

The Community Infrastructure Levy: Interim Advice for Planning Applicants

1 What is the Community Infrastructure Levy?

1.1 The Community Infrastructure Levy (CIL) is a charge on some forms of development, collected to help deliver infrastructure improvements in areas such as transport, education, health and leisure, as development comes forward. CIL is charged on a £'s per square metre (sq m) basis of new (additional) floorspace.

1.2 CIL is not an additional charge on development. Once introduced, it will replace the existing approach for collecting planning infrastructure contributions, using legal agreements (S106 agreements). Please note that whilst CIL will replace most of the infrastructure components in S106 agreements, if you are proposing to build new homes, you may still be liable to pay a contribution towards affordable housing. In the case of larger schemes, a site-specific S106 agreement may also be needed to mitigate the impacts of that specific development. The Council will issue further Guidance on how CIL and planning obligations will operate together.

2 What are the charges in Sheffield?

2.1 A Charging Schedule and a map of the Charging Zones, can be used to identify which developments will be liable to CIL charges.

3 When does CIL come into force?

3.1 In Sheffield, it is expected that this levy will be introduced on 15 July 2015. The Council's Draft CIL Charging Schedule was approved by the Planning Inspectorate on 25 February 2015, its Cabinet on 15 April 2015 and it is envisaged that it will be formally adopted by the Council on 3 June 2015.

3.2 This means that any development where a planning decision notice is issued from 15 July 2015 will be liable to pay CIL. The CIL Regulations specify that the relevant date is the date of the issuing of the planning permission notice, not when the planning application was submitted.

3.3 If a scheme was granted outline permission before the CIL implementation date, the subsequent approval of reserved matters does not trigger a liability to pay CIL.

3.4 If a scheme was granted full planning permission before the CIL implementation date, the subsequent approval of pre-commencement conditions does not trigger a liability to pay CIL.

3.5 The renewal of a planning permission, which was approved prior to the CIL implementation date, does not trigger a liability to pay CIL.

3.6 If there was a refusal of planning permission before the CIL implementation date, but an approval of planning permission on appeal is made after the CIL implementation date, the development will be liable to pay CIL.

3.7 Where an application is made under Section 73 of the Town and Country Planning Act to vary a planning permission that was granted pre the CIL implementation date, CIL is only due in relation to the uplift in floor space over the original consent. ie. a charge will be due on the additional floor space only, so as to avoid double counting.

4 Will my development be liable to pay CIL?

4.1 CIL applies to all new build development specified in the Charging Schedule. It is only liable if that new development has 100 sq m, or more, of gross internal floor space, or involves the construction of additional dwellings even when that is below 100 sq m. (Changes of use to residential may be CIL liable, subject to the consideration of whether existing floor space has been in lawful use – see Section 6.)

4.2 While any new build over this size will be subject to CIL, the gross internal floor space of any existing building(s) on the site to be demolished will be deducted from the final liability provided it has been in continuous lawful use for 6 months of the previous 3 years.

4.4 CIL will not be charged on affordable housing and development by a charity for charitable purposes.

5 What is continuous lawful use?

5.1 Floor space subject to demolition or resulting from change of use can only be deducted where it has been in continuous lawful use for at least 6 months in the 3 years prior to a development being permitted. It will be for the applicant or their agent to demonstrate lawful use by providing appropriate evidence such as Council Tax records or Business Rate documentation.

5.2 Where only a small part of the building to be demolished has been in use, all the floor space in the building will be deductible from the floor space of the new building(s).

6 What is included as CIL chargeable floor space?

6.1 All new build floor space within the external walls of the building, including circulation and service space such as corridors, storage, toilets, lifts etc. It includes attic rooms that are useable as rooms, but excludes loft space accessed by a pull-down loft ladder. It also includes garages.

6.2 CIL is chargeable on the “gross internal area” (GIA) of the development for which planning permission is granted (CIL Regulations 40 and 9).

Generally, any structure with 2 or more walls and a roof is considered to be ‘internal’ floor space and therefore chargeable. (GIA is the area of a building measured to the internal face of the perimeter walls at each floor level,

6.3 Buildings “into which people do not normally go” are exempt from CIL. These include buildings into which people go intermittently for the purpose of inspecting or maintaining fixed plant machinery.

7 How do you calculate CIL?

7.1 A simple calculator has been placed on the Council’s website to help developers calculate the amount due. The calculation involves multiplying the CIL charging rate by the additional (new build) floor space, and factoring in an index figure to allow for changes in building costs over time. However, if you want to calculate CIL using the formula set out in the CIL Regulations, it is set out below. More detail is set out in the Sheffield City Council Charging Schedule.

$$\text{CIL Charge} = \text{CIL Rate (R)} \times \text{Net additional new build floor space (A)} \times \text{Inflation index (I)}$$

Where: A = the net area of floor space chargeable in square metres after deducting any existing floor space and any demolitions, where appropriate.

R = the levy rate as set in the Sheffield City Council Charging Schedule.

I = All-in tender price index of construction costs in the year planning permission was granted, divided by the All-in tender price index for the year the Charging Schedule took effect. (During 2015 this value will be 1 because the two figures will be the same).

7.2 The All in Tender Price Index is an inflation index published by the Building Cost Information Service of the Royal Institute of Chartered Surveyors and the figure for any given year is the figure for November of the preceding year. Further details of the specific calculations and how they are made can be found in the CIL Regulations.

7.3 CIL payments are not subject to VAT. Payments of amounts of less than £50 are treated as zero rated and not payable.

8 How will CIL payment operate?

8.1 CIL is legally payable on the commencement of development. The process operates through the formal exchange of notices between the planning applicant and the planning authority.

8.2 In the first instance, the onus is on the applicant to provide sufficient information to allow the Council to determine whether CIL is liable and, if so, the chargeable amount. The Council has made the submission of a ‘CIL

Additional Information Requirement Form' a Local Planning Application Requirement i.e. where a development is potentially liable for CIL, the information has to be provided in the required format to make the application valid.

8.3 The responsibility to pay CIL relates to the ownership of the land. However 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 payment. It is the responsibility of the person(s) who assume liability to inform the Council of this.

8.4 When planning permission is granted for a CIL liable development and any pre-commencement conditions discharged the Council will issue a Liability Notice, which will set out how much CIL is to be paid and when it is to be paid. Prior to commencing development, the Council must be served with a Commencement Notice stating the date when construction work will begin. The Council will then serve a Demand Notice setting out precise details of payment arrangements.

8.5 All the required forms, including detailed information on their use, will be published on the Council's website prior to the implementation of CIL.

8.6 To support developers bringing forward new schemes, the Council intends to introduce an instalments policy for the payment of CIL, which is set out on the CIL web pages.

9 Can I appeal against paying CIL?

9.1 The CIL charge itself is non-negotiable. Appeals can only be made against procedural aspects relating to the calculation, collection and enforcement of CIL. Appeals will be determined by a manager in the CIL project team within Sheffield City Council Planning Service. There is no right of appeal to an external body such as the Planning Inspectorate.

10 Further Information

10.1 The Planning Advisory Service website provides useful information on CIL, including links to the CIL Regulations and DCLG Guidance:
www.local.gov.uk/pas/pas-topics/infrastructure/what-cil

10.2 For further information from Sheffield City Council, please contact the Planning Service and ask to speak to your planning application case officer or a CIL project team member if you don't have one.

Phone: (0114) 2039183

Email: cil@sheffield.gov.uk