

Community Infrastructure Levy (CIL) FAQs

What is the Community Infrastructure Levy (CIL)?

The Community Infrastructure Levy is a planning charge, introduced by the Government through the Planning Act 2008 to provide a fair and transparent means for ensuring that development contributes to the cost of the infrastructure it will rely upon, such as schools and roads. The levy applies to most new buildings and charges are based on the size and type of new floor space.

What are the benefits of the Community Infrastructure Levy?

The Government has decided that a tariff-based approach provides the best framework to fund new infrastructure. 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 provide much more certainty 'up front' about how much money developers will be expected to contribute. Through CIL, all but the smallest building projects will make a contribution towards additional infrastructure that is needed as a result of development.

What is infrastructure?

Infrastructure which can be funded by the levy includes schools, transport, flood defences, 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'.

What is the relationship between CIL and planning obligations?

Planning obligations (funding agreements between the local planning authority and the developer) will continue to play an important role in helping to make individual developments acceptable. The CIL is intended to provide infrastructure to support the development of an area rather than to make individual planning applications acceptable in planning terms. As a result, there may still be some site specific impact mitigation requirements without which a development should not be granted planning permission (e.g. affordable housing, local highway and junction improvements and landscaping). Therefore, there is still a legitimate role for development planning obligations to enable a local planning authority to be confident that the specific consequences of development can be mitigated.

What development is liable for CIL?

Development will be liable for CIL if it: Involves new build of at least 100m² gross internal area (GIA) floor space; (residential garages are included in gross internal floor space) or involves the creation of one or more dwellings. This includes development permitted by a 'general consent' (including permitted development).

What counts as chargeable floor space?

Chargeable gross internal area (GIA) is the area of a building measured to the internal face of the perimeter walls at each floor level. This includes corridors, storage, toilets, stairs, lifts and garages. The Council uses the RICS Code of Measuring Practice 6th edition definition of Gross Internal Area will be used in all instances.

Who is liable to pay the levy?

The responsibility to pay the levy rests with the ownership of land on which the liable development will be situated. Although liability rests with the landowner, 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 development.

Is VAT applied to CIL charges?

CIL is outside the scope of VAT

How will local neighbourhoods benefit from CIL?

The CIL Regulations state that 25% of CIL funds collected from a development will be passed directly to the parish council in which the development is located, if there is an adopted Neighbourhood Plan in place. Currently in Welwyn Hatfield, the only adopted Neighbourhood Plan covers the Parish of Northaw and Cuffley. The amount is reduced to 15% (capped at £100 per existing house) in areas without an adopted Neighbourhood Plan. The funds are to be spent on projects of their choice which support the growth of the area.

Is there a mechanism for the CIL to be spent outside of the charging authority?

Charging authorities may pass money to bodies outside their area to deliver infrastructure which will benefit the development of their area, such as the Environment Agency for flood defence.

How will CIL respond to factors such as inflation?

In calculating individual charges for the levy, charging authorities are required to apply an annually updated index of inflation to keep the levy responsive to market conditions.

How is the levy collected and can it be paid in instalments?

The levy's charges become due from the date of commencement of a chargeable development. When planning permission is granted, the Council will issue a liability notice setting out the amount of the levy and the payment procedure. Unlike contributions collected through S106 agreements there is no time constraint for the spending of monies collected through CIL. It can be paid in instalments as set out in CDCs' CIL instalments policy and this is being consulted upon as part of the current consultation.

How will payment of the levy be enforced?

The levy's charges are intended to be easily understood and easy to comply with. Most of those liable to pay the levy are expected to pay their liabilities without problem or delay. However, where there are problems in collecting the levy charging authorities will have the means to penalise late payment. In cases of persistent noncompliance the regulations also enable collecting authorities to consider more direct action such as the issuing of a CIL Stop Notice or applying to the courts for seizure of assets to pay the outstanding monies or for custodial sentences.

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

No. There is no CIL liability for a planning permission if that planning permission was granted before the CIL implementation date. The relevant date is the date of the issuing of the planning permission decision notice.

How will the levy be spent?

Charging authorities are required to spend the levy's revenue on what they see as the infrastructure needed to support the development of their area. The assessment of 'need' will largely be informed by the Infrastructure Delivery Plans (IDPs) published by each authority alongside their Local Plans. 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. Welwyn Hatfield Borough Council will publish an annual CIL Statement setting out how it has spent monies raised through CIL.

Will affordable housing/shared ownership be liable for CIL?

Affordable housing including shared ownership is residential development so it is liable to pay the CIL. However, it is eligible for 100% relief from the CIL, providing it remains as social housing for a period of seven years from commencement. If the housing ceases to remain as social housing within seven years the CIL will be liable. Welwyn Hatfield Borough Council will advise if more information is needed.

How will CIL be monitored

To ensure that the levy is open and transparent, charging authorities must prepare short reports on the levy for the previous financial year which must be placed on their websites by 31st December each year. These reports will set out how much revenue from the levy has been received, what it has been spent on and how much is left. This report will be within the Authority's Monitoring Report (AMR)

What about Infrastructure Levy (IL)?

The Government is proposing to replace CIL with an Infrastructure Levy (IL) through the Levelling Up and Regeneration Act. However, implementation of this is currently unclear and it is widely expected that it will be brought in over a considerable period of time. As a result, Welwyn Hatfield Borough Council considers it appropriate to progress CIL at the present time.