

## **CIL – Frequently Asked Questions**

- ❖ **What is the Community Infrastructure Levy (CIL)?**
- ❖ **What do you mean by community infrastructure?**
- ❖ **What types of development will be liable to pay CIL?**
- ❖ **Is permitted development/prior approval CIL liable?**
- ❖ **What counts as chargeable floorspace?**
- ❖ **Are residential garages included in gross internal floorspace?**
- ❖ **Does CIL affect the planning application validation process?**
- ❖ **Are there any exemptions or relief from CIL?**
- ❖ **Can I negotiate or appeal a CIL charge?**
- ❖ **If I want to make changes to an existing permission will it be CIL liable?**
- ❖ **How have the CIL rates been set?**
- ❖ **What are the CIL rates for Chorley Council?**
  - **Are they subject to inflation?**
- ❖ **Is VAT applied to CIL charges?**
- ❖ **How is the Levy paid?**
- ❖ **Can I pay CIL by instalments?**
- ❖ **How is CIL collected?**
- ❖ **Who is liable for the payment of CIL?**
- ❖ **What are the penalties for not complying with the CIL regime?**
- ❖ **Will Section 106 agreements continue to exist after CIL?**
- ❖ **Where are the most common CIL forms I may need?**

## **What is the Community Infrastructure Levy (CIL)?**

CIL is a charge (represented as £ per m<sup>2</sup>) on the amount of new floor space created by development. The revenue raised by CIL is to be used for community infrastructure that is required across an area to support population growth.

LPAs do not have to adopt the CIL, but it is the Government's preferred means of securing funding from developers for community infrastructure.

LPAs that adopt the CIL, such as Chorley Council, must produce a Regulation 123 List which indicates the specific community infrastructure that might be funded from CIL.

## **What do you mean by community infrastructure?**

Infrastructure which can be funded by the levy includes schools, transport, flood defenses, hospitals, community facilities and other health and social care facilities. This definition allows the levy to be used to fund a very broad range of facilities such as play areas, parks and cultural and sports facilities and gives communities flexibility to choose what infrastructure they need.

The Levy can be spent on 'the provision, improvement, replacement, operation or maintenance of infrastructure'.

## **What types of development will be liable to pay CIL?**

Development will be liable for CIL if it:

- Involves new build of at least 100m<sup>2</sup> gross internal area (GIA) floorspace; or
- Involves the creation of one or more dwellings.

This includes development permitted by a 'general consent' (including permitted development).

Development will not be liable for CIL if it:

- Involves only change of use, conversion or subdivision of, or creation of mezzanine floors within a building which has been in lawful use for at least six months in the 3 years prior to the development being permitted and does not create any new build floorspace; or
- Is for a building into which people do not normally go, or go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery; or
- Is for a structure which is not a building, such as pylons or wind turbines; or
- Is permitted by a 'general consent' (including permitted development) commenced before 1st September 2013.

Please also note that CIL is not charged nor calculated on an Outline Permission. In such instances, the CIL is calculated and charged when the Final Reserved Matters application is approved.

## **Is permitted development / prior approval CIL liable?**

Development permitted under a 'general consent' such as permitted development or prior approval is CIL liable if a new dwelling is being created (even if this is through a change of use) or if more than 100 sq m of new floor space is being created. If you intend to commence development under a general consent and the development is CIL liable you will need to submit a form 5: Notice of Chargeable Development to the council before you commence the development. This Notice must be submitted before any work commences on site.

## **What counts as chargeable floorspace?**

Chargeable gross internal area (GIA) is the area of a building measured to the internal face of the perimeter walls at each floor level. This includes corridors, storage, toilets, stairs, lifts and garages.

## **Are residential garages included in gross internal floorspace?**

Yes.

## **Are there any exemptions or relief from CIL?**

In accordance with the CIL Regulations the following types of developments may receive some or full relief from CIL, if they are eligible:

- Charitable development
- Social housing development
- Self-build development
- Self-build residential annex
- Household extensions

Affordable housing, self-builds and charities can all claim exemptions from CIL, although they can become CIL liable if a disqualifying event occurs. Typical disqualifying events include:

- Commencing work before submitting a valid Commencement Notice.
- Making changes to an exempt development during construction (e.g. a section 73 application)
- Selling or letting out an exempt property within 3 years of occupation.

In such events, the exemption is lost and the CIL that would have been due becomes payable with immediate effect. Surcharges may also apply.

You cannot submit an application for relief from CIL until you have assumed liability. If we accept your application for relief we will issue a revised Liability Notice to stipulate the relief granted, and to reflect the revised charge.

If you commence development before being informed of a grant of CIL exemption / relief, no relief can be applied, and you become liable for the full CIL charge.

Chorley Council does not offer discretionary relief.

## **Does CIL affect the planning application Validation Process?**

CIL is liable when a planning application is determined. Accordingly, to validate an application for chargeable development, the applicant must include the [CIL Determination Form](#) with their application. The accompanying guidance notes should be read when completing this form.

## **Can I negotiate or appeal a CIL charge?**

CIL is not negotiable and is payable at the rate set out within the Charging Schedule. You may only appeal against the miscalculation of the charge.

## **If I want to make changes to an existing permission will it be CIL liable?**

This depends on a number of factors e.g:

- If the changes increase the floorspace
- When the existing permission was granted
- If works have already commenced on the existing permission

If you want to make changes to an existing permission you are advised to speak to the Case Officer because it could become CIL liable.

Furthermore, if the existing permission has been granted a CIL exemption / relief, there is also a risk that the exemption could be lost.

## **How have the CIL rates been set?**

The charge has been set at an amount that will support the level of development planned for Chorley in our Core Strategy, without undermining the delivery of new development. This has been subject to an independent assessment by the Planning Inspectorate who determined whether the charges are appropriate.

## **What are the CIL rates for Chorley Council?**

The rates for Chorley Council vary according to development type and have been examined by a Planning Inspector at public examination. See our [CIL Charging Schedule](#).

- **Are they subject to inflation?**

Yes. LPAs must apply indexing to their Charging Schedule to cover construction industry inflation. This is applied within each calendar year.

Using the formula contained in CIL regulation 40, we will calculate individual charges for the levy using the BCIS All-In Tender Price Index which as a ratio may increase or decrease the CIL levy to reflect and respond to market conditions.

## **Is VAT applied to CIL Charges?**

No, CIL payments are not subject to VAT.

## **How is the Levy paid?**

It will normally be collected as a monetary payment, although there is also provision for it to be paid/part paid by transfer of land, or provision of infrastructure if certain criteria are met.

## **Can I pay CIL by instalments?**

Ordinarily, the CIL is due within 60 days of works commencing. For developments where the CIL is £10,000 or greater, payment can be made by instalments. See our [CIL Instalments Policy](#).

However, if the CIL process is not followed correctly or a disqualifying event occurs, CIL becomes due in full immediately. See FAQ "What are the penalties for not complying with the CIL regime?"

## **How is CIL collected?**

The levy's charges become due from the date of commencement of a chargeable development. When planning permission is granted, the Council will issue a liability notice setting out the amount of the levy and the payment procedure. Unlike contributions collected through S106 agreements there is no time constraint for the spending of monies collected through CIL.

## **Who is liable for the payment of CIL?**

The responsibility to pay CIL rests with the owner of the land on which the development will be situated. However, others involved in the development can take on the liability for CIL for the development by submitting CIL Form 1 - Assumption of Liability Notice.

## **What are the penalties for not complying with the CIL regime?**

The levy's charges are intended to be easily understood and easy to comply with. Most of those liable to pay the levy are expected to pay their liabilities without problem or delay.

However, where there are problems in collecting the levy charging authorities will have the means to penalise late payment.

In cases of persistent noncompliance the regulations also enable collecting authorities to consider more direct action such as the issuing of a CIL Stop Notice or applying to the courts for seizure of assets to pay the outstanding monies or for custodial sentences.

As a broad overview (but not exhaustive), penalties could include any or all of the following:

- Payment benefits (such as instalments, exemptions, relief) are forfeited.
- Surcharges can be applied
- A stop notice can be issued until payment received
- A court order can be sought to recover payment

## **Will Section 106 agreements continue to exist after CIL?**

Section 106 agreements are used to cover some of the cost of community infrastructure works that are required to make a development acceptable in planning terms.

However, now CIL is adopted, such agreements cannot be used to fund the same items on a planning authority's Regulation 123 List because these items are to be funded from CIL receipts (see Q1).

Section 106 agreements will only be used for site specific mitigation and affordable housing. Therefore, in areas that have adopted the CIL, the Section 106 burden that developers have to pay in future is likely to be smaller.

## **Where are the most common CIL forms I may need?**

The complete list of CIL forms are shown on the next page.

- [Form 1: Assumption of Liability](#)
- [Form 2: Claiming Exemption or Relief](#)
- [Form 3: Withdrawal of Assumption of Liability](#)
- [Form 4: Transfer of Assumed Liability](#)
- [Form 5: Notice of Chargeable Development](#)
- [Form 6: Commencement Notice](#)
- [Form 7: Self Build Exemption Claim Form Part 1](#)
- [Form 7: Self Build Exemption Claim Form Part 2](#)
- [Form 8: Self Build Residential Annex Exemption Claim Form](#)
- [Form 9: Self Build Residential Extension Exemption Claim Form](#)

**Forms for submission with a planning application:**

- [Planning Application - CIL Determination Form](#)
- [Planning Application - CIL Determination Form - Guidance](#)