



Lichfield District Council
Community Infrastructure Levy
Short Guide April 2016

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Introduction

The information contained within this guide is intended to assist those involved in the development process to understand Lichfield's Community Infrastructure Levy (CIL) and to help estimate potential CIL liability for new schemes. It is not intended to replace the need to read and understand the CIL Regulations and Government guidance. Applicants are advised to seek their own professional advice.

For more information you can also:

- Visit the Council's CIL web pages: www.lichfielddc.gov.uk/CIL
- Read the CIL Planning Policy Guidance (PPG):
<http://planningguidance.communities.gov.uk/blog/guidance/community-infrastructure-levy/>
- Email: CIL@lichfielddc.gov.uk
- Call Lichfield's Planning enquiry line: 01543 308174
- Visit the [Planning Portal](#).
- Read Lichfield District Council Planning Obligations Supplementary Planning Document

What is the Community Infrastructure Levy?

The Community Infrastructure Levy (CIL) is a charge on development, calculated on a £ per square metre (sq.m) basis of development. CIL is intended to be used to help fund infrastructure to support the development of an area rather than making an individual planning application acceptable in planning terms, which is the purpose of Section 106 Agreements. CIL does not fully replace Section 106 Agreements.

For more information on what other developer contributions may be required to support development to make them acceptable in planning terms, please see the Supplementary Planning Document: Developer Contributions (2016).

When does Lichfield's CIL come into effect?

The levy was approved by full Council on 19 April 2016 and will be implemented on **13 June 2016** in Lichfield. Any development where a planning permission is issued on or after 13 June 2016 may be liable to pay CIL, however there are certain situations where it will not be triggered:

- If a scheme is granted outline planning permission before the CIL implementation date, the subsequent approval of reserved matters will not trigger a liability for CIL.
- If an application is made under Section 73 of the Town and Country Planning Act to vary a planning permission that was granted prior to the CIL implementation date, provided there is no uplift in floorspace over the original consent, a CIL charge will not be triggered.
- A building into which people do not normally go, or a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery, will not incur a CIL charge.

Will my development be liable to pay CIL?

CIL applies to development in Lichfield District, and is liable if that development has 100 sq.m or more of gross internal area of new build, or involves the construction of a single dwelling even when it is smaller than 100 sq.m. (*“New build” means that part of the development which will comprise new buildings and enlargements to existing buildings.*)

Development will be liable to pay CIL if:

- It is of a type for which a rate has been set in the Charging Schedule; and
- It is a building into which people normally go, and if upon completion the gross internal floor area of new build will be more than 100 sq.m, or
- It is creating 1 or more dwellings even where the floorspace is less than 100 sq.m.

At a local level the Charging Schedule defines the type of development which will be liable for CIL across Lichfield District. The Charging Schedule specifies that apartments are subject to a £nil charge.

While any development over the size threshold will be subject to CIL, the gross internal area of any existing buildings on the site to be demolished may be deducted from the final liability, provided it is situated on the relevant land on the day planning permission first permits the chargeable development and contains a part that has been in continuous lawful use for 6 months of the previous three years prior to the date of the planning permission that authorised the development.

Development that is not liable to pay CIL

- Development which creates net additional floorspace of less than 100 square metres, (unless it is new dwelling, in which case the levy is payable).
- A structure or building into which people do not usually go or go into only intermittently for maintenance, such as electricity sub-stations or telecommunications plant rooms.
- Mezzanine floors inserted into an existing building are not liable when no other works or changes of use are proposed.
- A change of use from a single dwelling house to two or more separate dwelling houses.

Exemptions and relief

There are a number of occasions that exemptions or relief from paying CIL can be applied for, and may be granted for development that is:

- social housing;
- it will be used for charitable purposes; or
- it is a self-build new home, extension or residential annexe.

A completed [CIL Form 1: Assumption of Liability](#) and a [CIL Form 2: Claiming Exemption or relief](#) should be returned to Lichfield District Council, prior to the commencement of development. Enough time should be allowed for the claim to be considered by the Council

prior to commencement of development, otherwise eligibility for exemption or relief may be lost.

CIL Charges

The following is an excerpt from the adopted CIL Charging Schedule, please see the full document for maps of the Charging Zones across Lichfield.

Use	CIL Charge (per sq. m)
Market houses within Strategic Development Allocations (SDAs) and the Broad Development Location (BDL) defined in the Local Plan Strategy 2008-2029 adopted 17 February 2015 (refer to Figure 1 and inset maps Figures 2 - 9)	£14
Market houses in lower value zone (refer to Figure 1)	£25
Market houses in higher value zone (refer to Figure 1)	£55
Supermarket	£160
Retail Warehouse	£70
Neighbourhood Convenience Retail	£20
All other development including residential apartments	£0

How is CIL calculated?

The calculation involves multiplying the CIL charging rate by the gross internal floorspace, and factoring in an index figure to allow for changes in building costs over time.

$$\frac{\text{CIL Rate (R) x Chargeable Floor Area (A) x BCIS Tender Price Index (Ip)}{\text{BCIS Tender Price Index (Ic)}}$$

A = the deemed net area chargeable at rate R

Ip = The BCIS All-in Tender Price Index for the year in which planning permission was granted (published on 1st November of the preceding year)

Ic = The BCIS All-in Tender Price Index for the year in which the charging schedule containing rate R took effect

The All in Tender Price Index is published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors (RICS) 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.

The floorspace is based on the “gross internal area” (GIA) of the development. GIA will be measured in accordance with the RICS Code of Measuring Practice. Generally, any structure with 3 or more walls and a roof is considered to be internal floorspace and therefore chargeable.

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 last 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.

Payments of amounts of less than £50 are treated as ‘zero’ and not payable.

Example CIL calculation

Planning permission for 5 houses is granted in November 2016, each house has a gross internal floor space of 125 sqm in size. They are located in the “Higher Value Zone”, where the charge rate is £55 per square metre.

The CIL charge would therefore be: **5 x 125 x £55 = £34,375.00**

As November 2016 is in the same year as when the Charging Schedule was adopted, the index is the same, so build cost inflation does not need to be taken into account. In future years, the “all-in tender price index” will need to be factored into the calculation.

How do I pay CIL?

When planning permission permits a CIL liable development, the Council will issue a Liability Notice which will set out how much CIL is to be paid and when it will become due. CIL does not need to be paid at this point, payment only becomes due once the development is commenced.

Prior to commencing development, the developer must send a completed CIL Form 6: Commencement Notice to the charging authority (Lichfield District Council) stating the date when construction work will begin. The Council will then acknowledge this formally and send out a CIL Demand Notice setting out precise details of payment arrangements.

To support developers bringing forward new schemes, the Council has introduced an instalments policy for the payment of CIL, an extract from this is shown below:

CIL liability	Number of Instalments	Payment periods and amounts
Under £25,000	1	100% within 180 days of commencement of development
From £25,000 up to £75,000	2	50% within 180 days of commencement of development 50% within 360 days of commencement of development
From £75,000 up to £250,000	3	25% within 180 days of commencement of development 25% within 360 days of commencement of development 50% within 540 days of commencement of development
£250,000 or more	4	25% within 180 days of commencement of development 25% within 360 days of commencement of development 25% within 540 days of commencement of development 25% within 720 days of commencement of development

In addition to paying through instalments, the CIL Regulations allow for phased developments. Where an outline planning permission is granted that allows a phased development, each phase is treated as a separate chargeable development. For these developments, CIL is calculated on the date the pre-commencement condition associated with relevant phase is approved.

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 who assumes liability to inform the Council of this using CIL Form 1.

The Council has a 'payments in kind' policy which details alternatives to cash payments through the provision of land or infrastructure, and a policy for relief from CIL in exceptional circumstances; both policies are available from www.lichfielddc.gov.uk/CIL.

The CIL regulations allow the charging authority to impose late payment interest and a variety of surcharges for parties not returning CIL paperwork in the correct manner, including surcharges for:

- failure to assume liability.
- failure to submit a commencement notice
- failure to submit a notice of chargeable development
- late payment

When an amount of CIL has become payable in respect of a chargeable development has not been paid; and the collecting authority considers it expedient that development should stop until the amount has been paid, then the collecting authority can serve a 'CIL stop notice' in respect of the chargeable development.

Can I appeal against paying CIL?

The CIL charge itself is non-negotiable, and is not subject to viability considerations. This is because the levy rates for Lichfield were subject to an examination in public on 28 January 2016, prior to being adopted by the Council for use across the District.

Notwithstanding the above, appeals can be made against procedural aspects relating to the calculation, collection and enforcement of CIL. Information on how to appeal against CIL in relation to your development is set down by the National Planning Practice Guidance:

<http://planningguidance.communities.gov.uk/blog/guidance/community-infrastructure-levy/cil-appeals/>

The most usual type of appeal is when a developer believes that the charging authority has calculated the chargeable amount incorrectly, this could be because a decimal point has been put in the wrong place or the floorspace has been incorrectly measured.

A liable person can ask Lichfield District Council for a review of the chargeable amount, within 28 days from the date on which the liability notice (that outlines the chargeable amount) was issued. The collecting authority is required to review the calculation. This review must be carried out by someone who is senior to the person who made the original calculation, and who had no involvement in that original calculation. A decision must be issued within 14 days, and this decision cannot be reviewed again.

If the liable person is dissatisfied with the outcome of the first review, they can then appeal to the Valuation Office Agency; see the following website on how to do this:

<https://www.gov.uk/guidance/community-infrastructure-levy-how-to-make-an-appeal>

Example Development Scenarios

Existing site Description	Proposed Development	CIL Liable?	Chargeable area
Cleared building site	90 sq.m new residential dwelling	Yes	90 sq.m Liable because even though the floor space is under 100 sq.m, a new dwelling is being created.
Single dwelling 'In use'	25 sq.m extension to existing dwelling	No	Not liable. Extensions under 100 sq.m are exempt from the levy.
Single dwelling	125 sq.m extension to existing dwelling	Yes	125 sq.m. Liable, but exemption for self-build extension can be applied for, which may provide exemption from paying the charge.
Cleared building site	2000 sq.m residential, including 40% Social Housing (800 sq. m)	Yes	2000 sq.m Relief can be applied for on the 800 sq.m of Social Housing, which then may be considered and granted, resulting in a chargeable area of 1200 sq.m
Single dwelling 'In use', in situ and to be demolished	125 sq.m new development, 90 sq. m original dwelling demolished	Yes	35 sq.m Development comprises of one or more dwellings but the charge is reduced as the original building to be demolished is in use
Shop unit Not 'in use'	90 sq. m conversion / change of use to house	Yes	90 sq.m Liable, because even though the development is under the threshold of 100 sq. M, a new dwelling is being created. As the unit has not been in use, all the floorspace is chargeable.
Shop unit 'In use'	90 sq. m conversion / change of use to house	Yes	Liable but no charge as the existing floorspace which is currently in use is being converted., and this floorspace can be offset.

Please note that 'in use' is being used as shorthand for "in use building" which is defined in regulation 40 of the CIL regulations 2010 (as amended).

"In use building" means a building which-

- (i) Is a relevant building, and
- (ii) Contains a part that has been in lawful 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.

What will CIL be spent on?

The funds received from a given development get split into 3 pots of money to be spent in different ways.

5% of receipts can be retained by the authority to help cover the costs of administering and collecting CIL.

15-25% of receipts will be passed to the Parish Council for the local area of where the development took place, to be spent on the provision, improvement, replacement, operation or maintenance of infrastructure; or anything else that is concerned with addressing the demands that development places on an area. This slice varies depending on whether a neighbourhood plan has been adopted within that area or not; where a neighbourhood plan has been adopted, the slice is uncapped at 25%. Where there is no neighbourhood plan in place the Parish Council would receive 15% of receipts capped at £100 per property.

The remaining slice of 70-80% of receipts will be spent on infrastructure projects that may benefit the District of Lichfield as a whole. The specific projects or types of infrastructure are set down in the "Regulation 123 projects list". This is a statutory document that the Charging Authority must prepare, however it can be changed from time to time. Please see the Regulation 123 document for more detailed information, the documents can be viewed on the District Council website at www.lichfielddc.gov.uk/CIL.

To guide the spending of CIL funds, a separate governance document has been prepared which provides more details on how the above slices will be distributed. This will be presented to Full Council for approval.

The Charging Authority must prepare a report for any financial year in which it collects CIL. This report must include information on the total receipts and expenditure made under CIL. The financial report will be published on Lichfield's website no later than 31st of December following the end of the reported year.

In addition, a Parish or Town Council must prepare a report for any financial year in which it receives CIL receipts, and send a copy of the report to the Charging Authority from which it received CIL receipts, no later than 31st December following the reported year, unless the report is to be published on the charging authority's website.

Frequently Asked Questions

I demolished a building last month, and I got planning permission today, can I offset the floorspace of the previous building against that of my proposed development?

Unfortunately you cannot do this, as the CIL regulations require the building to be offset to be a “relevant building”, and this is described as being a: *“building which is situated on the relevant land on the day planning permission first permits the chargeable development”*. Therefore the building must be in situ on the date that you get full planning permission for it to be considered as floorspace to be offset. Evidence must be supplied regarding the lawfulness and timing of its use.

I am converting a large house into two houses, do I need to pay CIL?

No, provided that there is no additional floorspace being added. This is because regulation 6 of the CIL regulations states that the following should not be treated as “development” for the purposes of CIL: *“the change of use of any building previously used as a single dwellinghouse to use as two or more separate dwellinghouses.”*

I am converting a large house into 4 apartments and extending by 150sqm to facilitate this, do I need to pay CIL?

No. Apartments in Lichfield District are not subject to a charge rate, so even though three new dwellings are being created, and there is development greater than 100sqm, the development will be subject to the £0 charge rate.

I got planning permission for 5 dwellings before CIL came in, but I’ve not built them yet. I want to change the approved plans to add conservatories to each dwelling, how is my development affected?

If the application is submitted under section 73 of the TCPA 1990 to change one of the conditions to which the previous planning permission was granted, then only the additional floorspace for the conservatories would be subject to a CIL charge.

Please note that if you submit a new full planning application, then the whole development would be subject to the CIL charge.

Under prior approval, I am going to convert a small office block into two houses, do I need to pay CIL?

The development could be liable to pay CIL, but the process is slightly different from when a standard planning permission is issued. This is because the CIL regulations¹ say that for the purposes of CIL, “planning permission” includes development that is permitted by “General Consent” and this includes types of development described in the General Permitted Development Order (GPDO) 2015, which details various types of development that are subject to prior approval.

If the building has not been in lawful use for more than 2 years 6 months, then a CIL charge will become due. If the building has been in lawful use for the required period of time, then

¹ See Regulation 5(3) of the CIL Regulations 2010 (as amended)

there will be no CIL charge. For both scenarios, the developer must return a completed 'CIL Form 5' to the Charging Authority (Lichfield District Council) prior to commencing the development. The Council will then determine what the CIL charge will be.

I built a house last year without planning permission (before CIL came in). I'm applying for retrospective planning permission now, if it is approved do I need to pay CIL?

Yes – this is because the CIL charge is calculated on the day that permission first permits the chargeable development. As your planning permission may be approved after CIL has introduced, there will be a levy due.

Do detached garages and porches count towards CIL?

Where garages and porches form part of an application for the creation of a new dwelling, the floorspace of these will count towards the overall gross internal area of the chargeable development.

Where they form part of a householder application, they will count towards the overall gross internal area of the chargeable development, but Self Build Residential Extension exemption can be applied for, prior to the commencement of the development.

Why do householder extensions over 100sqm pay CIL?

Exemption from paying CIL on residential extensions that are above the 100sq.m threshold can be applied for, using the standard planning portal [CIL Form 9: Self Build Residential Extensions Exemption Claim Form](#).

Does an 'outline' planning application or 'reserved matters' application trigger CIL?

An outline permission granted prior to the introduction of CIL, followed by reserved matters after the introduction of CIL does not incur a liability. This is because the 'reserved matters' are not a planning permission in their own right, but the outline consent is (see section 92 of the TCPA 1990).

For an outline permission granted after the introduction of CIL, the calculation of the amount of CIL payable will take place at the point where planning permission first permits the development. In the case of a grant of outline planning permission which is not a phased planning permission, planning permission first permits development on the day of the final approval of the last reserved matter associated with the permission.

I want to vary or remove a condition on my planning permission, does this trigger CIL?

Applications made under Section 73 of the Town and Country Planning Act 1990 allow applications to be made for permission to carry out a development without complying with a condition(s) or to vary condition(s) previously imposed on a planning permission. A Section 73 planning permission is the grant of a new planning consent, however the original planning permission continues to exist whatever the outcome of the application made under Section 73.

The approval of a Section 73 application grants a new planning permission in its own right, so CIL will apply and the threshold to which it applies is the same as any other application. There are however provisions in the CIL regulations to account for situations where the original scheme was granted permission prior to the adoption of the CIL charging Schedule.

In simple terms, the CIL liability is calculated as it would have been for the original scheme if the Charging Schedule had been adopted at that point in time, and the CIL liability is calculated for the whole of the new scheme. To calculate the CIL charge that should be levied, the original liability is deducted from the new liability.

Worked example

100sqm dwelling received planning permission prior to the adoption of CIL.

An application is submitted after the adoption of CIL to vary the approved plans, increasing the proposed floorspace to 110sqm.

The site is located in the higher value zone, with a CIL charge of £55 per square metre.

$$100 \text{ sq.m} \times £55 = £5,500$$

$$110 \text{ sq.m} \times £55 = £6,050$$

$$£6,050 - £5,500 = £550$$

$$\text{CIL charge} = £550$$

How do I claim 'Self Build Exemption' from paying CIL?

If you are commissioning the construction of a new dwelling to be occupied as your sole or main residence, then you may be eligible for an exemption from liability to pay CIL in respect of that development. There are two stages that must be completed in order to claim and remain eligible for a self-build exemption. The first stage must be completed prior to commencement of development.

Stage one

The claim for a self-build exemption must:

1. Be made by a person who intends to build, or commission the building of, a new dwelling, and intends to occupy the dwelling as their sole or main residence for a period of at least three years ('the clawback period');
2. Be made by a person who has assumed liability to pay CIL in respect of the new dwelling, whether or not they have also assumed liability to pay CIL in respect of other development. The claimant must assume liability by submitting a [Form 1: Assumption of Liability](#) prior to the commencement of development;
3. Be submitted to the Council on [Form SB1-1: Self Build Exemption Claim Form - Part 1](#) prior to the commencement of development

Development will cease to be eligible for relief from the levy if:

- The development commences before the Council has reached a decision on whether or not to grant relief from the levy
- The Council has not received [Form 6: Commencement Notice](#) prior to the commencement of development

Stage 2

The second stage must be completed within six months of the date of the compliance certificate (building control completion certificate) for the development being issued. [Form SB1-2: Self Build Exemption Claim Form - Part 2](#) must be submitted to the Council within

six months of the date of the compliance certificate for the development being issued. The Part 2 form must be accompanied by evidence specified on the form to support the claim, otherwise the entire CIL charge may become payable.