



**Preston City Council
Community Infrastructure Levy:
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 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 Preston?

Development	CIL Charge
Dwelling houses (excluding apartments)	£65 per Sq.m
Dwelling house Inner Preston Zone	£35 per Sq.m
Apartments	£0 per Sq.m
Convenience retail (excluding neighbourhood convenience stores)	£160 per Sq.m
Retail warehouse, retail parks, and neighbourhood convenience stores	£40 per Sq.m
Community uses	£0 per Sq.m
All other uses	£0 per Sq.m

For further details see the Preston City Council CIL Charging Schedule, September 2013.

3 When did CIL come into force?

- 3.1 The levy was introduced on **30 September 2013**.
- 3.2 Any development where a planning decision notice is issued from 30 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 of the previous 12 months.

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

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

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:

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

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 CIL is payable on the commencement of development. The process operates through the formal exchange of notices between the planning applicant and the local planning authority.
- 9.2 Applicants need to provide the Council with sufficient information at the time when a planning application is submitted to enable the Council to determine whether the development is liable to pay the levy and to estimate the amount of CIL chargeable. This information should be provided on the CIL Additional Questions form which is available with accompanying guidance on the Planning Portal website.
- 9.3 The ultimate responsibility to pay CIL lies with whoever owns 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.
- 9.4 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.
- 9.5 To support developers bringing forward new schemes, the Council has introduced an instalments policy for the payment of CIL:

Total CIL Liability	Number of instalments	Proportion payable and Payment Period
Amount less than £10,000 or amount due in respect of a single dwelling	1	100% due 60 days from the date the development is commenced
Between £10,000 and £49,999	2	1 st instalment 50%: 90 days from commencement 2 nd instalment 50%: 360 days from commencement
Between £50,000 and £100,000	3	1 st instalment 25%: 90 days from commencement 2 nd instalment 25%: 360 days from commencement 3 rd instalment 50%: 540 days from commencement
Amount over £100,000	4	1 st instalment 25%: 90 days from commencement 2 nd instalment 25%: 360 days from commencement 3 rd instalment 25%: 540 days from commencement 4 th instalment 25%: 720 days from commencement

- 9.6 Regulations require that without an instalments policy in place the total amount of CIL is due 60 days from commencement of development.
- 9.7 If no one assumes liability before the date of commencement of development the whole CIL charge becomes due. If the instalment payments are not met the outstanding balance becomes due immediately. Further details are set out in the Council's instalment policy.

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:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6312/1995794.pdf

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 Council's website and on the website of the Planning Advisory Service:

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

If you have any queries not covered in this advice email the Council's Planning Department on:

devcon@preston.gov.uk

or telephone: 01772 906912

14. Summary of required actions

14.1 The following tables summarise the actions required in relation to planning applications and general consents:

Table 1: Actions required in connection with a planning application

Action	Who is responsible	When is action required	Notes
Validation	LPA	On receipt of application	At this point determine whether development is liable for CIL
Issue liability notice	LPA	On grant of planning permission	This is the point when the actual CIL charge is calculated
Issue Assumption of Liability Notice (or Transfer of Liability Notice)	Applicant	Any time up to commencement of development	If no Notice received liability falls on the landowner(s). LPA <u>must</u> acknowledge receipt
Claim for affordable housing or charities relief	Applicant	Any time up to commencement of development	Must be made by landowner or person assuming liability for CIL
Issue Commencement Notice	Applicant	On commencement of development	If no notice is received LPA calculates the "deemed commencement" date
Calculate liability on commencement date	LPA	On receipt of commencement notice	Calculation includes inflation and any surcharges
Issue Demand Notice	LPA		Recorded as a Land Charge

Table 2: Actions required in connection with a general consent

Action	Who is responsible	When is action required	Notes
Issue Notice of Chargeable Development	Developer	Before commencement of development	If no Notice of Chargeable Development is received surcharges apply. LPA receives, records and acknowledges the Notice and calculates the CIL charge
Issue liability notice	LPA	Following receipt of Notice of Chargeable Development	This is the point when the actual CIL charge is calculated
Issue Assumption of Liability Notice (or Transfer of Liability Notice)	Developer	Any time up to commencement of development	If no Notice received liability falls on the landowner(s). LPA <u>must</u> acknowledge receipt
Claim for affordable housing or charities relief	Developer	Any time up to commencement of development	Must be made by landowner or person assuming liability for CIL
Issue Commencement Notice	Developer	On commencement of development	If no notice is received LPA calculates the "deemed commencement" date
Calculate liability on commencement date	LPA	On receipt of commencement notice	Calculation includes inflation and any surcharges
Issue Demand Notice	LPA		Recorded as a Land Charge

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.