more new dwellings, even where the floorspace is less than 100 square metres;
- If it involves the change of use of a building that has been unused for a period of time, it may be liable.

A development will be exempt from paying CIL if:

- The development is less than 100 square metres, unless it is a new dwelling. In this case, the levy would be payable;
- Is eligible for self-build exemption and the relevant claim forms have been submitted;
- It is for a structure or building into which people do not usually go, such as pylons, wind turbines; or go into only intermittently for maintenance, such as plant rooms;
- There is just a change of use with no additional floorspace and the former use has been lawful and in continuous use for a period of at least six months over the past three years ending on the day the planning permission first permits the development;
- It consists of mezzanine floors of less than 200 square metres inserted into an existing building; these are not liable unless they form part of a wider planning permission;
- The development is a change of use from a single dwelling to two or more separate dwellings;
- The development is for affordable housing, charitable purposes or it is self-build housing. If your proposed development is for any of these purposes, please note that you will be required to formally apply for CIL relief.

6. Who is liable to pay the levy?

Landowners are ultimately liable for the levy, but anyone involved in a development may take on the liability to pay. In order to benefit from payment windows and instalments, someone must assume liability in this way.

The person or organisation responsible for paying the CIL should send the Council an 'Assumption of Liability' form whilst their planning application is being reviewed, unless the party liable for paying CIL is the planning applicant. If liability changes over time then forms can be submitted to the Council for 'Transfer of Assumed Liability'. These are available on the [Planning Portal website](#).

Where no one has assumed liability to pay the levy, the liability will automatically default to the landowners and payment becomes due as soon as development commences. Liability can also default to the landowners where the collecting authority has been unable to recover the levy from the party that assumed liability for the levy, despite making all reasonable efforts.

7. Do I have to submit a CIL Additional Information form for each new application?

From Monday 9th May 2016, all planning applications, including prior approvals under permitted development will require a CIL Additional Information form if the application creates:

- At least 100sqm of new floorspace (measured as gross internal floor area);
- At least 100sqm of change of use;
- A new dwelling regardless of floorspace.

8. What is the gross internal area (floorspace)?

The definition of GIA is taken from the [RICS guidance](#) and can include:

- Areas occupied by internal walls and partitions (e.g. a roof plus three walls)
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts etc.
- Atria and entrance halls, with clear height above, measured at base-level only
- Internal, open-sided balconies, walkways etc.
- Structural, raked or stepped floors are property to be treated as a level floor measured horizontally
- Horizontal floors, with permanent access, below structural, raked or stepped floors
- Corridors of a permanent essential nature (e.g. fire corridors, toilets etc.)
- Mezzanine floor areas with permanent access
- Lift rooms, plant rooms, fuel stores, tank rooms which are housed in a covered structure of a permanent nature, whether or not above the main roof level.
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, and changing-rooms, cleaner's rooms etc.
- Loading bays
- Pavement vaults
- Garages and conservatories

GIA excludes:

- Perimeter wall thickness and external projections
- External, open-sided balconies, covered walkways and fire escapes
- Canopies and voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stores etc.
- Areas with headroom less than 1.5m, except under stairways

9. If I submit a planning application before 4th July, does that mean that I will not have to pay CIL?

The CIL Regulations 2010 (as amended) require that the levy be applied to all new developments without outline planning permission granted by 4th July 2016. The date at which the application was made is not relevant. Therefore, it is only if planning permission is granted *before* 4th July 2016 that you will not be required to pay CIL.

10. I am building an extension to my property; will I have to pay CIL?

If you are building an extension to your property, you may not be required to pay CIL provided that:

- The main dwelling is your principal residence and you have a material interest in it (own or have a leasehold of seven or more years);
- The extension enlarges the principal residence and does not comprise an additional dwelling.

Residential extensions with an increase in floorspace of less than 100 square metres are already exempt from CIL under the minor developments exemption and need not be subject to a claim for exemption.

In order to claim this exemption you must submit a 'Form 9: Residential Extension Exemption Claim Form' prior to the commencement of development. Once this has been approved by the Council, you must submit a 'Form 6: Commencement Notice' before starting any development on site in order to qualify for exemption.

11. I am building an annex in my garden; will I have to pay CIL?

If you are building a residential annex to create a new dwelling within the grounds of your main dwelling, you may not be required to pay CIL provided that you meet the following criteria:

- The main dwelling is your principal residence and you have a material interest in it (own or have a leasehold of seven or more years).
- The residential annex is wholly within the curtilage of the main dwelling and comprises of one new dwelling.

There is no requirement for the occupier of the annex to be related to the owner of the main dwelling, or to commit to staying there for a specified period.

In order to claim this exemption you must submit a 'Form 8: Residential Annex Exemption Claim Form' prior to the commencement of development. Once this has been approved by the Council, you must submit a 'Form 6: Commencement Notice' before starting any development on site in order to qualify for exemption.

The full CIL amount will be payable if within three years of completion:

- The main house is used for any purpose other than as a single dwelling, or
- The annex is let, or,
- Either the main residence or the annex, are sold separately from the other.

12. If I am building my own 'self-build' property; will I have to pay CIL?

Self-build homes are exempt from CIL, subject to various criteria. The category of 'Self-build' applies to anyone who is building their own home or has commissioned their home from a contractor, house builder or sub-contractor. Self-build exemption also applies to community self-build projects.

In order to claim CIL exemption for a self-build dwelling, you must submit 'Form 7: Self-Build Exemption Claim Form Part 1' and have it agreed by the Council before commencing development.

'Form 7: Self-Build Exemption Claim Form Part 2' must then be submitted within 6 months of completing the dwelling and you must provide additional supporting evidence to confirm that the project is self-

build.

You must then own the property and occupy it as your principal residence for a minimum of three years after the development is completed. If within the first three years you want to sell or rent out the property or stop using it as your main dwelling, you must notify the Council within 14 days of the sale/rent.

The CIL chargeable amount which was originally waived will then be payable in full. Failure to notify the Council that you wish to sell/rent your dwelling will result in enforcement action.

13. Is a change of use liable for CIL?

Potentially. If a building has not been in continuous lawful use for a period of at least six months over the past three years ending on the day the planning permission first permits development, then the development will be liable for CIL.

However, if the building has been in continuous lawful use for a period of at least six months over the past three years ending on the day the planning permission first permits development, then the development will only be liable for CIL if there is an additional new build floorspace of over 100 square metres. It does not matter if the floorspace to be converted or demolished is a different use to the end use of the floorspace.

14. What is the meaning of ‘the day planning permission first permits development’?

In most cases, this will be the day that planning permission is granted. However, there are some caveats outlined in Regulation 8 for different types of permission. For example, if there is a Charging Schedule in force when outline planning permission is granted, then ‘the day planning permission first permits development’ relates to the final approval of reserved matters, for each phase of that outline permission.

15. Are barn conversions to residential use liable for CIL?

A change of use from a barn to residential would not be liable for CIL if i) the barn had been in lawful use for a period of 6 months over the past three years before planning permission is granted and ii) the change of use would not result in an increase in size. If the barn had been in lawful use but also resulted in an extension, then only the increased floorspace would be liable for CIL. The same would apply to offices or other prior uses.

16. Is CIL chargeable on mobile homes?

No. CIL can only be charged on buildings. Planning law dictates that mobile homes are not normally buildings therefore no CIL will be charged on them.

17. I am building an extension to a supermarket of 110sqm. Do I have to pay CIL on the whole 110sqm or just the 10sqm that falls over the 100sqm threshold?

You would have to pay CIL on the whole 110sqm. The 100sqm exemption does not work as a discount. Therefore, as soon as the threshold is breached the whole extension becomes chargeable.

18. Are outline applications liable for the levy (CIL)?

Outline planning permissions that are granted from the date the CIL Charging Schedule comes into effect will be liable to pay CIL, when the development is built. However, as the liability is calculated at reserved matters stage there is no need to submit any CIL forms with the outline application. If an outline application includes phasing of development, each phase is treated as a separate development for the purpose of paying CIL. The CIL liability for each phase is then calculated at reserved matters stage for that phase.

19. Will a development be liable to pay CIL if there was a resolution to grant planning permission (e.g. subject to a S.106 agreement or call-in) before publication of a CIL Charging Schedule, but the formal grant of planning permission is made after the CIL Charging Schedule comes into effect?

Yes. If the formal grant of permission was made after the CIL Charging Schedule comes into effect, it would be liable to pay CIL. This is because any resolution to grant planning permission by the Committee does not formally grant planning permission as a decision notice cannot be issued until e.g. a S.106 agreement has been signed, where required. In the situation where the Committee has made a resolution to grant planning permission subject to a Section 106 that provided infrastructure, it is likely the application will have to go back to Committee as the Section 106 may no longer be justified following the introduction of CIL.

20. Will a development be liable to pay CIL if there was a planning permission before the CIL Charging Schedule came into effect, but an approval of a Section 73 application to vary or remove conditions of that planning permission is made after the CIL Charging Schedule came into effect?

Yes. If full planning permission is granted before publication of a CIL Charging Schedule, but an approval of a S.73 application to vary or remove conditions is made after publication of the CIL Charging Schedule, the approval does trigger a liability to pay CIL because it results in a new planning permission. However, although a new CIL liability is triggered, the new additional chargeable amount is equal only to the net increase in the chargeable amount arising from the original planning permission, so as to avoid double counting of liability. In effect, if the application to vary a condition does not result in an increase in floorspace then there will be no charge.

21. If my development does not require planning permission, will I still be liable to pay CIL?

Development commenced under 'general consent' may be liable to pay CIL. If you intend to develop under 'general consent' you must complete a 'Notice of Chargeable Development'. The standard criteria for determining whether you will pay CIL will then apply.

22. Where can I get the appropriate forms that must be submitted under CIL?

The forms are available on the [Planning Portal](#) and the Council's [website](#).^[BL(GaCD6)]

PAYMENT

23. How much CIL will I have to pay?

CIL is calculated by multiplying the new floorspace by the CIL rates in the Council's Charging Schedule. If the CIL rate is nil, and/or the net increase is less than 100sqm, then no CIL will be payable. If the application is for a new dwelling in an area where CIL is chargeable, then CIL will be payable even if the new floorspace is less than 100sqm.

Deductions can be made for demolitions and changes of use, according to certain criteria. Exemptions may also be granted. However, exemptions are not automatically calculated and need to be applied for after the Liability Notice has been issued. See the section on Relief below.

Furthermore, CIL charges are index-linked and the Council now uses the RICS CIL Index.

The full formula for calculating CIL is contained in the CIL Regulations 2010 (as amended). Planning Officers can offer advice on the calculation.

The Council is entitled to ask for relevant information when the planning application is submitted. The Council will send a formal liability calculation in the form of a Liability Notice once planning permission is granted.

24. When do I have to pay CIL? Do you have an Instalments policy?

CIL is chargeable on the commencement of development. The CIL Regulations 2010 (as amended) assume a default payment within 60 days of commencement, however, the Council have also produced a [CIL Instalments Policy](#) for charges £20,000 and above.

25. What is the commencement of development?

CIL liable parties are required to send a Commencement Notice to the Council when they have commenced development. 'Commencement' is defined in the Planning Act 2008 (as amended) and a development is considered to have commenced when any material operation is carried out on the site subject to the CIL charge.

26. I've given a commencement date, but the date has now changed. Do I need to tell you?

Yes. The Council will issue a Demand Notice based on your commencement date, so if this changes, you need to let us know. Simply re-submit a new commencement notice with the new date provided. We will acknowledge the date on the latest commencement notice.

27. If my development is phased, when is CIL payable?

The CIL Regulations (as amended) permit CIL payments to be phased where the planning permission specifies that the development will be phased. In this case, each phase will be treated as a separate CIL chargeable development and CIL payments relating to each phase can be made in line with the Council's CIL Instalments Policy.

RELIEF AND EXEMPTIONS

28. Is there any relief from CIL?

In accordance with the Regulations the following development may receive relief from CIL:

- Charitable development,
- Social housing development,
- Self-build development,
- Self-build residential annex or extension.

However, relief is not automatically granted, and needs to be applied for after the Liability Notice has been issued.

The Council has chosen not to offer discretionary or exceptional circumstances relief at this time.

29. What types of affordable housing qualify for relief?

Developments for affordable housing are eligible for relief from CIL providing that they are let by a private registered provider of social housing, a registered social landlord, a local authority or the dwelling is occupied in accordance with shared ownership arrangements.

To qualify for affordable housing relief, the claimant must have a material interest in the area granted planning permission and have assumed liability to pay the levy for the whole chargeable development. To receive affordable housing relief, you must submit a 'CIL Claiming Exemption or Relief' form to the Council prior to commencement of the development. A claim for relief will be invalid if the chargeable development is commenced before the Council has notified the claimant of its decision on the claim.

Under the Starter Homes exception site policy, starter homes are exempt from CIL.

30. Can affordable housing relief be claimed for communal areas?

Yes. The CIL Regulations (as amended) provide relief for communal areas that are associated with social housing developments.

31. I've heard that demolitions and/or existing buildings can be discounted from the CIL charge. Is this true?

The gross internal floorspace of any existing buildings on site that are going to be demolished or reused may be deducted from the calculation of CIL liability, providing that the building has been in continuous lawful use for at least six months over the past three years ending on the day the planning permission first permits development.

APPEALS

32. What happens if I don't pay the CIL charges?

Unlike S.106 obligations, CIL is a mandatory and non-negotiable planning charge and there are penalties and surcharges for non-payment, including the option to pay by instalment being automatically withdrawn. There are also strong enforcement powers, including Stop Notices, surcharges and prison terms.

33. Can I appeal against your decision on the chargeable amount?

Yes. You can appeal against the Council's decision in relation to your CIL liability, but please note that appeals must be made within 60 days of the Liability Notice being issued, and appeals can only be made after you have formally asked us to recalculate the CIL amount (which must be done within 28 days).

You can also appeal against the apportionment of liability, charitable relief, self-build exemptions, surcharges, commencement of development and a Stop Notice. There is further information and the relevant forms on the GOV.uk [website](#).

34. Is CIL a land charge?

It is a legally enforceable levy which is shown as a land charge on the local land charges register.

EXPENDITURE OF CIL

35. Does CIL replace S.106 contributions?

From 1st September the CIL regulations 2019 update sees the lifting of pooling restrictions which had previously prevented Local Authorities from combining the contributions of five or more planning obligations under Section 106 of the Town and Country Planning Act 1990 (as amended) for infrastructure projects which made it difficult to deliver larger scale items of infrastructure such as schools, swimming pools and transport schemes.

CIL does not replace Section 106, rather it will be used as a mechanism to encourage the timely delivery of items of infrastructure. For example, a local authority may set out in their plan that they will use Section 106 planning obligations to deliver a new school to serve additional pupils arising as a result of a new development on a strategic site. The local authority may also use levy funds to deliver the school and help support development elsewhere in the area.

The Council's Section 106 Policy Statement is to be updated along with the publication of the Infrastructure Funding Statement in 2020.

36. What will the Council spend CIL monies on?

A list of the infrastructure types and projects that the Council intends to be wholly, or partly, funded by CIL can be found in the CIL [Regulation 123 List](#).^[LB7] We will prepare annual monitoring reports to provide details of how much CIL has been received, what it has been spent on and how much is left in reserve. This report will be produced on an annual basis by 31st December for the previous financial year.

With the introduction of new CIL regulations which came into effect in September 2019, The Regulation 123 List is to be replaced with an Infrastructure Funding Statement which will be developed further in 2020.

37. Will Town and Parish Councils receive money from CIL?

In areas where the CIL levy operates, Parish Councils will receive a 'neighbourhood proportion' of the CIL money raised within their parish. All of the Town Council areas are nil-rated. This neighbourhood proportion is up to 25% of CIL receipts in areas with an adopted Neighbourhood Plan and up to 15% (capped at £100 per existing council tax dwelling) in areas without a Neighbourhood Plan.

Parish Councils are required to produce an annual report outlining their use of their share of CIL receipts.

38. Where can I find out more about CIL?

More information on CIL is available from the following websites:

- [Planning Practice Guidance](#)
- [Planning Portal](#)
- [The Planning Advisory Service](#)
- [GOV.uk](#)

OVERVIEW OF CIL COLLECTION PROCESS taken from the Planning Practice Guidance²

Part 8 of the Community Infrastructure Levy Regulations, as amended, sets the legal framework for calculating and collecting the levy.

The collection process steps are:

- in areas where the levy is in force, applicants for planning permission should include a completed copy of the Additional CIL Information form with their application – this will help the collecting authority to calculate the amount payable
- where planning permission is granted for development by way of a general consent – such as via the General Permitted Development Order or through a Local Development Order, the developer or landowner submits a notice of chargeable development to the collecting authority (unless the development is less than 100 square metres, or the levy rate for the development is £zero per square metre)
- where planning permission is necessary, or permission is granted for development by way of a general consent, the collecting authority will expect the developer, landowner or another interested party to assume liability for the levy by submitting an assumption of liability form. It may speed up the process of issuing a liability notice if this form is submitted before planning permission is granted
- the collecting authority then issues a liability notice to the applicant, the developer, and whoever has assumed liability for the scheme, which sets out the charge due and details of the payment procedure
- the relevant person(s) then submit a notice to the collecting authority setting out when development is going to start – a commencement notice
- the collecting authority issues a demand notice to the landowner, or whoever has assumed liability, setting out the payment due dates in line with the payment procedure
- on commencement of the development, the landowner, or whoever has assumed liability, should follow the correct **payment procedure**
- the collecting authority must issue a receipt for each payment received, and transfer the funds to the charging authority (if that is a different body).

Anyone wishing to claim relief or an exemption from the levy should make sure that they submit their claim in good time. Most forms of relief or exemption must be claimed and approved prior to the commencement of development.

[View further details of relief and exemptions.](#)

[Download the relevant forms and template notices.](#)

² Paragraph: 046 - Reference ID: 25-046-20140612