

# **Community Infrastructure Levy (CIL)**

## **Draft Charging Schedule**

---

Cherwell District Council

### **PROPOSED CIL CHARGES**

February 2024

## 1. Introduction

- 1.1. The Community Infrastructure Levy (CIL) is a charge that local authorities can choose to apply to new development in their area. The funds raised can then be used to support the delivery of infrastructure that the Council and the community consider necessary to support development.
- 1.2. Cherwell District Council is a charging authority under the CIL Regulations (2010, as amended) and is undertaking consultation on this Draft Charging Schedule with a view to adopting CIL.
- 1.3. The preparation of this Draft CIL Charging Schedule is supported by the following evidence documents:
  - A CIL Viability Assessment, prepared by HDH Planning & Development and published in February 2024;
  - The Infrastructure Delivery Plan, which identifies the costs of infrastructure required to support the delivery of planned growth allocated by the Cherwell Local Plan 2011-2031 (2015) and the Cherwell Local Plan 2011-2031 (Part 1) Partial Review - Oxford's Unmet Housing Need (2020); and
  - An Infrastructure Funding Gap Statement, which identifies the cost of infrastructure identified in the Infrastructure Delivery Plan and existing funding available to deliver this infrastructure, in order to identify the amount of additional funding that is likely to be required to deliver this infrastructure.
- 1.4. In addition to this Draft CIL Charging Schedule and its supporting evidence, the Council is carrying out a partial review of the Developer Contributions Supplementary Planning Document (SPD), with revisions intended to reflect the potential adoption of CIL and reflect current changes to national planning policy.

## 2. Background to CIL

- 2.1. CIL is a discretionary tariff that the Council can choose to adopt to support the provision of infrastructure. Once adopted, CIL is fixed, non-negotiable and enforceable.
- 2.2. The framework for CIL was introduced by the Planning Act (2008), with the process for setting and implementing CIL charges set out in the CIL Regulations (2010). The CIL Regulations have been subject to numerous rounds of amendments to clarify and refine various parts of the process in 2011, 2012, 2013, 2014, 2015, 2018, 2019 and 2020.
- 2.3. The government intends that CIL will:
  - Supplement other sources of funding to deliver infrastructure supporting growth;
  - Allow the Council, Parishes, Town Councils or neighbourhood areas more flexibility on how to fund infrastructure and the setting of priorities within their area;
  - Provide certainty to developers about how much CIL will have to pay;
  - Enable the Council to allocate a share of the levy raised to communities to deliver local infrastructure projects.

- 2.4. Funds secured through CIL can be applied to a range of infrastructure projects including transport or highways schemes, community facilities, education, indoor or outdoor sports facilities, parks, green spaces, health care, and community safety.

### 3. CIL & Infrastructure

- 3.1. The infrastructure requirements to support the growth set out in the adopted Cherwell Local Plan 2011-2031 (2015) and the Cherwell Local Plan 2011-2031 (Part 1) Partial Review - Oxford's Unmet Housing Need (2020) are set out in the Infrastructure Delivery Plan, which provides the details of the infrastructure required to support planned growth in Cherwell District.
- 3.2. The funding for the delivery of this infrastructure comes from sources such as Section 106 agreements, Government funding, and third party investment.
- 3.3. The CIL regulations require that, in order to justify charging CIL, the Council must demonstrate that there is a 'gap' between the infrastructure needs of the District and the funding that is available. An Infrastructure Funding Gap Statement has been prepared to demonstrate this need and forms part of the supporting evidence for this Draft CIL Charging Schedule.

### 4. The relationship between CIL and s106 agreements

- 4.1. Section 106 agreements and Section 278 Highways Agreements will continue to be used to secure mitigation and affordable housing following the introduction of CIL. Local Authorities are encouraged to prepare a list of projects intended to be funded from CIL as a part of their annual Infrastructure Funding Statements.
- 4.2. As a part of the consultation on this draft CIL Charging Schedule, we would welcome suggestions of projects which might be funded from CIL.

### 5. Viability and proposed CIL rates

- 5.1. A key step in setting the rates for development as a part of the development of a Draft CIL Charging Schedule is for a CIL Charging Authority to carry out a test of viability across its local area. This consists of a general test of viability over the whole of the local area, together with specific viability testing for strategic development sites.
- 5.2. The Council commissioned HDH Planning & Development to undertake a CIL Viability Study. This assessment examined the cumulative impacts of the policies in the adopted Local Plan (2015) and Partial Review Local Plan (2020), and considers the effect that any CIL rates may have on the viability of development. The outputs of this assessment are set out in the CIL Viability Study (February 2024).
- 5.3. The Viability Study shows that the ability of development to support a CIL charge varies by type of development.
- 5.4. The ability of residential development to support CIL charges varies geographically, and based on whether development is taking place within the existing built limits of settlements or on "greenfield" land. The rates for residential development further vary based on whether they are providing affordable housing or not.

- 5.5. Other forms of development that are found to be able to support a CIL charge includes “primary” retail located in Banbury and Bicester, plus supermarkets, retail warehouses and distribution & logistics development. Large scale industrial development is also found to be capable of supporting a CIL charge in some areas.
- 5.6. The Viability Study assessed large scale “strategic” residential developments, and recommended that sites of this scale are subject to nil CIL charges. These largest sites are expected to contribute towards infrastructure through S106 agreements.
- 5.7. The viability evidence shows that all other development tested, including employment, is unlikely to sustain a CIL charge.
- 5.8. The proposed CIL rates are shown in Table 1. The geographical areas for the Charging Zones are shown in Appendix 1.

Table 1 Proposed CIL rates for Cherwell District

Development type	Zone A: Northern area	Zone B: Southern area	Zone C: Bicester & Banbury
Residential development	£20	£120	£0
Large scale strategic residential development	£0	£0	£0
Flats and HMOs	£0	£0	£0
Sheltered housing	£20	£120	£0
Extracare development	£0	£40	£0
Primary retail (Banbury & Bicester)	£0	£0	£260
Large scale industrial (> 2,000 sqm)	£0	£70	£0
Distribution & logistics	£110		
Convenience based supermarkets & superstores	£200		
Retail Warehouses	£140		
All other forms of development	£0		

- 5.9. The Council is currently progressing work on a Local Plan Review. A Regulation 18 consultation was held on the emerging Local Plan between September 2023 and November 2023, and it is intended that a Regulation 19 (pre-submission) consultation

will take place later in 2024. The Council will review the CIL Charging Schedule following the adoption of the emerging Local Plan if necessary.

## 6. CIL chargeable development

- 6.1. CIL charges are levied on a per square metre basis on all qualifying new development (“chargeable development”) of 100 square metres or more.
- 6.2. CIL charges also apply to all new residential dwellings (including conversions, additional flats and replacements for existing dwellings to be demolished as a part of a proposed development) even if their internal floor area is less than 100 square metres.
- 6.3. CIL applies to development carried out under Permitted Development, if it meets the criteria set out in paragraph 6.1 and 6.2, and is not one of the forms of development that is automatically excluded from CIL charges set out in paragraph 6.4.

### **Development excluded from paying CIL**

- 6.4. The CIL Regulations automatically exclude the following forms of development from being charged CIL:
  - Buildings into which people do not normally go or go only intermittently for the purpose of maintaining or inspecting machinery;
  - Buildings with temporary planning permissions;
  - Structures which are not buildings, such as pylons or wind turbines; and
  - Development less than 100 square metres of gross internal floor space (the internal floor area to be created, before any proposed demolition is taken into account) that does not create one or more new residential dwellings.

## 7. Calculating the CIL chargeable amount

- 7.1. CIL is calculated based on the gross internal area (GIA) of a chargeable development. The methodology used to calculate GIA is set out in Table 2.0 to the RICS Code of Measuring Practice, 6<sup>th</sup> edition<sup>1</sup>.
- 7.2. The CIL regulations allow retained in-use floorspace or in-use floorspace that is to be demolished to be offset from the CIL chargeable floor space. For CIL purposes, “in-use” is defined as a period of occupation within a building’s permitted lawful use for at least six continuous months during the three year period that ends on the day planning first permits the development<sup>2</sup>.
- 7.3. It is a developers / landowners’ responsibility to demonstrate that a building is “in-use” for CIL purposes. This should be done prior to the commencement of development.

---

<sup>1</sup> <https://www.rics.org/profession-standards/rics-standards-and-guidance/sector-standards/real-estate-standards/code-of-measuring-practice>

<sup>2</sup> The day planning first permits a development is generally the date on which planning permission is issued. For permissions granted through the outline or permission in principle routes, these schemes are considered to be permitted when their reserved matters or technical details are agreed. Development carried out through permitted development is considered to be first permitted on the date that development is commenced.

- 7.4. CIL rates are index linked, using the CIL index that is published by BCIS in October each year<sup>3</sup>.
- 7.5. The formula for calculating a CIL payment for a development is set out in Schedule 1 to the CIL Regulations (2010, as amended). The standard formula and examples of how it is applied are presented in appendix 2.

## 8. Paying a CIL contribution

- 8.1. A development becomes liable for CIL at the time planning permission is granted (CIL Regulation 8). Where development is liable for CIL, a CIL Liability Notice will be sent to planning applicants and other parties known to have an interest in the land related to the planning application.
- 8.2. Payment of any CIL associated with a planning application is required upon commencement of the development permitted by the planning permission. Commencement for CIL purposes uses the definition in Section 56 (4) of the Town and Country Planning Act 1990.
- 8.3. A CIL liability is a local land charge, and liability runs with the land (so if a development site is sold, the new owners will be responsible for the CIL liability if they choose to carry out the relevant development). The responsibility for paying CIL rests with the landowner, although anyone can come forward and assume liability for paying a CIL liability.

### **CIL payment in instalments**

- 8.4. By default, CIL is payable within 60 days of work commencing on a CIL chargeable development (CIL Regulation 70).
- 8.5. The CIL regulations allow for the payment of CIL in instalments (CIL Regulation 69B) when the CIL Charging Authority has adopted a CIL Instalments Policy. For the purpose of the viability modelling for this Draft Charging Schedule the Council has assumed all CIL payments will be paid during the first year of a development.
- 8.6. The Council acknowledges the potential positive effect of instalment policies and proposes the instalments policy set out in table 2.

---

<sup>3</sup> <https://bcis.co.uk/news/community-infrastructure-levy-cil-index-bcis/>

Table 2 Proposed CIL instalments policy for Cherwell District

CIL Liability	No. of payments	Payment periods			
		1 <sup>st</sup> payment	2 <sup>nd</sup> payment	3 <sup>rd</sup> payment	4 <sup>th</sup> payment
Less than £20,000	1	100% within 60 days of commencement			
£20,000 - £500,000	2	50% within 60 days of commencement			
£500,000 - £2,000,000	4	25% within 60 days of commencement	25% within 180 days of commencement	25% within 270 days of commencement	25% within 360 days of commencement
£2,000,000 or more	4	25% within 60 days of commencement	25% within 180 days of commencement	25% within 360 days of commencement	25% within 540 days of commencement

### CIL payments in kind

8.7. While CIL liabilities are generally paid in money, CIL regulation 74 also allows the Council, at its discretion, to accept the payment of CIL “in kind” either through the transfer of land, or through the provision of a piece of infrastructure (such as a link road on a development site).

## 9. Exemptions from CIL

9.1. The CIL Regulations allow developers to claim exemption for the following types of development. In these cases, exemption must be claimed (through the submission of the appropriate CIL forms and supporting evidence) and formally agreed by the CIL Charging Authority before any work commences on site:

- Social / Affordable housing;
- Development carried out by charitable institutions which is occupied by a charity and mainly used for charitable purposes;
- Self-build housing; and
- Domestic extensions or annexes exceeding 100 square metres of gross internal floor space.

9.2. The CIL regulations include two forms of relief for social housing. “Mandatory social housing relief” broadly covers affordable housing for rent, discounted rent, shared ownership housing, and First Homes. “Discretionary social housing relief” specifically covers discounted market sales housing and other mechanisms where homes are offered at a discount of at least 20% of the market rate.

9.3. Cherwell District Council intends to offer discretionary social housing relief.

9.4. The CIL Regulations enable CIL Charging Authorities to introduce discretionary relief for certain forms of charitable development. CIL Charging Authorities may also, at their discretion, grant relief from CIL in specific exceptional circumstances.

9.5. Cherwell District Council does not intend to offer these additional forms of further relief from CIL.

## 10. Spending CIL

- 10.1. Regulation 59 of the CIL Regulations (2010, as amended) establishes that CIL receipts should be used to provide, improve, replace or maintain infrastructure to support the development of the CIL Charging Authority's area.
- 10.2. The Council will spend its CIL receipts in line with Regulation 59; additionally, the Council will prepare a CIL Spending Strategy to identify and prioritise projects which CIL will be allocated to.
- 10.3. Additionally, the Council will apply up to 5% of CIL receipts toward the costs of setting up CIL and administering its implementation, in line with CIL Regulation 61. A local allocation of CIL receipts will also be passed to local Town and Parish Councils (see section 11).

## 11. Neighbourhood proportion of CIL

- 11.1. CIL Regulation 59A obliges a CIL Charging Authority to pass a proportion of its CIL receipts to the local parish or town council where development has taken place. The amount that can be transferred is 15%, capped to £100 (index linked) per dwelling within the local council's area, rising to 25% without a cap in areas where there is a Neighbourhood Development Plan in place.

*Table 3 Summary of amounts transferable to local councils*

	<b>Amount transferable</b>	<b>Limitation on amount transferred</b>
Town or Parish Council with no made neighbourhood development plan	15%	£100 per dwelling within the local council's area, index linked.
Town or Parish Council with a made neighbourhood development plan	25%	No cap

- 11.2. Parish or Town Councils may use their CIL receipts to provide, improve, replace or maintain infrastructure, or otherwise apply their CIL funds toward schemes that address the demands that development places on their local area.
- 11.3. There are currently five areas with Neighbourhood Development Plans in place in Cherwell District. These are:
- Adderbury
  - Bloxham
  - Hook Norton
  - Mid Cherwell
  - Weston-on-the-Green





## Appendix 1: Proposed CIL Charging Zones

Bicester & Banbury charging zone (Zone C) denoted with blue shading

## Appendix 2: Calculation of CIL charges, with examples

1. Schedule 1 to the CIL regulations (2010, as amended) sets out the approaches to calculating CIL in various different circumstances. This section presents a summary of some common types of CIL calculations, for illustrative purposes only.

### Basic calculation of a CIL charge

2. In most cases, the amount of CIL chargeable is calculated using the following formula:

$$\frac{R \times A \times I_p}{I_c}$$

Where:

R = the rate at which CIL is charged;

A = the net area of the CIL chargeable development;

$I_p$  = the index for the calendar year that the planning permission was granted; and

$I_c$  = the index for the calendar year that the CIL charging schedule took effect.

3. The net area of a CIL chargeable development (A) is calculated using the following formula:

$$G_R - K_R - \left( \frac{G_R \times E}{G} \right)$$

Where:

G = the gross internal area of the chargeable development (the internal area before any deductions are applied);

$G_R$  = the gross internal area of the part of the development to be charged at the CIL chargeable rate R;

$K_R$  = the gross internal areas of any retained parts of in-use buildings<sup>4</sup>, or buildings where there will be no change of use<sup>5</sup>; and

E = the gross internal area of any in-use buildings to be demolished.

---

<sup>4</sup> "In-use buildings" means any building which has been occupied in its lawful use for at least six continuous months at some point in the three year period that ends on the day that planning permission is granted.

<sup>5</sup> This means any building where the proposed use is the same as the original use – regardless of whether the building was in-use or not – or instances where no further planning permission is required for the change of use (for example, the proposed use is one that is allowed under permitted development).

## Examples

*A new dwelling of 100 sqm on a previously empty plot of land in the southern charging zone*

4. In this example:

- $R = £120$
- $I_p$  and  $I_c = 332$
- $G = 100$  sqm
- $G_R = 100$  sqm
- $K_R$  and  $E = 0$  sqm (as there are no retained parts of existing buildings or floor areas to be demolished)

5. First, the chargeable area (A) is calculated using the formula set out in paragraph 3:

$$A = 100 - 0 - \left( \frac{100 \times 0}{100} \right) = 100 \text{ sqm}$$

6. Now the CIL charge can be calculated using the formula set out on paragraph 2:

$$\frac{120 \times 100 \times 332}{332} = \frac{3,984,000}{332} = £12,000$$

7. In this example, the CIL charge is £12,000

*A new development of 30 new homes of 100 sqm each, and a new 300 sqm supermarket in the northern charging zone. There are no existing buildings on site to be demolished.*

8. In this example, we need to work through the calculations for each development type in turn.

9. For the housing development:

- $R = £20$
- $I_p$  and  $I_c = 332$
- $G = 3,500$  sqm (being the gross internal area of all forms of development)
- $G_R = 3,000$  sqm (being the gross internal area of the housing development only)
- $K_R$  and  $E = 0$  sqm (as there are no retained parts of existing buildings or floor areas to be demolished)

10. The chargeable area (A) is calculated using the formula set out in paragraph 3:

$$A = 3,000 - 0 - \left( \frac{3,000 \times 0}{3,300} \right) = 3,000 \text{ sqm}$$

11. Next, the CIL charge is calculated for the housing development using the formula set out on paragraph 2:

$$\frac{20 \times 3,000 \times 332}{332} = \frac{19,920,000}{332} = £60,000$$

12. The process is then repeated for the supermarket development to determine the charge for this element of the development:

- $R = £200$
- $I_p$  and  $I_c = 332$
- $G = 3,500$  sqm (being the gross internal area of all forms of development)
- $G_R = 500$  sqm (being the gross internal area of the supermarket development only)
- $K_R$  and  $E = 0$  sqm (as there are no retained parts of existing buildings or floor areas to be demolished)

13. The chargeable area (A) is calculated using the formula set out in paragraph 3:

$$A = 500 - 0 - \left( \frac{500 \times 0}{3,500} \right) = 500 \text{ sqm}$$

14. Next, the CIL charge is calculated for the housing development using the formula set out on paragraph 2:

$$\frac{200 \times 500 \times 332}{332} = \frac{33,200,000}{332} = £100,000$$

15. This means the CIL charge for the supermarket element of the development is £100,000

16. The overall CIL charge for the development can then be calculated by combining the outputs of the two calculations, providing an overall CIL charge of £160,000 for the development.

*A new dwelling of 170 sqm, located in the southern charging area adjacent to an existing site. A garage of 20 sqm is to be demolished as a part of the development.*

17. In this example as well as calculating the amount charged, we need to apply a credit for the garage which is to be demolished:

- $R = £120$
- $I_p$  and  $I_c = 332$
- $G$  and  $G_R = 170$  sqm
- $K_R = 0$  sqm (as there are no retained parts of existing buildings)
- $E = 20$  sqm

18. The chargeable area (A) is calculated using the formula set out in paragraph 3:

$$A = 170 - 0 - \left( \frac{170 \times 20}{170} \right) = 150 \text{ sqm}$$

19. Now the CIL charge can be calculated using the formula set out on paragraph 2:

$$\frac{120 \times 150 \times 332}{332} = \frac{5,976,000}{332} = £18,000$$

20. The CIL charge for the development is £18,000

*A new development of three distribution and logistics warehouses of 1,000 sqm each, plus a retail warehouse of 500 sqm and 500 sqm of office space falling within class E. The site has 400 sqm of disused buildings to be demolished.*

21. In this example, as well as accounting for the floorspace that is to be demolished, we need to apportion it between the different proposed uses, including those uses that are zero-rated for CIL purposes.

22. We work through each calculation in turn:

23. Distribution & logistics:

- R = £110
- $I_p$  and  $I_c = 332$
- G = 4,000 sqm (being the gross internal area of all forms of development)
- $G_R = 3,000$  sqm (being the gross internal area of the distribution & logistics development only)
- $K_R = 0$  sqm (as there are no retained parts of existing buildings)
- E = 400 sqm (as there is some floorspace to be demolished)

24. The chargeable area (A) is calculated using the formula set out in paragraph 3:

$$A = 3,000 - 0 - \left( \frac{3,000 \times 400}{4,000} \right) = 2,700 \text{ sqm}$$

25. The CIL charge is calculated using the formula set out on paragraph 2:

$$\frac{110 \times 2,700 \times 332}{332} = \frac{98,604,000}{332} = \text{£}297,000$$

26. Retail warehouse:

- R = £140
- $I_p$  and  $I_c = 332$
- G = 4,000 sqm (being the gross internal area of all forms of development)
- $G_R = 500$  sqm (being the gross internal area of the distribution & logistics development only)
- $K_R = 0$  sqm (as there are no retained parts of existing buildings)
- E = 400 sqm (as there is some floorspace to be demolished)

27. The chargeable area (A) is calculated using the formula set out in paragraph 3:

$$A = 500 - 0 - \left( \frac{500 \times 400}{4,000} \right) = 450 \text{ sqm}$$

28. The CIL charge is calculated using the formula set out on paragraph 2:

$$\frac{140 \times 450 \times 332}{332} = \frac{20,916,000}{332} = \text{£}63,000$$

29. Office development:

- $R = \text{£}0$
- $I_p$  and  $I_c = 332$
- $G = 4,000$  sqm (being the gross internal area of all forms of development)
- $G_R = 500$  sqm (being the gross internal area of the distribution & logistics development only)
- $K_R = 0$  sqm (as there are no retained parts of existing buildings)
- $E = 400$  sqm (as there is some floorspace to be demolished)

30. The chargeable area (A) is calculated using the formula set out in paragraph 3:

$$A = 500 - 0 - \left( \frac{500 \times 400}{4,000} \right) = 450 \text{ sqm}$$

31. The CIL charge is calculated using the formula set out on paragraph 2:

$$\frac{0 \times 450 \times 332}{332} = \frac{0}{332} = \text{£}0$$

32. Combined the results of the three calculations leads to a final CIL charge for the development of £360,000.

33. The floorspace that is to be demolished has been apportioned between the three different development types – including the zero-rated development.