

community infrastructure levy charging schedule

july 2015

local development framework
delivering regeneration and growth



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section one

Section 1 Introduction

- 1.1 This Schedule has been prepared, approved and published in accordance with the Planning Act 2008 (as amended by the Localism Act 2011), the Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and the Planning Practice Guidance relating to CIL on the Government's planning portal website.

Charging Authority	Southend Borough Council
Date of Approval	23 July 2015
Date of Effect	27 July 2015



section two

Section 2 Scope of CIL Charges

2.1 For the purposes of Part 11 of the Planning Act 2008, Southend Borough Council is a Charging Authority for the Community Infrastructure Levy (CIL) in respect of development within its administrative area.

What developments are liable for CIL?

2.2 The levy may be payable on development which creates net additional floor space, where the gross internal area of new build exceeds 100 square metres (hence, CIL will not be payable on most householder extensions). This limit does not apply to new houses or flats, and a charge can be levied on a single house or flat of any size, unless it is built by a 'self-builder'. The following **do not pay** the levy:

- development of less than 100 square metres (see Regulation 42 on Minor Development Exemptions) - unless this is a whole house, in which case the levy is payable
- houses, flats, residential annexes and residential extensions which are built by 'self-builders' (see Regulations 42A, 42B, 54A and 54B, inserted by the 2014 Regulations)
- social housing that meets the relief criteria set out in Regulation 49 or 49A (as amended by the 2014 Regulations)
- charitable development that meets the relief criteria set out in Regulations 43 to 48
- buildings into which people do not normally go (see Regulation 6)
- buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery (see Regulation 6)
- structures which are not buildings, such as pylons and wind turbines
- specified types of development which the Council has decided should be subject to a 'zero' rate based on local viability evidence, and specified as such in this Charging Schedule
- vacant buildings brought back into the same use (see Regulation 40 as amended by the 2014 Regulations)

2.3 Where the levy liability is calculated to be less than £50, the chargeable amount is deemed to be zero so no levy is due (see Regulation 40).

2.4 Mezzanine floors of less than 200 square metres, inserted into an existing building, are not liable for the levy unless they form part of a wider planning permission that seeks to provide other works as well.

2.5 The levy is charged on new development. Normally, this requires planning permission from the local planning authority, the Planning Inspectorate, or the Secretary of State on appeal. However, some developments not requiring planning permission (permitted development) will also be liable for CIL if they do not fall into the exemption criteria (see related guidance on the General Permitted Development Order here: <http://planningguidance.planningportal.gov.uk/blog/guidance/when-is-permission-required/what-are-permitted-development-rights/>).

2.6 Where a planning permission is phased, each phase of the development is treated as if it were a separate chargeable development for levy purposes (see Regulation 8(3A) as amended by 2014 Regulations).

2.7 The level of CIL payable will not be negotiable and is set by the charging schedule.

Mandatory exemptions from CIL

2.8 The CIL regulations offer mandatory exemptions from CIL for certain types of development:

- Development of less than 100sqm provided that it does not result in the creation of a new dwelling (Regulation 42) – **Minor Development Exemption**
- Exemption for **residential annexes or extensions** (Regulation 42A, 42B and 42C)
- Development by registered charities for the delivery of their charitable purposes (Regulation 43, 44, 47 and 48) – **Charitable Relief**
- Those parts of a development that are to be used as affordable housing (Regulation 49, 49C, 50, 51, 52, 53 and 54) – **Social Housing Relief**
- **Exemption for self-build housing** (Regulation 54A, 54B, 54C and 54D)

2.9 A claim for relief/exemption from paying CIL must be submitted and processed before commencement of the development (standard forms will be made available for completion).



section three

Section 3 CIL Rates

3.1 Southend Borough Council's CIL rates are as follows:

Table 1: CIL rates

Development type	CIL rate per square metre
Residential (Class C3 and C4) – Zone 1	£20
Residential (Class C3 and C4) – Zone 2	£30
Residential (Class C3 and C4) – Zone 3	£60
Extra care and retirement housing ¹	£20
Supermarkets and superstores ² and retail warehousing ³ (net retailing space of over 280 square metres)	£70
Development by a predominantly publicly funded or 'not for profit' organisation ⁴ (see below for definition) including medical and health services, social care, education, emergency services, waste facilities, community facilities, sport and leisure facilities only	£0
All other uses not cited above	£10

Map of residential charging zones

3.2 The three residential charging zones are shown on Figure 1, the Residential Charging Zones Map.

Explanation of rates by development type

3.3 Residential: In areas of the Borough where sales values have been found to be lower a nominal CIL rate of £20 per square metre has been chosen (shown as Zone 1 in Figure 1). In the slightly higher value area, viability evidence shows that a rate of £30 per square metre can be accommodated (shown as Zone 2 in Figure 1). In the highest value areas of the Borough, viability evidence shows that a rate of £60 per square metre can be accommodated (shown as Zone 3 in Figure 1).

¹ Definition of 'extra care and retirement housing': Housing within Class C3 which is purpose built or converted for sale to elderly people with a package of estate management and care services as necessary and which consists of grouped, self-contained accommodation with communal facilities. These premises often have emergency alarm systems and/or wardens. These properties would not provide the same level of care as residential care homes (Class C2) where residents do not live in self-contained accommodation.

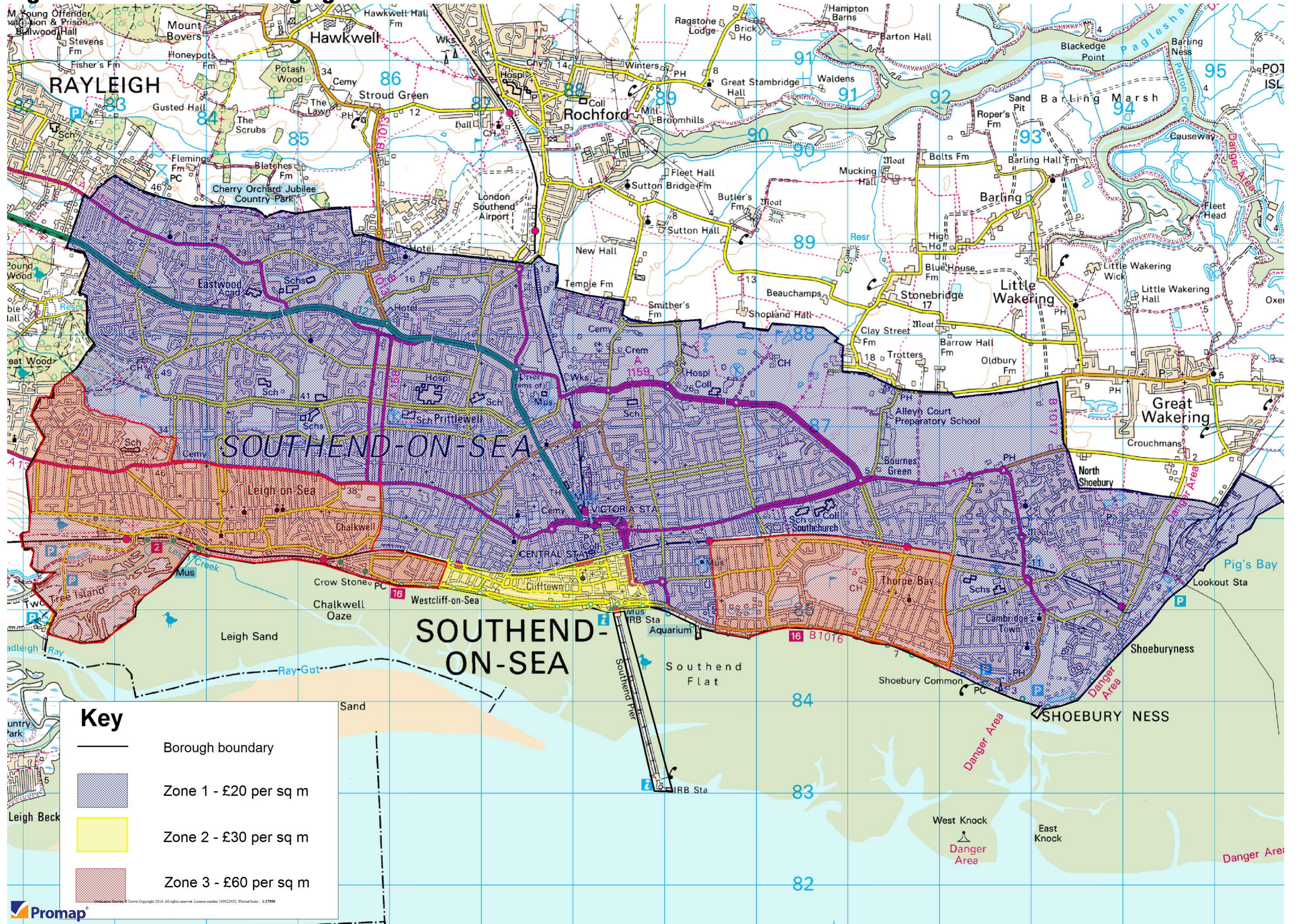
² Supermarkets/superstores are shopping destinations in their own rights where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit.

³ Retail warehouses are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering for mainly car-borne customers

⁴ Definition of 'not for profit organisation': An organisation that does not earn profits for its owners but conducts business for the benefit of the general public; all the money earned by or donated to the organisation is used in pursuing the organisation's objectives.

- 3.4 Extra care and retirement housing (see Table 1 for definition): Viability evidence has demonstrated that these types of development generate surpluses that can support a CIL charge. On this basis, a rate of £20 per square metre across the entire Borough has been chosen.
- 3.5 Supermarkets and superstores and retail warehousing (net retailing space of over 280 square metres): Viability evidence has demonstrated that these uses are likely to be viable across the Borough with a maximum CIL rate of £106 per square metre. The 280 square metre threshold is drawn from the Sunday trading laws and is the threshold being used by a number of Charging Authorities. Although the charging schedule includes a split for retail based on the size of unit it does not try to differentiate between in and out of town. Whilst in policy terms a town centre/out-of-town centre split may be desirable, the rules on setting different CIL rates are strict. Charging Authorities are not allowed to use 'policy' based reasons to determine the chosen rates. Where larger schemes do occur in the town centres, they are likely to involve demolition or change of use of existing buildings. CIL is only charged on the net increase in floorspace, therefore many town centre schemes, even if the resultant unit is large, will only include a modest net increase in floorspace. After allowing for a buffer, which is considered to be appropriate to deal with site specific issues, a CIL rate of £70 per square metre has been chosen.
- 3.6 In respect of all other uses, the viability study looked at offices, industrial and warehousing, other forms of retail (A1-A5) and hotels. It was found that at current levels these uses are unlikely to generate sufficient surpluses to accommodate a significant CIL charge; hence a nominal rate has been chosen. In addition, consideration was given to D1, D2 and *sui generis* uses but, given the large number of uses that fall within these categories, individual viability testing of the range of possible uses that could come forward has not been undertaken as it would be too complex to test all these uses with any degree of reliability. Therefore, a nominal rate is proposed for all uses that are not mentioned in paragraph 3.3, 3.4 and 3.5 on the basis that such a rate is unlikely to be a significant factor in developers' decision making and could be absorbed without having a significant impact on viability across the Borough but will contribute to the infrastructure to support the growth. There are some proposed exceptions to the nominal rate applicable to 'All other uses' taking into consideration the uses that will be placing a demand on growth associated infrastructure and those that will be providing the infrastructure required to support growth that CIL could possibly be spent on (i.e. as identified in the IDP and Regulation 123 Infrastructure List). Therefore, a zero rate will apply to any community facilities that are predominantly publicly funded or run on a 'not for profit' basis, including medical and health services, education, emergency services, community facilities, sport and leisure facilities.

Figure 1: Residential Charging Zones



How the chargeable amount will be calculated

- 3.7 The precise amount charged for each development will be calculated in accordance with Regulation 40 of the CIL Regulations 2010 (as amended). As stipulated in the Regulations, all charges are based on the gross internal floorspace area. Calculating the chargeable rate will take into account inflation in accordance with the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors 'All in Tender Price Index'. Hence, CIL liabilities will reflect the economic cycle to some extent until such time that the charging schedule is reviewed. Appendix 1 provides some examples of how CIL liabilities will be calculated (N.B. All calculations will also be index-linked to take into account inflation).
- 3.8 In addition to the CIL liability, there may also be site specific contributions/provision requirements, including the provision of affordable housing. These will be dealt with through Section 106 planning obligations, Section 278/38 highway agreements or conditions (see SPD2: Planning Obligations 2015 for further details). The viability study that has been carried out in respect of CIL was not only concerned with CIL viability, but also considered the costs of affordable housing (so that delivery of affordable housing in the Borough is not adversely affected by CIL) and made assumptions about other contributions which might be required. Further details can be found in the CIL Overview Report, Viability Study and Addendum Note (available on www.southend.gov.uk/cil). The rates are therefore considered reasonable, taking into account all financial burdens being placed on development.



section four

Section 4 CIL collection and spending

How CIL will be collected and spent

- 4.1 The Council will issue a notice of liability as soon as practicable on or after the day on which a planning permission first permits development stating the chargeable amount in relation to the development. The responsibility to pay the levy runs with the ownership of land on which the liable development will be situated and is a local land charge. Payment of the levy is due from the date the chargeable development commences. A commencement notice must be submitted to the Council no later than the day before the day on which the chargeable development is to be commenced. See the Council's website for the appropriate further guidance and documentation.
- 4.2 Unlike contributions received via S.106, CIL funds will go into a central 'pot' on receipt and will be pooled to be spent on the projects identified in the Regulation 123 Infrastructure List (as published on the Council's website).

Neighbourhood Allocation

- 4.3 As set out in Section 2 of the Localism Act (2011) Charging Authorities are required to pass a 'meaningful proportion' of CIL receipts to local neighbourhoods where development has taken place.
- 4.4 Local authorities must allocate at least 15% of levy receipts to spend on priorities that should be agreed with the local community in areas where development is taking place. This can increase to a minimum of 25% in locations with an adopted Neighbourhood Development Plan (*see National Planning Practice Guidance for further details on the neighbourhood portion of the levy*).
- 4.5 On adoption of a CIL charging schedule the Council will publish a CIL Governance Framework setting out further detail in relation to the CIL spending and allocation arrangements.

Enforcement

- 4.6 Almost all parties liable to pay the levy are likely to pay their liabilities without problem or delay, guided by the information sent by the charging authority in the liability notice. However, where there are problems in collecting the levy, charging authorities are able to penalise late payment and discourage future non-compliance. The regulations provide for a range of proportionate enforcement measures ranging from surcharges on late payments to up to three months imprisonment in extreme cases.

Payment by instalments

- 4.7 In accordance with Regulation 69B of the amended CIL Regulations, CIL may be paid by instalments in accordance with the Instalment Policy (as published on the Council's website).

Payment in kind

- 4.8 In accordance with Regulations 73, 73A, 73B and 74 and the Council's Payment in Kind & Infrastructure Payments Policy (as published on the Council's website), the Council may at its discretion accept a proportion of a CIL liability in the form of a transfer of land or infrastructure provision to the Council as payment.



section five

Section 5 Monitoring, Reporting and Review of CIL

Annual Monitoring

- 5.1 As required by Regulation 62, the Council will publish an Annual CIL Report (for the financial year), which shows:
- the amount of CIL collected;
 - the amount of CIL that has been spent;
 - information on how CIL funds have been spent (i.e. which infrastructure projects, and how much has been used to cover administrative costs);
 - the amount of CIL retained at the end of the reporting year.

Review

- 5.2 The results of the viability study have informed the proposed CIL rates, and these results are reflective of current market conditions, which are likely to improve over the medium term. The Council will therefore keep the viability for new development under review so that levels of CIL can be adjusted to reflect any future changes.
- 5.3 The operation and implementation of CIL will be monitored and the Council propose to commence a review of the charging schedule in 2018, or earlier should the market be perceived to have changed significantly. Work is on-going in respect of housing need assessment and review of the Core Strategy, and therefore, the Infrastructure Delivery Plan and the CIL Charging Schedule will be reviewed alongside any review of the Core Strategy to ensure that the infrastructure needs of any additional growth are correctly identified and met, and that the identified infrastructure funding gap is accurate and up to date.

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section six

Section 6 Relevant document links

Southend Borough Council CIL related documents http://www.southend.gov.uk/cil
Planning Portal – CIL information pages http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil http://www.planningportal.gov.uk/uploads/cil/cil_guidance_main.pdf
National Planning Practice Guidance – CIL http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/
Planning Advisory Service (PAS) - CIL information web page www.pas.gov.uk/3-community-infrastructure-levy-cil
The Community Infrastructure Levy Regulations 2010 www.legislation.gov.uk/uksi/2010/948/contents/made
The Community Infrastructure Levy (Amendment) Regulations 2011 www.legislation.gov.uk/uksi/2011/987/contents/made
The Community Infrastructure Levy (Amendment) Regulations 2012 www.legislation.gov.uk/uksi/2012/2975/contents/made
The Community Infrastructure Levy (Amendment) Regulations 2013 www.legislation.gov.uk/uksi/2013/982/contents/made
The Community Infrastructure Levy (Amendment) Regulations 2014 www.legislation.gov.uk/uksi/2014/385/contents/made
The Community Infrastructure Levy (Amendment) Regulations 2015 www.legislation.gov.uk/uksi/2015/836/contents/made



appendices

Examples of how CIL liabilities are calculated

For the avoidance of doubt, 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 100sqm or more of additional floorspace, or involves the creation of a new dwelling even when it is below 100sqm. The amount payable will depend whether or not the existing building has been in continuous lawful use for at least six months in the last 3 years prior to the development being permitted. Mezzanine floors of less than 200sqm are not liable for CIL unless they are to be installed as part of a planning permission which permits other works as well. See below for further details in relation to changes of use.

Scenario 1

The development of a new dwelling in the Zone 1, either detached or attached to an existing dwelling. The new dwelling is 90sqm. Though the development is less than 100sqm, it results in the creation of a new dwelling and therefore CIL applies.

The CIL charge for residential development in the Zone 1 is £20/sqm.

The calculation is as follows:

90sqm x £20/sqm = CIL liability of £1,800

Scenario 2

The development of an extension to an existing dwelling. The existing dwelling is 105sqm and the extension is 45sqm. The size of the existing dwelling is irrelevant. The only matter of relevance is the size of the extension. As the extension is for less than 100sqm of development, and does not result in the creation of a new dwelling, CIL does not apply.

Scenario 3

The conversion of an existing dwelling to two flats. The existing dwelling is 105sqm and the conversion will not result in any new build floor space. The size of the existing dwelling is irrelevant. As the conversion does not result in any new development (i.e. it all takes place within the existing dwelling), CIL does not apply.

Scenario 4

The conversion and extension of an existing dwelling in Zone 2 to form 2 flats. The existing dwelling is 105sqm and the extension is 45sqm.

The size of the existing dwelling is irrelevant here. What is relevant is the level of new build. Although it is only 45sqm, because it results in a new dwelling, CIL applies.

The CIL charge for residential development in Zone 2 is £30/sqm.

The calculation is as follows:

45sqm x £30/sqm = CIL liability of £1,350

Scenario 5

The demolition of an existing dwelling that is considered to be “in-use” (in accordance with the definition in Regulation 40 (11)) in Zone 1 and the construction of a block of flats in its place. The existing dwelling is 120sqm and the block of flats is 1,000sqm.

The development of the block of flats results in the creation of a new dwelling therefore CIL applies. However, because the existing dwelling is “in-use”, its floor space is deducted when calculating the CIL liability.

The CIL charge for residential development in Zone 1 is £20/sqm.

The calculation is as follows:

Process 1 – deduct existing floor-space from new floor space

The chargeable area is 1,000sqm – 120sqm = 880sqm

Process 2 – calculate CIL liability based on the net increase in floor space

880sqm x £20/sqm = CIL liability of £17,600

Scenario 6

The demolition of an existing dwelling not considered to be “in-use” (in accordance with the definition in Regulation 40 (11)) in Zone 1 and the construction of a block of flats in its place. The existing dwelling is 120sqm and the block of flats is 1,000sqm.

The development of the block of flats results in the creation of a new dwelling therefore CIL applies. Because the existing dwelling is not in-use, its floor space is not deducted when calculating the CIL liability

The CIL charge for residential development in Zone 1 is £20/sqm.

The calculation is as follows:

1,000sqm x £20/sqm = CIL liability of £20,000

Scenario 7

The conversion of an office block of 5,000sqm, not considered to be “in-use” (in accordance with the definition in Regulation 40 (11)), to 4,000sqm of retirement housing and 1,000sqm of development for convenience based supermarket over 280sqm.

As the site is not “in-use”, the conversion is considered as new development and the existing floor space is not deducted when calculating the CIL liability.

The CIL charge for retirement housing is £20/sqm

The CIL charge for convenience based supermarkets over 280sqm is £70/sqm

The calculation is as follows:

Process 1 – calculate the retirement housing liability

4,000sqm x £20/sqm = £80,000

Process 2 – calculate the supermarket liability

1,000sqm x £70/sqm = £70,000

Process 3 – calculate the total liability

Retirement housing (£80,000) + supermarket (£70,000) = CIL liability of £150,000

Scenario 8

The demolition of a building of 5,000sqm that is “in-use”, and its replacement with a building of 10,000sqm, comprising 1,000sqm of development for convenience based supermarket over 280sqm, 5,000sqm public funded school and 4,000sqm of hotel development.

The key issue here is that the existing building is “in-use”. Therefore the total amount of existing floor space can be deducted from the CIL liability. As the new building comprises a range of uses, the deduction of the existing floor space is applied on a pro rata basis across the new uses.

The CIL charge for convenience based supermarkets over 280sqm is £70/sqm

The CIL charge for a public funded school is £0/sqm

The CIL charge for hotel development is £10/sqm

The calculation is as follows:

Process 1 – calculate the deduction factor for the existing floor-space
 $5,000\text{sqm (existing floorspace)} / 10,000\text{sqm (new floor space)} = 0.5$

Process 2 – calculate the supermarket liability
 $1,000\text{sqm} \times £70/\text{sqm} \times 0.5 = £35,000$

Process 3 – calculate the school liability
 $5,000\text{sqm} \times £0/\text{sqm} \times 0.5 = £0$

Process 4 – calculate the hotel liability
 $4,000\text{sqm} \times £10/\text{sqm} \times 0.5 = £20,000$

Process 5 – calculate the total liability
 $\text{Supermarket (£35,000)} + \text{School (£0)} + \text{Hotel (£20,000)} = \text{CIL liability of £55,000}$

Scenario 9

The demolition of a building of 5,000sqm which is not "in-use", and its replacement with a building of 10,000sqm, comprising 1,000sqm of development for convenience based supermarket over 280sqm, 5,000sqm public funded school and 4,000sqm of hotel development.

As the building is not "in-use", the existing floor space is not deducted when calculating the CIL liability.

The CIL charge for convenience based supermarkets over 280sqm is £70/sqm

The CIL charge for a public funded school is £0/sqm

The CIL charge for hotel development is £10/sqm

The calculation is as follows:

Process 1 – calculate the supermarket liability

$$1,000\text{sqm} \times £70/\text{sqm} = £70,000$$

Process 2 – calculate the school liability

$$5,000\text{sqm} \times £0/\text{sqm} = £0$$

Process 3 – calculate the hotel liability

$$4,000\text{sqm} \times £10/\text{sqm} = £40,000$$

Process 4 – calculate the total liability

$$\text{Supermarket (£70,000)} + \text{School (£0)} + \text{Hotel (£40,000)} = \text{CIL liability of £110,000}$$

Scenario 10

The conversion of an office block of 5,000sqm, 600sqm of which is "in-use", to 4,000sqm of retirement housing and 1,000sqm of development for convenience based supermarket over 280sqm.

The size of the existing building is irrelevant. As the conversion does not result in any new development (i.e. it all takes place within the existing building) and part of the building is "in-use", CIL does not apply.

When CIL is payable on a change of use to an existing building:

- Additional floorspace 100 square metres or more (or the creation of a new dwelling even when it is below 100 square metres) and existing building in continuous lawful use for at least six months in the last 3 years prior to the development being permitted - CIL payable on new floorspace only
- Additional floorspace 100 square metres or more (or the creation of a new dwelling even when it is below 100 square metres) but existing building not in continuous lawful use for at least six months in the last 3 years prior to the development being permitted - CIL payable on existing floorspace and new floorspace
- Additional floorspace less than 100 square metres (where no new dwellings created) but existing building in continuous lawful use for at least six months in the last 3 years prior to the development being permitted - No CIL payable
- Additional floorspace less 100 square metres (where no new dwellings created) and existing building not in continuous lawful use for at least six months in the last 3 years prior to the development being permitted - No CIL payable

N.B. A change of use which creates one or more dwellings will be CIL liable even if there is no extension, and will only avoid payment if the building has been in continuous lawful use for 6 months out of the last 3 years prior to the development being permitted.

However, there is a specific exemption in the 2011 amendment regulations that excludes conversion of a single dwelling house from the meaning of 'development' at Regulation 6.

