South Ribble Borough Council
Community Infrastructure Levy:
Advice for Planning Applicants

Note: For further information please contact South Ribble Borough Council Planning Department.
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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 relating to matters such as transport, education, health and leisure, as development comes forward. CIL is charged on a £’s per square metre (sq.m) basis.

1.2 CIL is used to contribute to the infrastructure requirements identified in the list prepared under Regulation 123 of the Community Infrastructure Regulations 2010 (as amended). It does not cover the delivery of affordable housing, which will still require a planning obligation under S106 of the Town and Country Planning Act 1990. The Council can also continue to seek S106 contributions for specific site related infrastructure subject to the conditions set out in Regulations 122 and 123 of the CIL Regulations.

2 What are the charges in South Ribble?

<table>
<thead>
<tr>
<th>Development</th>
<th>CIL Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling houses (excluding apartments)</td>
<td>£65 per Sq.m</td>
</tr>
<tr>
<td>Apartments</td>
<td>£0 per Sq.m</td>
</tr>
<tr>
<td>Convenience retail (excluding neighbourhood convenience stores)</td>
<td>£160 per Sq.m</td>
</tr>
<tr>
<td>Retail warehouse, retail parks, and neighbourhood convenience stores</td>
<td>£40 per Sq.m</td>
</tr>
<tr>
<td>Community uses</td>
<td>£0 perSq.m</td>
</tr>
<tr>
<td>All other uses</td>
<td>£0 per Sq.m</td>
</tr>
</tbody>
</table>

For further details see the South Ribble Borough Council CIL Charging Schedule.

3 When did CIL come into force?

3.1 The levy was introduced on 1 September 2013.

3.2 Any development where a planning decision notice is issued from 1 September is 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 provided that the renewal is in accordance with article 18 (1) (b) or (c) of the Development Management Procedure Order.

3.6 If there was a refusal of planning permission before the CIL implementation date, but planning permission is granted on appeal 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 before the CIL implementation date, CIL is only due in relation to any additional floorspace over the original consent.

3.8 The actual CIL charge is calculated when the planning permission first permits development. In the case of a full permission this is the date of the planning permission unless there are pre-commencement conditions in which case it is the date on which the final one is discharged. In the case of an outline planning permission development is first permitted on final approval of the last reserved matter associated with the permission or, if the outline permission permits development in phases, when the last reserved matter associated with that phase is approved. In the case of a general consent, planning permission first permits development on the day on which the collecting authority sends an acknowledgement of receipt of a notice of chargeable development.

3.9 The CIL charge becomes liable for payment on commencement of development, which is the earliest date on which any material operation begins to be carried out on the relevant land.

4 Will my development be liable to pay CIL?

4.1 CIL applies to any building which people normally go into, and where, upon completion, the gross internal area of new build will be more than 100 sqm - including extensions to existing buildings – or where it involves the creation of a new dwelling even if this is less than 100 sqm. Changes of use may be liable but there are exemptions subject to rules on demolition and continuous occupancy.
4.2 A development won’t be liable to pay CIL if it is a structure or building into which people do not usually go, or go into only for maintenance (e.g. sports pitches, sub-stations or wind turbines), or:

- Is a change of use with no additional floorspace (if no new dwellings created);
- Is a change of use from a single dwelling house to two or more separate dwelling houses;
- Is for a use which benefits from a nil charge (£0/sqm) set out in the CIL Charging Schedule

4.3 While any new build over the threshold size will be subject to CIL, the gross internal area 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 in the previous three years.

4.4 Conversions of existing buildings, mezzanine floor developments, subdivision of a dwelling into two or more dwellings and changes of use that do not involve additional new build floorspace (apart from residential) are not liable to be charged CIL.

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

5 Example CIL Scenarios

<table>
<thead>
<tr>
<th>Site Description</th>
<th>Proposed Development</th>
<th>CIL Liable</th>
<th>Chargeable Area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cleared building site</td>
<td>90 sqm new residential development</td>
<td>Yes</td>
<td>90sqm – New Dwelling even though below 100sqm</td>
</tr>
<tr>
<td>Single dwelling in use</td>
<td>25sqm extension to existing dwelling</td>
<td>No</td>
<td>Below 100sqm and does not create a new dwelling</td>
</tr>
<tr>
<td>Single dwelling in use</td>
<td>125 sqm extension to existing dwelling</td>
<td>Yes</td>
<td>125sqm</td>
</tr>
<tr>
<td>Shop unit not in use</td>
<td>90 sqm conversion/change of use to residential</td>
<td>Yes</td>
<td>90 sqm creating new dwelling even though under 100sqm</td>
</tr>
<tr>
<td>Shop unit in use</td>
<td>90 sqm conversion/change of use to residential</td>
<td>Yes</td>
<td>0sqm – unit has been in use so floorspace is deductible</td>
</tr>
<tr>
<td>Single dwelling – not in use</td>
<td>90 sqm conversion/change of use to retail</td>
<td>No</td>
<td>Change of use to non-residential and below 100sqm</td>
</tr>
</tbody>
</table>
6 What is continuous lawful use?

6.1 Floorspace subject to demolition or resulting from change of use can only be deducted where it has been in continuous lawful use for at least six months in the twelve months 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.

6.2 Where only a small part of the building to be demolished has been in use in six of the previous twelve months, all the floorspace in the building will be deductible from the floorspace of the new building(s).

7 What is included as CIL chargeable floorspace?

7.1 All new build floorspace 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.

7.2 CIL is chargeable on the “gross internal area” (as defined in the Code of Measuring Practice of the RICS) of the development for which planning permission is granted. Generally, any structure with three or more walls and a roof is considered to be ‘internal’ floorspace and therefore chargeable.

8 How do you calculate CIL?

8.1 CIL is calculated by multiplying the CIL charging rate by the additional (new build) floorspace, and factoring in an index figure to allow for changes in building costs over time.

The calculation is:

\[ \text{CIL charge rate} \times \text{net chargeable floor area} \times \text{BCIS Index Figure (P)} \]

\[ \text{BCIS Index Figure} \]

BCIS Index Figure (P) = the Building Cost Information Service Index figure for the year in which permission was granted

In the above calculation the BCIS Index figure on the top line is at the date of planning permission and on the bottom line at the date of the charging schedule.

The net chargeable floor area is the gross internal floorspace less any existing floorspace or demolished floorspace where appropriate.

The BCIS figure is The All in Tender Price 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. Should this cease to be published the index will be the retail price index published in November of the preceding year.

8.2 CIL payments are not subject to VAT. Where the CIL chargeable amount that is payable is less than £50 it is deemed to be zero.

8.3 The CIL Regulations make provision for payment in kind to be made, but only where the payment in kind is in the form of land. The Council does not anticipate this provision being utilised frequently. Further details are set out in a separate note.

9 How does CIL payment operate?

9.1 All applicants for a development that will be or may be, liable for CIL must submit a CIL Questions Form prior to a planning application being validated. In the majority of cases, the form will contain the correct information for the Council to calculate the CIL liability. In some instances more information may be required for large or complex applications.

The Council will not validate planning applications until it has received a CIL Questions Form


9.2 When planning permission is granted the Council will issue a CIL Liability Notice along with the Decision Notice. In the event of permission being granted on appeal, the CIL Liability Notice will be issued as soon as practical after the decision is received

The above notice will set out the amount of CIL due for the development. If applicants consider that the amount has been incorrectly calculated, then a request can be made that the Council recalculates it. Further to this if you still consider the amount is incorrect then an appeal can be lodged. The Planning Portal, CIL Appeals webpage, has further information.

http://www.planningportal.gov.uk/planning/appeals/otherappealscasework/cilappeals

9.3 Prior to commencing development, two forms must be submitted to the Council. Assumption of Liability – this being the form that advises the Council who will be liable to pay the CIL for the particular development.

If you later want to withdraw your liability, for example if you sell the site you must complete the following form:


Commencement Notice – this being the form that lets the Council know when the development is going to commence, and the date becomes the starting date of the timescale as to when the CIL payments become due.

If these forms are not submitted to the Council prior to the commencement of development, penalty surcharges apply, and if the person liable to pay CIL by instalments loses this right where applicable. The Assumption of Liability form may be submitted with the planning application, or at any time between submission of the application and commencement of development.

9.4 If a development is eligible for affordable housing or charitable relief, the developer must submit the form Claiming Exemption or Relief to the Council. Relief can only be claimed after the Assumption of Liability form has been submitted to the Council, and only then by the person who has assumed the liability for paying the CIL.

If the development commences before the Council has determined the amount of relief and issued a revised CIL Liability Notice, the claim for relief will lapse, and relief will not be given.

9.5 Following receipt of the Commencement Notice, the Council will issue the CIL Demand Notice to the person(s) who have assumed the liability to pay the CIL. This notice will state the date by which the CIL must be paid, it will also set out if the payment is subject to the instalments policy and the date it must be paid by if applicable.

The CIL Instalment Policy sets out the circumstances in which payment can be made by instalments. There is no flexibility to defer CIL, and payment is enforceable through both the courts and planning process. If payment is allowed in instalments and a payment is missed, the instalments policy ceases to apply and the total CIL payment then is due immediately.

9.6 Once the Council has received the CIL payment in respect of instalments, this will be acknowledged and the CIL Charge will be removed from the Land Charges Register.

9.7

How CIL works in circumstances where there is no planning application

From 1st April 2013 development authorised by ‘General Consent’ became liable to pay CIL. CIL liability arising from general consents is likely to be rare. It applies to any development permitted by Local Development Orders, Neighbourhood Development Orders and Permitted Development under the General Permitted Development Order 1995. There is no requirement to submit a notice of chargeable development if the
The proposed development is less than 100 sq m of new floorspace or does not comprise one or more dwellings.

**STAGE 1**
It is the responsibility of the developer before the commencement of development to submit a ‘Notice of Chargeable Development’ (5) to the Local Planning Authority.

**STAGE 2**
The LPA will then issue a liability notice stating the CIL charge.

**STAGE 3**
The developer must then at any time up to the commencement of development submit an ‘Assumption of Liability Notice’ (1) or ‘Transfer of Liability Notice’ (4) to the LPA. If no notice is received the liability falls upon the landowner(s).

**STAGE 4**
At any time up to commencement the developer may claim affordable housing or charitable relief.

**STAGE 5**
The developer must issue a ‘Commencement Notice’ (6) on commencement of development. If no notice is received the LPA calculates the “deemed commencement date.”

**STAGE 6**
On receipt of the Commencement Notice the LPA will calculate the liability, which will include inflation and any surcharges, and issue the Demand Notice, which is recorded as a Land Charge.

**10 Do I have to pay the CIL?**

10.1 The CIL charge itself is non-negotiable. Appeals can only be made against procedural aspects relating to the calculation, collection and enforcement of CIL. Further details are set out in a separate information note.

10.2 The regulations give relief from CIL liability in two specific instances. First, a charity landowner will benefit from full relief from their portion of the liability where the chargeable development will be used wholly, or mainly, for charitable purposes. A charging authority can also choose to offer discretionary relief to a charity landowner where the greater part of the chargeable development will be held as an investment, from which the profits are applied for charitable purposes.

10.3 Secondly, the regulations provide 100% relief from CIL on those parts of a chargeable development which are intended to be used as social housing. To ensure relief is not used to avoid proper liability for CIL, the regulations require that any relief must be repaid, a process known as ‘clawback’, if the development no longer qualifies for the relief granted within a period of seven years from commencement of the chargeable development.
10.4 The regulations also allow the Council to grant discretionary relief to developers in exceptional circumstances.

10.5 The Council is not currently allowing further ‘discretionary’ relief from CIL for charities, or for developments facing exceptional financial circumstances due to the strictly proscribed circumstances within which developers may apply and the fact that the regulations allow the Council to prepare and publish statements granting relief at short notice, if experience suggests they are needed.

11 What if I don’t submit the necessary notices or don’t pay the CIL charge?

11.1 The CIL Regulations make numerous sanctions and financial penalties available to the Council in the event that CIL is not paid in accordance with its Charging Schedule or in the event that processes are incorrectly followed. These sanctions and penalties are not detailed here, but can be read in Part 9 of the Regulations (as amended), and Chapter 3 of the Department for Communities and Local Government document entitled ‘Community Infrastructure Levy – Collection and Enforcement – Information Document’, which can be accessed at the following weblink:


12. How will I know what CIL has been spent on?

12.1 The Council is required to publish an annual report setting out the total amount of CIL received and spent in any financial year together with summary details of the items of infrastructure to which CIL has been applied, how much CIL has been spent on each item, how much has been used to repay borrowed money with details of the infrastructure that was spent on, details of the amount spent on administrative expenses and the total amount of CIL retained at the end of the year. The report is required to be produced by 31st December following the end of the financial year.

13. Further Information

13.1 Further Information on the Community Infrastructure Levy is available on the website of the Planning Advisory Service:

http://www.pas.gov.uk/web/pas-test-site/3-community-infrastructure-levy-cil

Note: CIL liability arising from General Consents is likely to be rare. It applies to any development permitted by Local Development Orders, Neighbourhood Development Orders and permitted development under the General Permitted Development Order 1995. There is no requirement to submit a Notice of Chargeable Development if the proposed development is less than 100 sq metres of new floorspace or does not comprise one or more dwellings. (see note 9.7)