

# Cheltenham Borough Council

Community Infrastructure Levy

## **Charging Schedule**

## **1. Introduction**

- 1.1. Cheltenham Borough Council have adopted this Community Infrastructure Levy (CIL) Charging Schedule (CS) as the Charging Authority under powers provided by Section 206 of the Planning Act 2008.
- 1.2. Cheltenham Borough Council, along with Gloucester and Cheltenham have adopted a Joint Core Strategy (JCS). The JCS has a common evidence base including testing viability and infrastructure needs.
- 1.3. Viability and infrastructure evidence was prepared on a joint basis to support the plan and to allow the three JCS authorities to prepare their three CS on a co-ordinated basis in order to appropriately address cross boundary infrastructure issues.
- 1.4. Although this joint evidence base has informed the CS preparation, each of the JCS councils are CIL Charging Authorities in their own right and are required to prepare separate CIL Charging Schedules.
- 1.5. The Council submitted their Draft Charging Schedule to the Planning Inspectorate for Independent Examination on the 26<sup>th</sup> July 2016, hearings were held from the 15<sup>th</sup> to the 17<sup>th</sup> May 2018 and the Examiner recommended approval of this document, with recommended modifications on the 31<sup>st</sup> July 2018.
- 1.6. All relevant evidence can be accessed via the JCS website <http://jointcorestrategy.org>.
- 1.7. CIL sits alongside the current Section 106 regime rather than directly replacing it with regulations in place to ensure that there is a distinction between the two systems and that they do not overlap.
- 1.8. Specific infrastructure projects will therefore still be funded through Section 106 planning agreements, where these are directly related to a proposed development and are needed to make individual planning applications acceptable in planning terms.
- 1.9. The statutory tests for S106 agreements as set out in the Community Infrastructure Levy Regulations 2010 (as amended) and as policy tests in Paragraph 56 of the National Planning Policy Framework (2018) will still need to be applied. These tests being that they are:
  - necessary to make the development acceptable in planning terms,
  - directly related to the development, and
  - fairly and reasonably related in scale and kind.

## **2. Chargeable development**

2.1. CIL is levied on the development of virtually all buildings that people 'normally go into'. The national definition of chargeable development identifies the following development types as liable for CIL:

- Developments of more than 100m<sup>2</sup> of new floorspace;
- Development of less than 100m<sup>2</sup> of new floorspace which results in the creation of at least one or more new dwellings;
- The conversion of a building that is no longer in lawful use.

### **3. Calculating the CIL Chargeable Amount**

3.1. CIL charges will be calculated in accordance with Regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended).

3.2. The Community Infrastructure Levy is generally chargeable on the net increase in gross internal floor space of all new development, except:

- Minor development: that is buildings or extensions where the gross internal area of new build is less than 100m<sup>2</sup>, other than where the development will comprise one or more new dwellings (in which case the new dwellings will constitute 'Chargeable Development', irrespective of their size);
- Where the CIL chargeable amount is calculated to be less than £50;
- Where the development is of buildings into which people do not normally go, or which they go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery; or
- Where the development is exempt under Part 6 of the CIL Regulations (as amended).

3.3. In accordance with the CIL Regulation 40, all CIL liability will be index linked to the Royal Institute of Chartered Surveyors (RICS) Building Cost Information Service (BCIS) All-in Tender Price Index though it is acknowledged that the use of other price indexes is also permitted.

3.4. As set out in the Community Infrastructure Levy Regulations 2010 (as amended), the calculation of the chargeable amount is based on gross internal area (GIA). The definition of gross internal area is not specified in the regulations; however, the generally accepted method of calculation is the RICS Code of Measuring Practice (6th edition, 2007).

### **4. Exemptions**

4.1. The Community Infrastructure Levy Regulations 2010 (as amended) provide for certain types of development to be exempt from CIL, which include:

- Development by registered charities for the delivery of their charitable purposes;

- Those parts of a development which are to be used as social (affordable) housing;
- The conversion of any building previously used as a dwelling house to two or more dwellings;
- Development of less than 100m<sup>2</sup> of new build floorspace, provided that it does not result in the creation of a new dwelling;
- The conversion of, or works to, a building in lawful use that affects only the interior of the building;
- Development of buildings and structures into which people do not normally go (e.g. pylons, wind turbines and electricity sub stations);
- Residential annexes and extensions (where the person who would normally be liable for the charge owns a material interest in the main dwelling and occupies the main dwelling as the sole or main residence);
- Self-build housing where a dwelling is built by the person who would normally be liable for the charge (including where built following a commission by that person) and occupied by that person as their sole or main residence.

4.2. Exemptions to chargeable development, whether mandatory or discretionary cannot automatically be given and applicants must therefore 'claim' the exemption using the appropriate forms available from the Borough Council website or the on-line Planning Portal.

## 5. CIL rates

5.1. The following rates are expressed in £ per square metre value.

5.2. For residential sites in Cheltenham Borough Council's administrative area CIL rates are given in table 1.1 below.

5.3. Table 1.1 also sets out the CIL rates for strategic sites that are located within Cheltenham Borough Council's administrative area.

***Table 1.1: Residential CIL rates***

		Community Infrastructure Levy (£ per m <sup>2</sup> )	Affordable Housing Requirement
<b>Generic sites</b>	Cheltenham 10 dwellings and under	£148	0%
	Cheltenham 11 dwellings and over	£200	40%

	Cheltenham 450 dwellings and over	£35	35%
<b>Strategic sites</b>	A5 Northwest Cheltenham	£35	35%
	B1 West Cheltenham	£35	35%

## 6. Other forms of development

6.1. Table 1.2 below sets out the CIL rates for older people's homes.

**Table 1.2: Older persons residential CIL rates**

	<b>Community Infrastructure Levy (£ per m<sup>2</sup>)</b>
<b>Retirement Homes</b>	<b>£200</b>
<b>Extra Care Homes</b>	<b>£100</b>

6.2. Through the Examination process it was established that further work is needed to test other non-residential CIL rates. In respect of retail, further viability assessment will be undertaken as part of the immediate review of the JCS after which the CIL charging rates will be reviewed on the basis of the updated evidence.

## 7. Spending of CIL

7.1. Under Regulation 123 of the Community Infrastructure Levy Regulations 2010 (as amended) the charging authority will publish on its website their intention for how revenues raised from the levy will be spent. This will make clear what items will in future fall under the CIL rather than S106, but also show contributors and other interested parties what types of infrastructure the CIL could be spent on. In formulating the Regulation 123 list the Council will continue to work closely with other bodies to address strategic infrastructure and that delivered by other public authorities, for example, Gloucestershire County Council.

7.2. The CIL regime allows authorities to respond to changing local circumstances, by spending revenue from the CIL on different projects from those identified during the rate setting process. Therefore the Regulation 123 list will be continually reviewed and updated accordingly. Changes to the Regulation 123 list will be updated via the council website.

## 8. Duty to pass CIL to local councils

- 8.1. CIL regulations outline provision for receipts to be redistributed to local parish councils, or to be spent on behalf of designated neighbourhood forums. The proportion allocated to the local council, or spent on behalf, is dependent on the adoption of a neighbourhood plan. Where a neighbourhood plan is in place, 25% of the CIL is passed to the local council. Where a neighbourhood plan is not adopted, 15% is passed to local councils, subject to a cap equivalent to £100 for every existing dwelling in that area.

## 9. Optional exemptions

- 9.1. The CIL Regulations allow Local Authorities to make certain choices about how to implement the CIL including allowing:

### 9.1.1. Payment by instalments (Regulation 69b)

Payment of a CIL charge is due from the date at which a chargeable development commences. The Council can offer the payment of CIL by instalments to provide flexibility and support for more complicated and phased developments. **An 'instalment policy' stating the parameters of this process was adopted alongside Cheltenham Borough Council's Charging Schedule.**

### 9.1.2. Social housing relief (Regulation 49)

The Council can allow, at its discretion, relief from liability to pay a CIL charge to new market houses that are to be sold at no more than 80 per cent of their market value. **The authority have not currently adopted this form of relief.**

### 9.1.3. Land and infrastructure in-kind (Regulations 73&73A)

The Council can allow, at its discretion, the value of land transferred to the Council and infrastructure provided or constructed by a developer to be offset against the CIL charge. This enables developers to provide infrastructure that is needed to support new development, but is not directly related to a specific development, the opportunity to provide it directly rather than contributing towards it indirectly through the CIL. The value of land and infrastructure in kind would be determined by 'a suitably qualified independent person' (for example the Valuation Office Agency). **The authority have not currently adopted this form of relief.**

### 9.1.4. Relief for exceptional circumstances (Regulation 55)

Liability to pay a CIL charge on chargeable development is a statutory obligation and is non-negotiable. The Council can, however, in exceptional circumstances offer discretionary relief from liability to pay a CIL charge. Offering this relief provides the Council with some flexibility to deal with complex sites which are proved to have exceptional costs or other requirements which make them unviable. **The authority have not currently adopted this form of relief.**

### 9.1.5. Relief for charitable investment activities (Regulation 44)

The Council can allow, at its discretion, relief from CIL liability to charity landowners where the greater part of a development is held as an investment from which the profits are applied for charitable purposes. **The authority have not currently adopted this form of relief.**

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