

# Community Infrastructure Levy (CIL)

*Improving access to services and facilities for all*

**Guidance for Applicants**

October 2013

**Building a world-class city for everyone**



## **Introduction**

Oxford City Council is bringing the Community Infrastructure Levy (CIL) into effect on 21<sup>st</sup> October 2013. This advice note is intended for information only and aims to answer some frequently asked questions (FAQ's). It also highlights where additional information can be found. It is not intended to be a definitive interpretation of the legislation or the CIL regulations.

The Government carried out a consultation in April 2013 on a number of potential changes to the operation of CIL. The Government has not yet announced what changes will be made to CIL, and when any changes will take effect. If and when any changes are made to the national regulations, the City Council will amend and re-publish this advice note to ensure that it remains up-to-date.

## **What is the Community Infrastructure Levy?**

CIL is a tariff in the form of a standard charge on new development, which in Oxford is set by the City Council to help the funding of infrastructure. The principle behind CIL is that most development has some impact on infrastructure and should contribute to the cost of providing or improving infrastructure.

CIL applies to new floor space and charges are based on the size and type of the new development. Oxford City Council will collect the levy, co-ordinate the spending of the funds and report this to the community.

## **When does CIL come into effect in Oxford?**

The levy comes into effect in Oxford on **21<sup>st</sup> October 2013**.

Any development where a planning decision notice is issued from 21<sup>st</sup> October 2013 could be liable to pay CIL. The CIL Regulations specify that the relevant date is the date of the issuing of the planning decision notice, not when the planning application was submitted.

If a scheme was granted outline planning permission before 21<sup>st</sup> October 2013, the subsequent approval of reserved matters does not trigger a liability to pay CIL. If a scheme was granted full planning permission before 21<sup>st</sup> October 2013, the subsequent approval of pre-commencement conditions does not trigger a liability to pay CIL.

However, if there was a refusal of planning permission before 21<sup>st</sup> October 2013, but an approval of planning permission on appeal is made after 21<sup>st</sup> October 2013, the development will be liable to pay CIL.

Where an application is made under Section 73 of the Town and Country Planning Act to vary a planning permission that was granted before 21<sup>st</sup> October 2013, CIL is only due in relation to the increase in floor space over the original planning permission.

## **Which development will be liable to pay CIL?**

The following types of development are liable to pay CIL:

- Development comprising 100 square metres or more of new build floor space;
- Development of less than 100 square metres new build floor space that results in the creation of one or more dwellings;
- The conversion of a building that is no longer in lawful use.

## Which development will not be liable to pay CIL?

Certain types of development are exempt from CIL, as follows:

- Developments of less than 100 square metres new build floor space, provided that it does not result in the creation of a new dwelling.
- Development of buildings and structures into which people do not normally go, or they only go for routine maintenance (e.g. electricity sub-stations or sewerage pumping stations).

## How much will CIL cost?

The City Council has produced a Charging Schedule, which sets out the rates and has been approved by an independent Planning Inspector. The rates are:

Development type	CIL rate/m <sup>2</sup>
A1 Shops	£100
A2 Financial and professional services	£100
A3 Restaurants and cafes	£100
A4 Drinking establishment	£100
A5 Hot food takeaways	£100
B1 Business	£20
B2 General industrial	£20
B8 Storage or distribution	£20
C1 Hotels	£20
C2 and C2A Residential institutions and secure residential institutions	£20
C3 Dwellinghouses*	£100
C4 Houses in multiple occupation	£100
Student accommodation	£100
D1 Non-residential institutions	£20
D2 Assembly and leisure	£20
All development types unless otherwise stated in this table	£20 standard charge
*C3 includes self-contained sheltered accommodation and self-contained graduate accommodation	

The above rates will be subject to adjustment for inflation in future years.

## What is included in CIL chargeable floor space?

The amount of CIL payable is based on the Gross Internal Area (GIA) of the development. GIA will be measured in accordance with the Royal Institute of Chartered Surveyors (RICS) Code of Measuring Practice.

GIA includes all new build floor space within the external walls of a 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. Generally, any structure with three or more walls and a roof is considered to be 'internal' floor space and therefore chargeable.

## **What if existing buildings are being demolished or converted?**

The GIA of any existing buildings on the site that are going to be demolished or re-used may be deducted from the calculation of CIL liability. However, deductions are only applied where those buildings have been in lawful use for a continuous period of at least six months within the period of 12 months ending on the day planning permission first permits the chargeable development. In this context, “in use” means that at least part of the building has been in use.

It will be for the applicant or their agent to demonstrate that a building has been in use by providing appropriate evidence such as Council Tax records or business rates documentation.

The day “planning permission first permits development” is defined in the CIL regulations as the date at which development may commence. If there are pre-commencement conditions attached to the planning permission, this date is the date at which the final pre-commencement condition is discharged. If there are no such conditions, then the date is the date of the planning permission.

In relation to outline applications, subject to any phasing arrangements that may apply, development will only be permitted when the last of the reserved matters is approved.

## **What information will I need to submit with my planning application?**

For most types of application, you will need to submit a ‘CIL Additional Questions Form’ provided by the Planning Portal. This is available alongside the City Council’s planning application forms, and can be accessed from the City Council’s website using the following link: [http://www.oxford.gov.uk/PageRender/decP/3\\_How\\_to\\_apply\\_occw.htm](http://www.oxford.gov.uk/PageRender/decP/3_How_to_apply_occw.htm)

It is important that accurate floor plans are provided of both new buildings and those to be demolished so as to avoid any disputes about the amount of CIL that will be payable.

## **What happens if my scheme does not require planning permission?**

If a scheme is liable to pay CIL under the criteria summarised above, then a CIL payment will be required whether or not the development requires planning permission. Persons who intend to carry out development authorised by ‘general consent’ (including permitted development) should serve the City Council with a Notice of Chargeable Development so that any liability can be determined. A Notice of Chargeable Development form can be found on the City Council’s website at [www.oxford.gov.uk/CIL](http://www.oxford.gov.uk/CIL) .

## **How is CIL calculated?**

Standard formulae defined nationally in the CIL Regulations are used to determine the CIL liability. The charges in the City Council’s Charging Schedule feed into the calculation.

The calculation involves multiplying the City Council’s CIL charging rate by the net increase in GIA and adjusting for inflation.

$$\frac{R \times A \times I_p}{I_c}$$

R is the City Council's CIL rate for that use (e.g. £100 per m<sup>2</sup> for dwellinghouses)

A is the net increase in gross internal floor area.

Ip is the All-in Tender Price Index for the year in which planning permission was granted.

Ic is the All-in Tender Price Index for the year in which the charging schedule started operation.

The All-in Tender Price Index is an inflation index published by the RICS Building Cost Information Service and the figure for any given year is the figure for November of the previous year.

CIL liable amounts of less than £50 are treated as zero rated and are not payable

### Example CIL scenarios

The following table contains some examples of how CIL liabilities are calculated as a guide to the types of scenarios that may occur. If you are in any doubt about how CIL may affect a particular situation, then please contact the City Council using the contact details given at the end of this advice note.

Site description	Proposed development	Is the development liable to pay CIL?	If yes, what is the area of floor space on which CIL will be charged?
Single dwelling (in use)	Extension to existing dwelling of 125m <sup>2</sup>	Yes	125m <sup>2</sup>
Cleared building site	Construction of a new dwelling of 90m <sup>2</sup>	Yes	90m <sup>2</sup> Liable although the floor space is under 100m <sup>2</sup> because a new dwelling is being created
Single dwelling (in use)	Extension to existing dwelling of 25m <sup>2</sup>	No	Not liable as under 100m <sup>2</sup> and does not create a new dwelling
Single dwelling (in use)	Sub-division of existing dwelling into two flats with no extensions	No	Not liable because conversions from a single dwelling into two or more flats are exempt
Single dwelling (in use)	Construction of a new dwelling of 150m <sup>2</sup> Original dwelling of 90m <sup>2</sup> demolished	Yes	60m <sup>2</sup>
Cleared building site	2,000m <sup>2</sup> of new residential development, including 50% affordable housing (1,000m <sup>2</sup> )	Yes	1,000m <sup>2</sup> <u>Provided</u> the social housing relief is applied for and granted

Shop unit (not in use)	Conversion/change of use of existing shop of 90m <sup>2</sup> to a residential dwelling	Yes	90m <sup>2</sup> No exemption even though under 100m <sup>2</sup> as a new dwelling is being created. As the shop has not been in use, the floor space is chargeable
Single dwelling (not in use)	Conversion/change of use of existing dwelling of 90m <sup>2</sup> to a shop	No	Not liable as change of use to non-residential and under 100m <sup>2</sup> floor space. The fact that the existing dwelling is not in use is irrelevant in this scenario
Offices (500m <sup>2</sup> out of 1,000m <sup>2</sup> is currently in use)	New office building of 3,000m <sup>2</sup> Existing office building of 1,000m <sup>2</sup> demolished	Yes	2,000m <sup>2</sup> Even if only part of the original building is in use, this means that the whole of that building can be deducted from the new floor space
Offices (in use)	New office building of 1,099m <sup>2</sup> Existing office building of 1,000m <sup>2</sup> demolished	Yes	99m <sup>2</sup> CIL is payable on 99m <sup>2</sup> . There is less than 100m <sup>2</sup> of net additional floor space, but the 'less than 100m <sup>2</sup> rule' does not apply here because the floor space of the new build is more than 100m <sup>2</sup>
Industrial buildings (in use)	New mixed-use scheme of 2,000m <sup>2</sup> offices + 400m <sup>2</sup> retail + 750m <sup>2</sup> basement car park 1,500m <sup>2</sup> of industrial buildings demolished	Yes	1,650m <sup>2</sup> A basement car park is an enclosed building and would be chargeable.

### Can I claim charitable relief?

A charitable institution will benefit from full relief from its portion of CIL liability where the chargeable development will be used wholly, or mainly, for charitable purposes. To qualify for charitable relief, the following criteria must be fulfilled:

- The claimant must be a charitable institution;
- The claimant must own a material interest in the relevant land;
- The claimant must not own this interest jointly with a person who is not a charitable institution.

An application for relief must be made to the City Council before commencement of the development to which it relates. This form is available on the City Council's website at [www.oxford.gov.uk/CIL](http://www.oxford.gov.uk/CIL).

### **Can I claim social housing relief?**

Full relief from CIL can be given to those parts of a development which are intended to be used as social housing if a claim is submitted to the City Council by an owner of a material interest in the relevant land. The form is available on the City Council's website at [www.oxford.gov.uk/CIL](http://www.oxford.gov.uk/CIL) .

When applying for this relief a claimant must provide evidence that that the chargeable development qualifies for social housing relief. To ensure that relief is not used to avoid proper liability for CIL, the regulations provide that any relief must be repaid if the development no longer qualifies for the relief granted within a period of seven years from the commencement of the development.

### **Can I claim exceptional circumstances relief?**

No. The City Council has not published any policies allowing for exceptional circumstances relief.

### **Who is liable to pay CIL and when?**

When planning permission is granted for a CIL liable development, the City Council will issue a Liability Notice. This will set out how much CIL is to be paid and when it is to be paid.

However, CIL will only become payable upon commencement of development. CIL will need to be paid within 60 days of development commencing, unless you are proposing a major development that is covered by the City Council's instalments policy (see below).

Following the issuing of the Liability Notice, CIL will be registered as a local land charge until the outstanding amount is fully paid. However, any individual or organisation (e.g. the developer) may assume liability for the payment. It is the responsibility of the person(s) who assume liability to inform the City Council of this. The assumption of liability form is available on the City Council's website at [www.oxford.gov.uk/CIL](http://www.oxford.gov.uk/CIL) . If no party assumes liability the charge will be immediately payable by the land owner upon commencement.

The person liable for paying CIL is also required to serve the City Council with a Commencement Notice stating the date that development will commence. If we are not notified, a penalty will be added and payment will be due immediately. The Commencement Notice form is available on the City Council's website at [www.oxford.gov.uk/CIL](http://www.oxford.gov.uk/CIL) .

After receipt of the Commencement Notice, the City Council will serve a Demand Notice setting out precise details of payment arrangements.

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

The City Council has approved an instalments policy for developments where the CIL liability would be above a certain amount. This has been agreed to ease the cash flow of developers on large schemes. The instalments policy is set out below.

Where the chargeable amount is between £200,000 and £2 million, the chargeable amount will be required as per the following four instalments:

1 <sup>st</sup> instalment	2 <sup>nd</sup> instalment	3 <sup>rd</sup> instalment	4 <sup>th</sup> instalment
25% within 60 days	25% within 160 days	25% within 260 days	25% within 360 days

Where the chargeable amount is over £2 million, the chargeable amount will be required as per the following four instalments:

1 <sup>st</sup> instalment	2 <sup>nd</sup> instalment	3 <sup>rd</sup> instalment	4 <sup>th</sup> instalment
25% within 60 days	25% By end of yr 1	25% By end of yr 2	25% By end of yr 3

### **I have sold the site but I claimed liability. What should I do?**

CIL liability can be transferred to another person before development commences. If you want to withdraw or transfer assumed liability you will need to fill out the relevant forms and submit them to the City Council. The withdrawal of assumption of liability form and the transfer of assumed liability form can both be found on the City Council's website at [www.oxford.gov.uk/CIL](http://www.oxford.gov.uk/CIL)

### **Can I appeal against paying CIL?**

The CIL charge itself is non-negotiable. However, if you think that we have made a mistake in calculating the chargeable amount you can submit in writing to the City Council a request for a review. This must be done within 28 days of the Liability Notice being issued. Requests should be made either by email to [planningpolicy@oxford.gov.uk](mailto:planningpolicy@oxford.gov.uk), or by letter to the address below:

Head of City Development  
Oxford City Council  
St Aldate's Chambers  
109-113 St Aldate's  
Oxford  
OX1 1DS

If you are still unhappy with the City Council's calculation following a review, you can appeal to the Valuation Office Agency (VOA). Appeals can also be made to the VOA about the apportionment of liability or the City Council's decision on an application for charitable relief. Further information can be found on the VOA's website at [www.voa.gov.uk/cil](http://www.voa.gov.uk/cil)

In addition, appeals can be made to the Planning Inspectorate on matters relating to the enforcement of CIL payments, namely to the imposition of surcharges; the issuing of a stop notice; or the deemed commencement date specified by the City Council. Further information can be found on the Planning Portal website at [www.planningportal.gov.uk/planning/appeals](http://www.planningportal.gov.uk/planning/appeals).

## **What will happen if CIL is not paid?**

If CIL is not paid when it is due then the City Council may take any of the following actions in order to recover the debt, as set out in the CIL regulations:

- Removal of the instalments facility, where relevant;
- Imposition of surcharges and late payment interest;
- Issuing of a CIL Stop Notice;
- Applying to the courts for a Liability Order, under which goods could be seized to the value of the outstanding CIL liability

## **Is VAT payable on CIL payments?**

No, CIL payments are not subject to VAT.

## **What will CIL receipts be spent on?**

The Planning Act 2008 provides a broad definition of infrastructure and states that it can include items such as roads and other transport facilities; flood defences; schools and other educational facilities; medical facilities; sporting and recreational facilities; and open spaces.

CIL differs fundamentally from planning obligations in that the funds collected are not tied to a specific development or the provision of specific infrastructure. The City Council will publish on its website a list under Regulation 123 of the CIL Regulations, known as the Regulation 123 list. This list sets out the infrastructure that will be, or may be, wholly or partly funded by CIL.

The first Regulation 123 list will be based upon the list of infrastructure that was prepared to support the City Council's CIL Charging Schedule. That list was published for consultation and considered by the independent examiner. However, the Regulation 123 list will be kept under regular review to reflect changing circumstances.

Inclusion of projects on the Regulation 123 list does not represent a commitment by the City Council to spend CIL monies on that project. Decisions on which projects from the Regulation 123 list are to be prioritised for spending will be taken separately, in liaison with the County Council and other partners as appropriate. The proposed project prioritisation will be set out in an annual report on the intended spend of CIL monies. This will be considered by City Council members as part of the annual budget setting process.

Within the total incomes received, 15% of receipts will be passed directly to Parish Councils in those areas of Oxford that have a Parish Council. In unparished areas, this 15% will be held by the City Council and spent in accordance with the wishes of the community. The 'neighbourhood proportion' of CIL would rise to 25% in areas covered by adopted Neighbourhood Plans.

## **How will CIL affect planning obligations?**

Planning obligations (often known as Section 106 agreements) will be scaled back to deal with the provision of affordable housing and with site specific measures that are required to mitigate the impact of development. In addition, there may be circumstances where a development proposal results in the loss of an existing facility or site feature,

and the City Council may require the replacement of that facility/site feature either directly by the developer or through a financial contribution that would be set out in a planning obligation.

Planning obligations will not be sought for items of infrastructure that are included on the Regulation 123 list. The City Council has adopted a Supplementary Planning Document on Affordable Housing and Planning Obligations to provide guidance on how planning obligations will operate alongside CIL. For more information see: [www.oxford.gov.uk/spd](http://www.oxford.gov.uk/spd)

### **Where can I find more information?**

For further information and guidance please see: [www.oxford.gov.uk/CIL](http://www.oxford.gov.uk/CIL) .

You can also:

- discuss CIL with the officer dealing with your case; or
- email [freeman@oxford.gov.uk](mailto:freeman@oxford.gov.uk) or [planningpolicy@oxford.gov.uk](mailto:planningpolicy@oxford.gov.uk); or
- call 01865-252847.

In addition, useful information about CIL can be found on the following websites:

- The Planning Portal (see the link below):  
<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>
- The Planning Advisory Service (see the link below):  
<http://www.pas.gov.uk/3-community-infrastructure-levy-cil>