

FAQs

What is the Community Infrastructure Levy (CIL)?

The Community Infrastructure Levy is a new planning charge, introduced by the Government through the Planning Act 2008 to provide a fair and transparent means for ensuring that development contributes to the cost of the infrastructure it will rely upon, such as schools and roads. The levy applies to most new buildings and charges are based on the size and type of new floorspace.

What are the benefits of the Community Infrastructure Levy?

The Government has decided that a tariff-based approach provides the best framework to fund new infrastructure. CIL is considered to be fairer, faster and more certain and transparent than the current system of planning obligations which are generally negotiated on a 'case-by case' basis. Levy rates that will be set in consultation with local communities and developers and will provide much more certainty 'up front' about how much money developers will be expected to contribute.

Statistics show that under the system of planning obligations only six per cent of all planning permissions nationally (usually the largest schemes) brought any contribution to the cost of supporting infrastructure. Through CIL, all but the smallest building projects will make a contribution towards additional infrastructure that is needed as a result of development.

Why should development pay for infrastructure?

Almost all development has some impact on the need for infrastructure, services and amenities so it is only fair that such development pays a share of the cost.

What is infrastructure?

Infrastructure which can be funded by the levy includes schools, transport, flood defences, 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'.

Do Councils have to implement CIL?

Local authorities in England and Wales will be empowered, but not required, to levy on most types of development in their areas. It should be noted that in 2015 limitations to Section 106 planning obligations will come into force.

How does a charging authority set a rate for their levy?

Charging authorities must produce a document called a charging schedule which sets out the rate for their levy. This is a new type of document within the folder of documents making up the Council's Local Plan but will not be part of the statutory development plan.

The levy is intended to encourage development by creating a balance between collecting revenue to fund infrastructure and ensuring that the rates are not so high that they put development at serious risk. The Council draws on the infrastructure planning that underpins the development strategy for the area to help identify the total infrastructure funding gap.

Rates set should be supported by evidence, such as the economic viability of new development and the area's infrastructure needs. One standard rate can be set or, if justified, specific rates for different areas and types of development can be established. The ability to set differential rates gives charging authorities more flexibility to deal with the varying circumstances.

Consultation with the local community must be undertaken on the draft schedule and the proposed levy rates. A public examination by an independent person is then required before the charging authority can formally approve it.

What is the relationship between CIL and planning obligations?

Planning obligations (funding agreements between the local planning authority and the developer) will continue to play an important role in helping to make individual developments acceptable. However, reforms have been introduced to restrict the use of planning obligations.

The CIL levy is intended to provide infrastructure to support the development of an area rather than to make individual planning applications acceptable in planning terms. As a result, there may still be some site specific impact mitigation requirements without which a development should not be granted planning permission (e.g. affordable housing, local highway and junction improvements and landscaping). Therefore, there is still a legitimate role for development planning obligations to enable a local planning authority to be confident that the specific consequences of development can be mitigated.

What development is liable for CIL?

Development will be liable for CIL if it:

- Involves new build of at least 100m² 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 6th April 2013; or
- Is for a use which benefits from a zero or nil charge (£0/m²) as set out in a CIL Charging Schedule

How is chargeable development measured?

CIL will be measured using m² in Gross Internal Area (GIA). We will be determining which parts of a building falls under the definitions of GIA in accordance with the guidance set out in the RICS Code of Measuring 6th Edition. This guidance has been used by the Valuations Office Agency when determining recent CIL Appeals.

Who is liable to pay the levy?

The responsibility to pay the levy rests with the ownership of land on which the liable development will be situated. Although liability rests with the landowner, the regulations recognise that others involved in a development may wish to pay. To allow this, anyone can come forward and assume liability for the development.

How is the levy paid?

The charge is levied in £ / m² on the net additional increase in floorspace. It will normally be collected as a monetary payment, although there is also provision for it to be paid by transfer of land to the local authority if certain criteria are met.

Is VAT applied to CIL charges?

The charge levied in £ / m² on the net additional increase in floorspace for the CIL is exempt from VAT.

How will proposed levy rates respond to factors such as inflation?

In calculating individual charges for the levy, charging authorities will be required to apply an annually updated index of inflation to keep the levy responsive to market conditions.

How is the levy 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.

Can CIL be paid in instalments?

Yes, see instalment policy

Phased Payments of CIL

The CIL Regulations allow for the Council to make provisions for phased payments, at their discretion. A phased payment approach and / or an instalment policy helps developers with cash flow, assisting in making more development viable, therefore, helping the charging system to be flexible. Phased payments can be permitted where a planning application is subdivided into phases for the purpose of the levy.

This is useful for large scale applications. Each phase would be a separate chargeable development and therefore liable for payment in line with any instalment policy in force. The principle of phased delivery must be apparent from the planning permission.

How will payment of the levy be enforced?

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.

Will a development be liable to pay CIL if planning permission is granted before a CIL Implementation date is adopted?

No. There is no CIL liability for a planning permission if that planning permission was granted before the CIL implementation date. The relevant date is the date of the issuing of the planning permission decision notice.

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

Guidance notes are available to explain the process for claiming relief.

What constitutes ‘Commencement of development’?

A person becomes liable for CIL when the development is commenced. Development is to be treated as commencing on the earliest date on which any material operation begins to be carried out on the relevant land, subject to certain exceptions. "Material operation" has the same meaning as in section 56(4) of the Town and Country Planning Act 1990 (time when development begun). This includes constructing or demolishing a building, digging foundations or laying pipes, constructing a road or any material change in the use of the land. CIL may, therefore, fall due, even though construction of the buildings on site may not have started.

How will the levy be spent?

Charging authorities are required to spend the levy's revenue on what they see as the infrastructure needed to support the development of their area. The assessment of 'need' will largely be informed by the Infrastructure Delivery Plans (IDPs) published by each authority alongside their Local Plans. The levy is intended to focus on the provision of new or improved infrastructure and should not be used to remedy pre-existing deficiencies unless those deficiencies will be made more severe by new development. Newcastle City Council will publish an annual CIL Delivery Plan setting out how it intends to spend monies raised through CIL.

How will local neighbourhoods benefit from CIL?

Charging authorities must allocate a 'meaningful proportion' of levy revenues raised in each neighbourhood back to that neighbourhood. This will ensure that where a neighbourhood experiences a new development, it receives sufficient money to help it manage the resulting impacts on the locality.

How will CIL be monitored?

To ensure that the levy is open and transparent, charging authorities must prepare short reports on the levy for the previous financial year which must be placed on their websites by 31st December each year. These reports will set out how much revenue from the levy has been received, what it has been spent on and how much is left.

How do you calculate CIL payment for an outline permission?

Outline permissions that have been granted before 01 April 2015 will not be liable to pay CIL unless a S.73 (variation/removal of condition) is subsequently approved after 01 April 2015. Reserved matters approvals granted after 01 April 2015 will not trigger a CIL liability under Reg. 42. Outline development approved after 01 April 2015 will not be required to submit additional information for CIL until a reserved matters application is submitted.