

Community Infrastructure Levy

Frequently asked questions



1) What is the Community Infrastructure Levy?

The Community Infrastructure Levy (CIL) allows local authorities to raise funds from new development to pay for the infrastructure that is needed as a result of new development.

2) Does Vale of White Horse District Council have a Community Infrastructure Levy?

Not at present, but we are currently developing a CIL charging schedule for our district.

3) How does CIL work?

CIL takes the form of a tariff per m² of additional floorspace (gross internal floor area).

The level of the tariff is set by the local authority based on the need for infrastructure as identified through the planning process and the potential effects (taken as a whole) that imposing CIL rates may have on the economic viability of development across our area.

The local levy rate(s) will be set out in a CIL Charging Schedule.

4) What does CIL look like?

The legal document is called the CIL Charging Schedule, which sets out the local levy rate(s). There will also be some explanatory text and an Ordinance Survey map showing the areas covered by the charges.

5) Is CIL the same as the New Homes Bonus?

No. The New Homes Bonus is a grant paid by central government to local councils for increasing the number of homes and their use. You can find out more by visiting this website <https://www.gov.uk/government/policies/increasing-the-number-of-available-homes/supporting-pages/new-homes-bonus>

6) What is infrastructure?

Infrastructure that the levy can help fund includes schools, transport, flood defences, hospitals, community facilities and other health and social care facilities. This definition allows the levy to be used to fund a very broad range of facilities such as play areas, parks and cultural and sports facilities. The Levy can be spent on 'the provision, improvement, replacement, operation or maintenance of infrastructure'.

7) How do we identify what infrastructure CIL should fund?

We identify infrastructure projects through information we have obtained from key infrastructure providers in our Infrastructure Delivery Plan. This document sets out clearly what key projects are needed to meet the development needs identified through our Local Plan.

8) What developments will be liable to pay CIL?

Development will be liable to pay CIL if:

- it is a building which people go into to use, and
- the gross internal area of new build will be more than 100m² (this includes extensions to existing buildings); or
- one or more new dwellings is created - even where the new build floorspace is less than 100m².

Development will not be liable to pay CIL if:

- it is a structure or building which people do not usually enter (e.g. wind turbines)
- it is a change of use or replacement building with no additional floorspace
- it is affordable housing, charitable development or built by 'self builders'.

9) What is the relationship between CIL and planning obligations (S106)?

S106 are an alternative means of securing infrastructure funding, but the government is restricting how this approach can be used. S106 agreements are legal agreements between the developer, us and sometimes the County Council, which we draw up before granting planning permission. Once signed and planning permission has been granted, the developer is legally bound to deliver the specific infrastructure or funding for what has been identified with their proposals.

CIL does not replace S106 completely. The provision of, or contributions towards affordable housing lie outside the remit of CIL and will continue to be secured through S106. S106 will also continue to be used for local infrastructure requirements on development sites, such as local access or connection to services. Some of these requirements may be physically on site, such as open space play provision and will be secured under S106 where they are clearly linked to the development site and needed to make that particular site acceptable in planning terms.

The CIL payment and S106 obligations will cover different things, and developments will not be charged for the same items of infrastructure through both S106 obligations and the levy. The council will publish a list of infrastructure types and projects that it intends to be wholly, or partly, funded by CIL (the 'Regulation 123 list').

10) How is it decided when to use S106 and not CIL?

To inform our CIL viability assessment we identified what infrastructure is required to support the delivery of the strategic sites identified in the emerging Local Plan Part 1. We then identified what the most suitable mechanism was for securing the necessary infrastructure (S106 or CIL). Typically, where onsite infrastructure was required S106

was identified as the most suitable mechanism of securing the infrastructure item. The viability assessment concluded that on certain sites, including Crab Hill and Monks Farm, the onsite infrastructure (such as a primary school, community centre and affordable housing) meant that the sites could not sustain an additional community infrastructure levy, without making them unavailable.

11) What are the benefits of the Community Infrastructure Levy?

Using a tariff-based approach, CIL is considered to be fairer, faster and more certain and transparent than the current system of planning obligations which are generally negotiated on a 'case-by case' basis.

Levy rates will be set in consultation with local communities and developers. Once adopted it will provide much more certainty 'up front' about how much money developers will be expected to contribute. Once set CIL is a non negotiable charge.

12) How does a charging authority set a rate for their levy?

Charging authorities must produce a document called a charging schedule which sets out the levy rate.

The levy is intended to encourage development by creating a balance between collecting revenue to fund infrastructure and ensuring that the rates are not so high that they put development at serious risk.

The level at which the rates are set should be supported by evidence, such as the economic viability of new development and the area's infrastructure needs. The levy can be set at one standard rate or, if justified, specific rates can be set for different areas and types of development. The ability to set differential rates gives charging authorities more flexibility to deal with the varying circumstances.

Consultation with the local community must be undertaken on the proposed levy rates set out in the preliminary draft and draft charging schedules. A public examination by an independent person is then required before the charging authority can formally adopt it. After adoption CIL rates are fixed and non-negotiable.

13) What does 'viability' mean?

From a planning perspective a 'viable' development is one where a developer can make a competitive return from building a scheme, taking into account all relevant policies and costs. CIL should not be of such a scale that it would threaten the delivery of sites across the area.

14) How is the levy collected?

Once planning permission has been granted for a new development we will issue a Liability Notice detail the CIL amount the development is liable for. When work has commenced on the site a Demand Notice will be issued and the developer will have 60 days to pay the levy. The district council can also introduce an instalment policy. A

draft instalment policy has been prepared and comments on this are invited on this. Ultimately if we have not received payment we can take out legal proceedings to make sure we receive what we are owed.

15) Can developers provide in-kind funding?

CIL is usually paid as a cash contribution, but the council may also accept payment in-kind. We will publish information on our approach at a later stage, if we choose to adopt this policy.

16) Who determines what a reasonable percentage of profit is for a developer?

The general profit level (which has been accepted in past CIL examinations) is currently around 20 percent of the Gross Development Value.

17) How is the development industry involved with the CIL rate setting process?

The CIL viability assessment sits as part of a wider assessment on the viability of the emerging Local Plan Part 1. The development industry has been involved through the early evidence gathering stage of the Local Plan assessment and will have the opportunity to comment on the proposals through the formal consultation stages, along with the independent examination process.

18) Will a development be liable to pay CIL if planning permission is granted before a CIL Implementation date is adopted?

No, only developments that are granted planning permission after CIL has been implemented will be liable to pay the levy.

19) If an application is submitted before but not determined by the time CIL is introduced, will CIL be payable?

Yes. Once CIL commences, it will apply to all eligible development where planning decisions are yet to be made, regardless of any prior section 106 negotiations. This also applies to developments that have been granted subject to the satisfactory completion of section 106 agreements, and those appealing against a decision. This is because the CIL regulations (regulation 123) prevent section 106 being entered into for infrastructure that will be funded by CIL.

20) Does CIL apply to applications to amend existing permissions, resubmission and applications to extend the time of existing unimplemented permissions?

Yes, if the proposal involves a net gain of 100 square metres of floorspace or one or more dwelling units and the new applications are lodged after CIL comes into effect, then the resultant developments will be liable to pay CIL.

21) How will the levy be spent?

Charging authorities are required to spend CIL revenue on the infrastructure that is needed to support the development of their area. The assessment of 'need' will largely be informed by the Infrastructure Delivery Plan (IDP) which has been published alongside the emerging Local Plan Part 1. The levy is intended to focus on the provision of new or improved infrastructure and should not be used to remedy pre-existing deficiencies, unless those deficiencies will be made more severe by new development.

22) How will town and parish councils spend CIL revenue?

The levy must be spent on infrastructure proposals. The government has provided a wide definition of what can be considered infrastructure (<http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/spending-the-levy/>). However, outside of this town and parish councils receiving CIL money will be able to decide how to spend their percentage of money collected. In certain cases we may look to work with towns and parishes to pool contributions to help fund key infrastructure projects. It will be important for town and parish councils to keep clear and transparent records of CIL funding and to have a good understanding of the infrastructure projects their community want funded.

23) Will CIL money be spent where it is collected?

The CIL regulations do not require a direct link between where the money is raised and where it is spent. The regulations leave it to individual authorities to decide how the money should be distributed. However, a 'meaningful proportion' of the levy should be passed to the local communities that receive development. Neighbourhood Planning areas accepting development in their area will receive 25% of CIL revenue for those developments, whilst town and parishes without a Neighbourhood Plan will receive a 15% share (capped at £100 per council tax dwelling). Arrangements for this are to be made locally in consultation with local communities.

24) Will parishes indirectly affected by development get CIL money?

The 'meaningful proportion' of CIL money that goes back to the local community only goes directly to those communities accepting development. However, the district council can decide to fund infrastructure in different areas based on the identified infrastructure priorities. It will be up to the indirectly affected areas to raise their case for funding from the limited CIL infrastructure pot to the district council.

25) Is there scope to use CIL to forward fund infrastructure projects?

Yes. The district council can choose to forward fund infrastructure projects from the existing CIL pot of money.

26 What are the stages of CIL

The stages of CIL are as follows

Stage 1 – gather evidence and viability testing

Stage 2 – consult on the preliminary draft charging schedule

Stage 3 – Having considered comments update our schedule and consult on a draft charging schedule (formal stage)

Stage 4 – Submit the schedule for examination

Stage 5 – After a positive examination we adopt our CIL

We are currently at stage 2 which is consultation on the preliminary draft charging schedule. Further consultation on the Draft Charging Schedule is scheduled for February of 2015. Examination and later adoption of CIL is scheduled for the summer of 2015. It is the intention that the Draft Charging Schedule will be submitted for examination at a similar time as the emerging Local Plan Part 1.

27) How is the CIL examined?

We appoint an independent examiner to review whether the Draft Charging Schedule meets requirements in the Planning Act and CIL Regulations and if the proposed charges are informed by and consistent with appropriate available evidence.

28) Do Councils have to implement CIL?

Local authorities in England and Wales will be empowered, but not required, to levy on most types of development in their areas. It should be noted that in 2015 limitations to Section 106 planning obligations will come into force.