



COMMUNITY INFRASTRUCTURE LEVY

Frequently asked questions

<p>What development is liable for CIL?</p>	<p>Development will potentially be liable for CIL if it: Is for a building into which people normally go; and</p> <ul style="list-style-type: none">• Involves new build of at least 100m² gross internal area (GIA) floorspace; or• Involves new build of less than 100m² GIA floorspace and the creation of one or more dwellings.• This includes development permitted by a 'general consent' (including permitted development). In the case of development authorised by a development order, local development order or by an enterprise zone scheme CIL will apply to developments commenced on or after 6 April 2013.
<p>What development is not liable for CIL?</p>	<p>Development will potentially not be liable for CIL if it:</p> <ul style="list-style-type: none">• Involves only change of use, conversion or subdivision of, a building which has been in lawful use for a continuous period at least six months in the three years ending on the day planning permission first permits the chargeable development 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 development order (including permitted development), local development order commenced before 6 April 2013; or• Is for social housing and a claim for social housing relief is made, has been accepted by the Council and all the requirements in the Regulations have been satisfied; or• Is for and occupied by a charity for charitable purposes and a claim for charitable relief is made, has been accepted by the Council and all the requirements in the Regulations have been satisfied; or• Is for a use or area which benefits from a zero or nil charge (£0/m²) set out in a CIL Charging Schedule; or• Is eligible for self-build exemption and the relevant claim form has been submitted, has been accepted by the Council and all the requirements in the Regulations have

	<p>been satisfied;</p> <ul style="list-style-type: none"> •Development which has been granted planning permission prior to a CIL Charging Schedule being adopted.
Are external balconies liable?	No
Are roof terraces liable?	No
Are car parks liable?	Yes if they are underground or enclosed.
Are walkways liable?	No if not enclosed
Are bicycle stores liable?	Yes
Are internal corridors liable?	Yes
Are internal stairs liable?	Yes
Where buildings are redeveloped will their floorspace be deducted from the final floorspace of the new development when working out how much CIL is to be paid? The actual floorspace in the new development may be the same or even less than previously existed	<p>Where buildings are demolished to make way for new buildings, the charge will be based on the floorspace of new buildings less the floorspace of the demolished buildings. To qualify for this deduction the area to be demolished must still be in existence when the development is first permitted and have been in lawful use for a continuous period of 6 months within the period of 3 years ending on the day planning permission first permits the chargeable development.</p> <p>Provided that the above criteria are satisfied, if more floorspace is demolished than is erected in the new development no CIL would be liable. However, s106 obligations may still be used for development specific infrastructure provided they meet the test in the CIL Regulations (S 122).</p>

<p>How long does a building have to be vacant before the floorspace can no longer be offset against CIL liabilities triggered by new development?</p>	<p>Floorspace subject to demolition or resulting from a change of use can only be deducted where it has been in continuous lawful use for at least six months in the three years ending on the day planning permission first permits the chargeable development. The 3 year time period ends on the date when “planning permission first permits the chargeable development”. Where a permission is subject to pre-commencement conditions, it is the time when the last of the pre-commencement conditions has been satisfied</p>
<p>What if only a small part of a building to be demolished has been in use over the last 6 months?</p>	<p>Regulation 40 (11) of the CIL Regulations 2010 (as amended) states that a building is in use if a part of the building is in use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development. Therefore, all the floorspace to be demolished in the building would be deductible from the floorspace of the new buildings (provided that such floorspace is still in existence when the development is first permitted otherwise the deduction will not apply).</p>
<p>Is CIL payable on parts of a building that people do not normally go in to, for example a plant room?</p>	<p>Yes, it is. These areas should not be excluded from the calculation of a building’s floorspace. Exemption only applies if the whole building is one that people do not normally go in to.</p>
<p>If a large scheme has outline planning permission, is the whole development due to pay CIL at the time the first phase/reserve matter of the outline commences? And if there is existing floorspace on the site how should this be treated?</p>	<p>If a large scheme has outline permission each phase is a separate chargeable development (reg 9(4)) and each phase is regarded as having a permission which 'first permits development' when the last reserved matter is approved for that phase (reg 8(5)). This is used to establish the point in time (reg 40(11)) at which '6 months in the last 3 years' runs from, as it will depend on which phase a building to be demolished or retained forms part of.</p> <p>Schemes which are authorised by full permissions can also be phased for the purposes of CIL. Detailed schemes can also be phased</p> <p>Regulation 40 (as amended) provides for a deduction in the CIL liability arising as a result of an area being demolished in one phase, to be carried over into future phases.</p>
<p>How is CIL calculated on an outline planning application if the final uses of buildings have not been determined?</p>	<p>The Mayoral CIL is the same rate for all uses so is easily calculated. The Borough rates will be different for different uses so an estimate will be calculated initially based on the information submitted in the Additional Information form.</p> <p>The person who submits this notice must inform the Council of any changes to the information provided in that</p>

	notice before development commences. At this the point the Council must issue a revised Liability Notice.
Planning permission was granted for a development, subject to S106, prior to adoption of a CIL charging schedule. Is CIL chargeable if a S73 application is made?	The 2012 amendment to the CIL Regulations means that CIL will only be payable upon any increase in chargeable floorspace from the Section 73 application. Therefore, the original consented floor area will fall outside of the scope of CIL.
Is CIL payable on conversion of a residential dwelling into 2 or more flats?	Reg 6(1)(d) provides that a conversion from one into two or more dwellings is not 'development' for the purposes of CIL. CIL is not therefore payable – the 6 months of the last 3 years does not apply in this scenario. However, if there is also an extension of any size to the building, CIL will be chargeable on the increase in floor area only.
Is CIL payable on change of use?	A planning application for the change of use of an existing building will not be liable to CIL unless it involves an extension which provides 100 square metres or more of additional floorspace, or involves the creation of a new dwelling even when it is below 100 square metres. Even if otherwise liable to pay CIL, if the part of the building to which the change of use applies has been in continuous lawful use for at least six months in the last three years then the area can be deducted from the amount of CIL payable.
Is CIL payable if an existing building (no change of use) is extended by 100sqm or more but has not been in lawful use for 6 months out of the last 3 years?	Yes, but just on the new build, not the existing building. This is provided that the permitted user of the existing building prior to the date when development for the extension is first permitted remains the use of that building within the new development. This is the second retention exemption under Reg 40
Is the Mayor offering discretionary charitable relief or exceptional circumstance relief?	No
To what parts of a building do social	The 2014 amendment to the CIL Regulations extended social housing relief to the communal spaces such as

housing relief apply?	stairs, corridors, lobbies and car parking, as well as the areas that can be let.
How do I calculate the GIA of a building?	To calculate the GIA you should use the RICS Code of measuring practice (link below) http://www.rics.org/site/scripts/downloads.aspx?categoryID=455
Will a development be liable to pay CIL if planning permission is granted before a CIL Charging Schedule is published?	There is no CIL liability for a development authorised pursuant to a planning permission granted before a CIL Charging Schedule is published.
Will a development be liable to pay CIL if there was a resolution to grant planning permission (e.g. subject to a S106 agreement or call-in) before publication of the CIL Charging Schedule, but the formal grant of planning permission is made after publication of CIL Charging Schedule?	If a resolution to grant planning permission (e.g. subject to a S106 agreement or call-in) was made before a CIL Charging Schedule was published, but the formal grant of permission was made after the CIL Charging Schedule is published, the Development will be liable for CIL.
Will a development be liable to pay CIL if there was an outline planning permission before publication of a CIL Charging Schedule, but the approval of reserved matters / phases is made after publication of a CIL Charging Schedule?	If outline planning permission is granted before publication of a CIL Charging Schedule, but the approval of reserved matters / phases takes place after publication of the CIL Charging Schedule, the approval of reserved matters / phases does not trigger a liability to pay CIL.
Will a development be liable to pay CIL if there was a full planning permission before publication of a CIL Charging Schedule, but the approval of pre-commencement conditions is made after publication of a CIL Charging Schedule?	If full planning permission is granted before publication of a CIL Charging Schedule, but the approval of pre-commencement conditions is made after publication of the CIL Charging Schedule, the approval of pre-commencement conditions does not trigger a liability to pay CIL.
Will a development be liable to pay CIL if there was a refusal of planning	If planning permission was refused before the publication of a CIL Charging Schedule, but a grant of planning permission was made on appeal after publication of the CIL

<p>permission before publication of a CIL Charging Schedule, but an approval of planning permission on appeal is made after publication of a CIL Charging Schedule?</p>	<p>Charging Schedule, the development granted planning permission on appeal may be liable to pay CIL.</p>
<p>Are 'General Consent' developments liable to CIL?</p>	<p>If the development meets the basic criteria for CIL liable developments e.g. 100sqm of additional floor space. The CIL Regulations 2010 (as amended) defines 'General Consents', so as to include:</p> <p>Permitted development rights under the General Permitted Development (England) Order 2015 (as amended)</p> <ul style="list-style-type: none"> • Consents granted for Major Infrastructure Planning Unit (MIPU) of the Planning Inspectorate (PINS) • Development consented through any Enterprise Zone, Simplified Planning Zone (SPZ), Local Development Order (LDO) or Neighbourhood Development Order (NDO); and • Development consented through an Act of Parliament, for example, the Crossrail Act 2008. <p>For permitted development, it is the applicant's responsibility to serve a Notice of Chargeable Development Form before the commencement of the development.</p>
<p>When is a Liability Notice issued?</p>	<p>A Liability Notice is issued as soon as practicable after the day on which a 'planning permission first permits development'.</p> <p>In the case of an outline planning permission, 'planning permission first permits development' on the day of the final approval of the last reserved matter.</p> <p>A revised Liability Notice will be issued every time the CIL charge changes, e.g. if the floor area changes or if a surcharge is applicable.</p>
<p>When is a Demand Notice issued?</p>	<p>A Demand Notice is issued on receipt of a Commencement Notice or, in the case of a general consent, on receipt of a Notice of Chargeable Development.</p>
<p>When is CIL payment due?</p>	<p>CIL will be payable within 60 days of development commencing, or if the local authority has an instalment policy, then in accordance with that policy.</p> <p>However:</p>

	<ul style="list-style-type: none"> • Where no-one has assumed liability but a commencement notice has been received, payment is due immediately upon commencement. • Where the Council has determined a 'deemed commencement' date (because no valid Commencement Notice was provided), payment is due on the deemed commencement date. • There are also special provisions under Regulation 71 where the Council has to transfer liability to the land owners or where charitable or social housing relief has been granted and a 'disqualifying event' has taken place. These will be unusual events.
<p>When surcharges and late interest may be charged</p>	<p>Surcharges and interest may be imposed as follows:</p> <ul style="list-style-type: none"> • If the development has commenced and no Commencement Notice has been received - £50 on each liable person. • Where the Council has to apportion liability between different owners - £500 on each owner. • For failure to submit a Notice of Chargeable Development – 20% of the chargeable amount up to a maximum of £2,500. • For failure to submit a Commencement Notice – 20% of the chargeable amount up to a maximum of £2,500. • For failure to notify the Council of a disqualifying event within 14 days - 20% of the chargeable amount up to a maximum of £2,500. • For late payment – 5% of the chargeable amount or £200 (whichever is greater) may be imposed after 30 days and again after 6 months and then after 12 months on any outstanding amount. • Failure to comply with an information notice within 14 days – 20% of the chargeable amount up to a maximum of £1,000. • Late payment interest must be paid starting on the day payment was due at a rate 2.5 percentage points above the Bank of England base rate.
<p>Are Mezzanine floors liable to pay CIL?</p>	<p>Save for one exception mezzanine floors for not 'development' under S55(2)(a) of the TCPA and so are not liable for CIL. The one exception is where the mezzanine floorspace is more than 200 square metres to be used for the retail sale of goods other than hot food (including retail warehouse club), which is 'development' under S55(2A). However Reg 6(1)(c) of the CIL Regulations provides that this will not be a development for the purposes of CIL.</p> <p>So if a scheme contains only a mezzanine floor then CIL is not payable, however mezzanine floors forming part of a</p>

	new development will be taken into account when calculating CIL.
Residential Care Homes	Yes (Where there are no trained nursing staff)
Registered Care Home	No (Where they have trained nurses and are inspected by the Care Quality Commission) Use class C2