

Community Infrastructure Levy Draft Charging Schedule

15 September 2014

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1.0 What is the Community Infrastructure Levy?

The Community Infrastructure Levy (CIL) is a charge on new buildings in England and Wales. It is a mechanism to ensure certain types of new development contribute to the infrastructure needed to support that development. This infrastructure will support the growth aspirations for Birmingham as outlined in the Birmingham Development Plan which includes proposals for over 50,000 new homes and 100,000 new jobs. This infrastructure could include new schools, roads, parks and public transport improvements.

The charge provides a greater level of certainty for developers and land owners regarding their contributions and will be charged per square metre on net, new development.

We must consult on our proposed CIL charges before the CIL is adopted and this is the second stage of that consultation process. We consulted on the Preliminary Draft Charging Schedule in December 2012 and have taken those comments into account when developing these charges.

We will need approval from the Full Council to begin charging a CIL, and we will publish this adoption date on our website when it is finalised.

2.0 CIL and other planning documents

To adopt a CIL, we need bring together “relevant evidence” which shows our aspirations for growth, the infrastructure needed to support that growth and its cost. We also need to show that the proposed charge will not discourage new developments from being built.

These documents are available on our website at www.birmingham.gov.uk/cil and www.birmingham.gov.uk/plan2031/evidencebase and include the following:

- The CIL Draft Charging Schedule
- CIL Charging Maps
- CIL Economic Viability Assessment (GVA report) – October 2012
- The Birmingham Development Plan (Pre Submission Version)
- The Birmingham Development Plan Policies Map
- Site Delivery Plan
- Infrastructure Delivery Plan
- Preliminary Draft Charging Schedule information and consultation responses
- Regulation 123 list
- Previous S106 income analysis

In order to adopt a CIL, we must have an up to date Development Plan. Consultation on the Birmingham Development Plan “Pre Submission Draft Document” ended on 3rd March 2014 and the Plan will be submitted to the

Secretary of State in June 2014. An examination in public will be held later this year and it is anticipated that the BDP will be adopted in early 2015.

You can find the Birmingham Development Plan here www.birmingham.gov.uk/plan2031

3.0 The Infrastructure Development Plan

The Infrastructure Delivery Plan (IDP) identifies the infrastructure needed to support the growth of the City. This document helps to identify the types and costs of infrastructure, the delivery timetable and gaps in funding. The IDP is a collaborative effort and we have worked with a wide range of departments and stakeholders who have a role in delivering that infrastructure. The IDP clearly demonstrates a funding gap for the delivery of critical infrastructure which CIL will help to address.

You can find the latest version of the IDP here <http://www.birmingham.gov.uk/plan2031/evidencebase>

4.0 The Community Infrastructure Levy Preliminary Draft Charging Schedule – Viability Study (GVA)

We appointed GVA to carry out a viability study. We wanted this study to look at the viability of various hypothetical developments across the city. When assessing viability, GVA considered planning policy requirements (i.e. BREEAM standards for sustainable buildings) which can add to the cost of a new development. This study shows possible CIL charges across the city, with different charges by type and location of those developments.

5.0 The Draft Charging Schedule

Following the Preliminary Draft Charging Schedule consultation, a number of responses raised specific issues regarding retail use categories, residential assumptions and values and charges specifically in relation to the Green Belt proposals in the Birmingham Development Plan. We requested GVA Grimley conduct further analysis to address the concerns mentioned.

In addition to supplementary testing, we have further amended the charges to take into account the current economic situation. While the economy is no longer in recession, the recovery is delicately balanced. CIL charges should not prejudice this recovery, and must strike an appropriate balance between funding for infrastructure and CIL's impact on economic viability. The proposed charges contained within the CIL also take into account unforeseen costs, additional planning policy requirements and Section 106 contributions. Once adopted, there is the possibility of an early review and potential amendment to CIL charges as the economy continues to recover.

5.1 Additional Retail Testing.

Additional, hypothetical development schemes were tested (specifically convenience stores, city centre retail and convenience store with petrol station). The scenarios tested are high level and cannot be used as an

example of what an individual developer or operator would be prepared to pay for land at any given location.

The appraisals assume a zero contribution towards S106 costs.

The paper can be found at appendix 2iii.

5.2 Additional Employment Testing, including Urban Extension.

Additional employment scenarios were tested, specifically in relation to industrial development on a green field site and offices in the prime and fringe of the city centre, to demonstrate potential charges for employment use. The scenarios tested are high level and cannot be used as an example of what an individual developer or operator would be prepared to pay for land at any given location.

To test the viability of a range of schemes on greenbelt employment land, three different scenarios were tested – pre-let industrial use, speculative industrial use and speculative business park use. The papers can be found at appendix 2i.

5.3 Additional Miscellaneous Testing and Analysis

This paper updates the initial viability testing from October 2012. This paper reviews the original, proposed CIL rates and gives a greater viability “cushion” for CIL charges. This ensures the CIL will remain viable even with the varying circumstances for each development scheme. The paper can be found at appendix 2ii.

5.4 Residential Urban Extension

Additional testing was undertaken for a large, strategic scale development of 5,000 units. This is a hypothetical example which mirrors the potential characteristics of the scheme recommended in the SUE. It is assumed that developments will be undertaken by large regional and national developers who benefit from economies of scale.

The testing assumes there will be significant on site mitigating requirements for such a large scale development, and therefore unlikely to be pooled with S106 agreements for other schemes.

Testing was undertaken assuming S106 contributions equivalent to £10,000 and £20,000 per dwelling. Further tests also assumed 20% and 35% affordable housing. In all cases, the assumptions adopted give a positive residual land value which suggests the scheme is deliverable however the appraisals do not equal or exceed the adopted base land values. Therefore, the testing recommends a zero charge for residential development in the Green Belt. The paper can be found at appendix 2iv.

5.5 Birmingham Municipal Housing Trust

Amended guidance for the CIL was published on the Planning Practice Guidance website on 12 June 2014, and this replaced the previous standalone guidance that was published in February 2014.

This guidance states that we may offer further, discretionary relief for affordable housing types which do not meet the criteria required for mandatory social housing relief and are not regulated through the National Rent Regime.

The majority of Birmingham Municipal Housing Trust (BMHT) schemes deliver socially rented housing. These properties are funded through a mixture of internally generated resources, grant funding and recycled surpluses from house sales with the land being provided to the scheme at no cost. There is no developer profit achieved on a BMHT scheme as any surpluses created from the homes for sale are reinvested into new homes for rent or into community benefits such as road improvements or public open space.

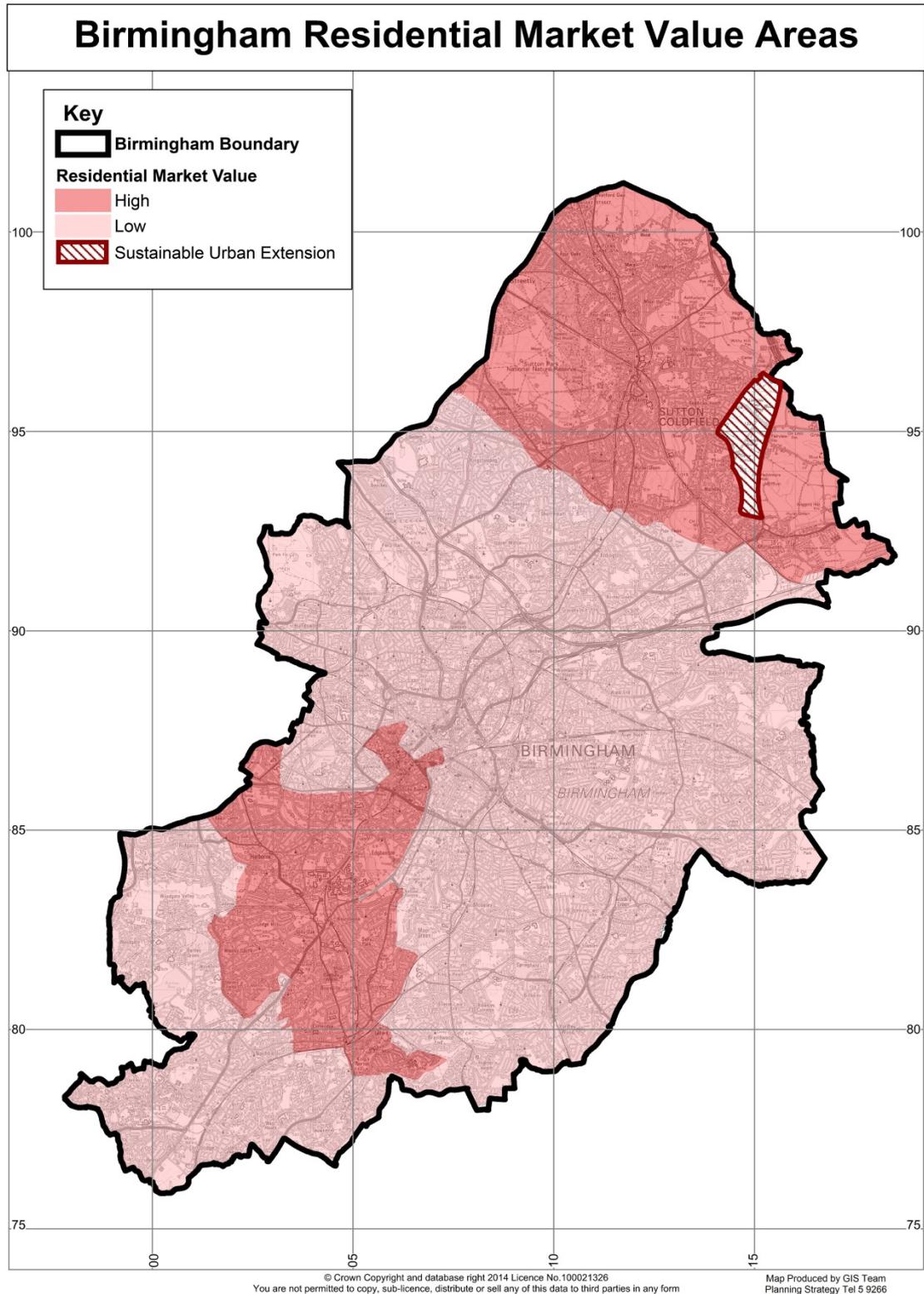
Therefore it is proposed to exempt BMHT developments from CIL charges. This paper can be found at appendix 2v.

6.0 CIL Charges

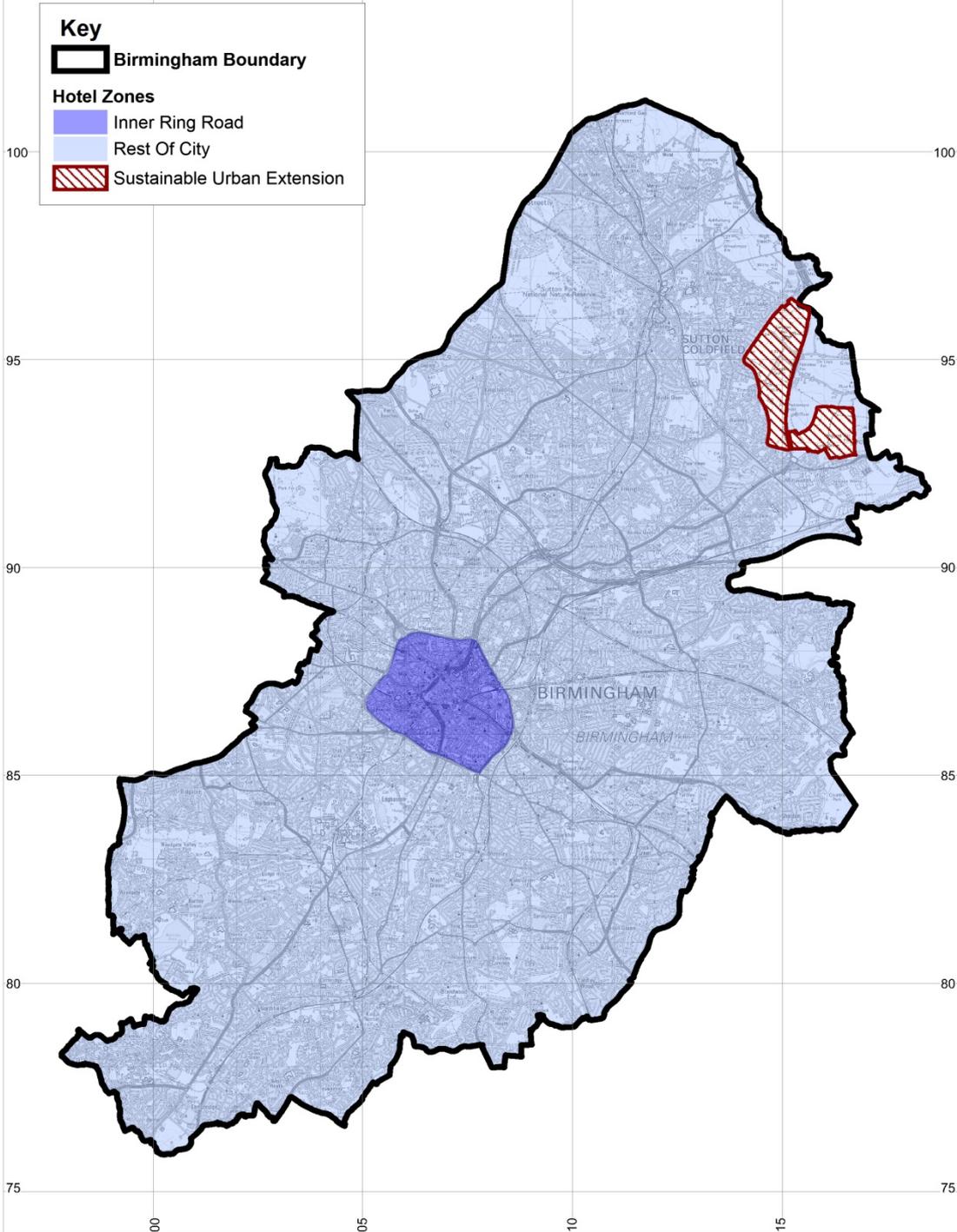
Development Type	Detail	Charge/sqm
Retail convenience	<1,500 sqm	£0
Retail convenience	>1,500 sqm	£260
Retail	All other	£0
Retail	Sustainable urban extension	£0
Industrial/Employment	All areas	£0
Offices	All areas	£0
Residential	High value zone (1,2 & 3)	£69
Residential	Low value zone (4,5,6 & 7)	£0
Residential	Sustainable urban extension	£0
Residential	Birmingham Municipal Housing Trust developments	£0
Student housing	All areas, except SUE	£69
Student Housing	Sustainable urban extension	£0
Hotel	Inner ring road	£27
Hotel	Rest of city and sustainable urban extension	£0
Leisure	All areas	£0
Education	All areas	£0
Health	All areas	£0
Extra Care	C2 use	£0

6.1 Charging Zone Maps

Please note alternative, detailed versions of maps are available at www.birmingham.gov.uk/cil



Birmingham Hotel Zones



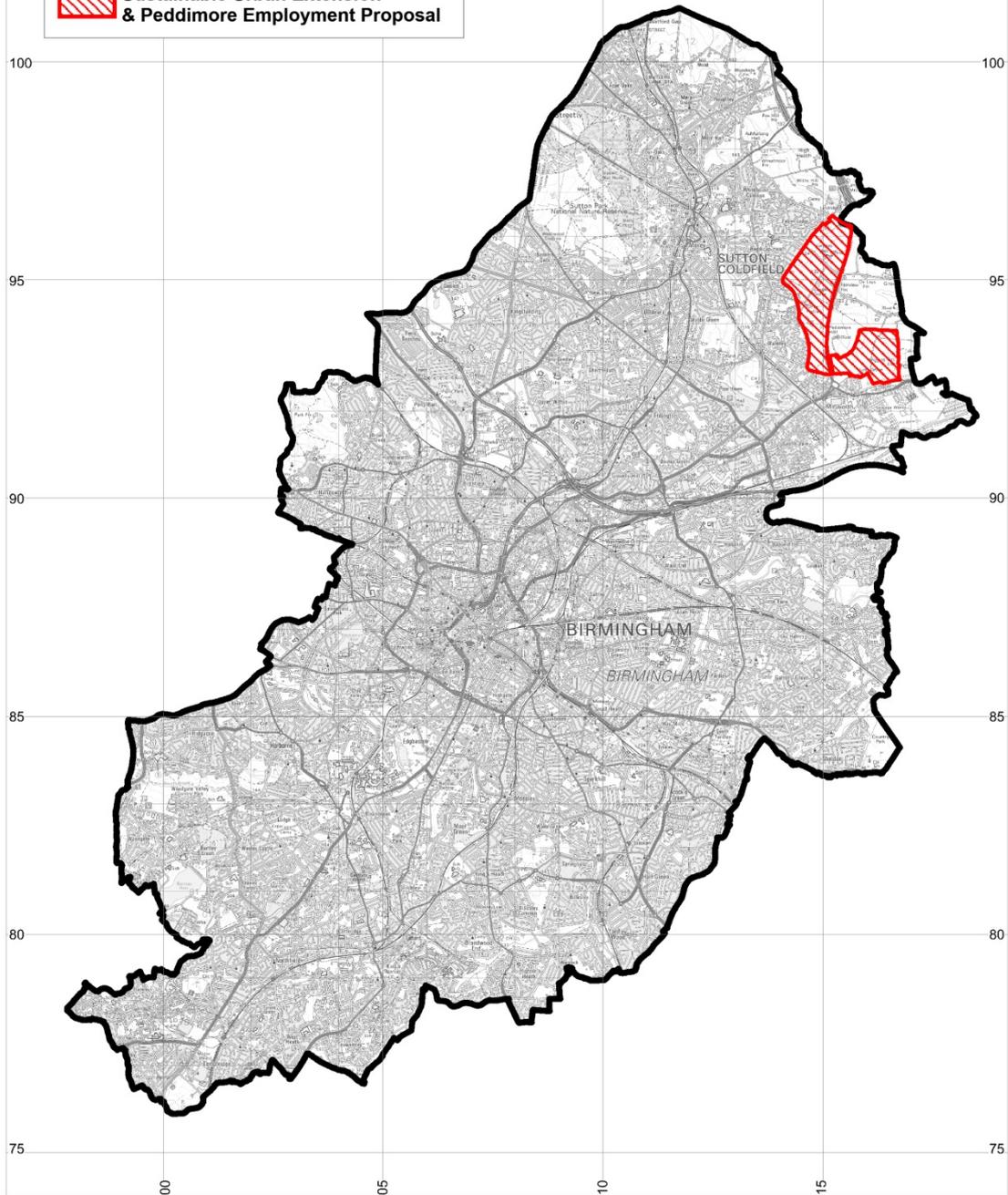
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Sustainable Urban Extension

Key

-  Birmingham Boundary
-  Sustainable Urban Extension & Peddimore Employment Proposal



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7.0 Regulation 123 list

Please note this list is draft and we will continue to negotiate S106 agreements as usual until we have adopted a CIL.

The Regulation 123 list (R123) is a list of infrastructure projects which we hope to fund or part fund through CIL. We have published a draft list and you can find this at www.birmingham.gov.uk/cil. We can revise this list at any time following the adoption of CIL, subject to appropriate consultation.

The projects on this list have been chosen as they support the development of Birmingham, as outlined in the Birmingham Development Plan. We can use the CIL to provide new infrastructure, increase the capacity of existing infrastructure or repair failing infrastructure, if that is necessary to support development.

Where the list includes generic infrastructure (such as “education provision”) we can’t sign any S106 agreements for that type of expenditure.

8.0 What will be liable for CIL?

CIL may be payable on a development which creates net additional floor space, where the gross internal area of new build exceeds 100sqm. CIL applies to all types of planning consent, including Local Development Orders and Neighbourhood Development Orders.

9.0 What will be exempt from CIL?

- Developments of less than 100sqm, unless it is a new house or flat. If it is a new house or flat, CIL is payable.
- Houses, flats, residential extensions or residential annexes which are built by self-builders
- Social housing
- Charitable development
- Buildings into which you do not normally go
- Buildings where you only go intermittently, for inspecting/maintaining fixed plant, machinery etc
- Any structures which aren’t buildings such as pylons
- Any development with a £0 charge as defined in the Charging Schedule
- [Vacant buildings](#) bought back into the same use.
- Developments where the levy liability is calculated to be less than £50
- Mezzanine floors of less than 200sqm unless they form part of a wider planning permission providing other works too.

10.0 Calculation

The formula used to calculate CIL liability is defined within the CIL regulations. This involves multiplying our CIL charging rate by the net increase in Gross Internal Area (GIA) and adjusting for inflation.

$$\frac{R \times A \times Ip}{Ic}$$

R – the CIL rate for that use

A – the deemed net area chargeable at rate R

Ip – the index figure for the year in which planning permission was granted

Ic – the index figure for the year in which the charging schedule took effect

The All-In Tender Price Index is an inflation index published by the Royal Institute of Chartered Surveyors Building Cost Information Service and the figure for any given year is the figure for November of the previous year.

CIL calculations leading to a liability of less than £50 are treated as zero rated and are not payable.

Further detail on calculating the amount due is contained in the [CIL regulations](#).

Some example calculations below can be used as a guide to the types of scenario which may occur. If you need any help or advice calculating your CIL liability, please contact us using the details below.

Site description	Proposed development	Is the development liable to pay CIL?	If yes, what is the area of floor space on which CIL will be charged?
Single dwelling (in use)	Extension to existing dwelling of 125m ²	<input checked="" type="checkbox"/>	125m ²
Cleared building site	Construction of a new dwelling of 90m ²	<input checked="" type="checkbox"/>	90m ² . Liable for CIL as although the floor space is under 100m ² , a new dwelling is being created
Single dwelling (in use)	Extension to existing dwelling of 25m ²	<input type="checkbox"/>	Not liable for CIL as under 100m ² and does not create a new dwelling

Single dwelling (in use)	Sub-division of existing dwelling into two flats with no extensions	<input checked="" type="checkbox"/>	Not liable because conversions from a single dwelling into two or more flats are exempt
Single dwelling (in use)	Construction of a new dwelling of 150m ² . Original dwelling of 90m ² demolished	<input checked="" type="checkbox"/>	60m ² Is this still liable as less than 100sqm, and no new dwelling?
Cleared building site	2,000m ² of new residential development, including 50% affordable housing (1,000m ²)	<input checked="" type="checkbox"/>	1,000m ² , assuming the social housing relief is applied for and granted.
Shop unit (not in use)	Conversion/change of use of existing shop of 90m ² to a residential dwelling	<input checked="" type="checkbox"/>	90m ² No exemption as even though it's under 100m ² , a new dwelling is being created.
Single dwelling (not in use)	Conversion/change of use of existing dwelling of 90m ² to a shop	<input checked="" type="checkbox"/>	Not liable as change of use to non-residential and under 100m ² floor space.
Industrial buildings (in use)	New mixed-use scheme of 2,000m ² offices + 400m ² retail + 750m ² basement car park. 1,500m ² of industrial buildings demolished	<input checked="" type="checkbox"/>	1,650m ² . A basement car park is an enclosed building and would be chargeable.

11.0 Who pays?

Landowners are liable for payment of CIL, but other parties can take on the liability to pay their CIL contribution. If no one assumes liability, or payment is not forthcoming from other parties, the liability will automatically default to the landowner.

12.0 [When and how will I pay?](#)

- When planning permission is **granted** through a decision notice (or appeal decision) on or after the date of publication of a CIL Charging Schedule for that area; or
- When development permitted by a 'general consent' (e.g. permitted development) commences on or after 6th April 2013.

You will still need to pay your CIL contribution if there was a resolution to grant planning permission (e.g. subject to a S106 or call-in) before the publication of our CIL charging schedule, but the formal granting of planning permission is made after the publication of the CIL charging schedule. This is because any *resolution* to grant planning permission by Planning Committee does not formally grant permission until the decision notice has been issued.

There are a number of stages in the CIL collection process which we must follow:

- If you are applying for planning permission, you must include a completed copy of the [Additional CIL Information Form](#) with your application to help us calculate the sum payable
- If your development is granted planning permission by way of a general consent (such as GPDO or LDO), you must submit a [Notice of Chargeable Development](#) if the development is liable for CIL
- Someone must also assume liability for payment by submitting an [Assumption of Liability Form](#). This could be the developer, landowner or another interested party
- We will then issue a Liability Notice which sets out the charges due and the payment procedure
- Whoever assumes liability must then send us a [Commencement Notice](#) stating when development will start
- We will send a Demand Notice which states the payments and due dates for payment in line with our payment and instalment procedures
- When development starts, and payments are received in line with the procedures, we will issue a receipt for all payments received.

13.0 Can I pay my CIL in kind?

Yes, we can accept CIL as in kind payments, with either land or infrastructure. These payments must be agreed through a land or infrastructure agreement before starting on site and can be full or part payment of the CIL liability.

Land or infrastructure must be valued by an independent valuer to ascertain open market value of land or the cost of the infrastructure to decide how much of the CIL liability will be paid by the in kind payment.

Further information regarding in kind payments is contained within the [CIL regulations](#).

14.0 Instalments

We are proposing to introduce an Instalment Policy which will take effect when the CIL is adopted.

Total CIL payment due	Payment Terms
Less than £30,000	Total payable within 60 days of commencement
£30,000 - £100,000	25% payable within 60 days of commencement 75% payable within 240 days of commencement (c. 8 months)
£100,001 - £500,000	25% payable within 60 days of commencement 25% payable within 240 days of commencement (c. 8 months) 50% payable within 365 days of commencement (c. 1 year) NB Full payment is due if occupation/opening of development is earlier than the dates set out above.
£500,001 - £1,000,000	20% payable within 60 days of commencement 20% payable within 240 days of commencement of development (c. 8 months) 30% payable within 365 days of commencement (c. 1 year) 30% payable within 540 days of commencement (c. 18 months) NB Full payment is due if occupation/opening of development is earlier than the dates set out above.
More than £1,000,001	20% payable within 60 days of commencement 20% payable within 240 days of commencement of development (c. 8 months) 20% payable within 365 days of commencement (c. 1 year) 20% payable within 540 days of commencement (c. 18 months) 20% payable within 730 days of commencement (c. 2 years) NB Full payment is due if occupation/opening of development is earlier than the dates set out above.

If these instalment terms are broken, we will issue a Demand Notice which requires full payment immediately.

Similarly, if no Commencement Notice is received and we have to determine the “deemed commencement” date, we will issue a Demand Notice for CIL liability, which must be paid immediately in full.

15.0 Developer contributions and S106 Agreements

You could be asked to contribute towards infrastructure in different ways. This could be through CIL, S106 agreements, S278 highway agreements and any conditions which may be attached to your planning permission.

However, these different types of developer contribution all serve different purposes and the regulations will limit any perceived or actual “double dipping” with developers paying twice for the same thing.

15.1 Section 106 agreements

The CIL should provide infrastructure to support the development of the whole area covered by the Development Plan. However, some site specific issues or mitigation might still be needed to make sure planning permission is granted.

When we have adopted CIL, Section 106 requirements should be scaled back to those matters which are directly related to a specific site, and are not set out in a Regulation 123 list.

You should note that while S106 agreements will remain, they will continue to be negotiable and therefore will be negotiated *after* the CIL contribution has been calculated.

S106 agreements should continue to be;

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development

Once the CIL has been adopted, we can't pool unlimited S106 agreements for infrastructure. If we have signed five or more obligations for a specific type of infrastructure or project since 6 April 2010, and you can also fund that piece of infrastructure or project through the CIL, we cannot sign any more of those S106 agreements. This also includes S106 agreements signed against applications made under Section 73 to vary a planning condition.

If you can't fund a piece of infrastructure through the CIL (such as affordable housing), we can pool unlimited S106 agreements, as long as we have regard to wider policies on planning obligations set out in the NPPF.

15.2 Section 278 agreements

Section 278 agreements are agreements between the highway authority and someone who agrees to pay all or part of the highways works. Section 278 agreements **cannot** be used for works which are included on the Regulation 123 list (i.e. works which could be funded by CIL). However, unlike S106 agreements, there is no limit on pooling S278 agreements.

16.0 Percentage to neighbourhoods

We have to pass on a percentage of CIL receipts to those communities affected by new developments.

15% of CIL receipts must be passed to Parish and Town Councils where development has taken place. This is capped at £100 per council tax dwelling, per year.

If there is a Neighbourhood Plan or a Neighbourhood Development Order (including a Community Right to Build Order) in place, the amount passed to that Neighbourhood Plan area is increased to 25%, with no annual cap.

Parish Council <input checked="" type="checkbox"/> Neighbourhood Plan <input checked="" type="checkbox"/> = 25% uncapped, paid to Parish	Parish Council <input checked="" type="checkbox"/> Neighbourhood Plan <input checked="" type="checkbox"/> = 15% capped at £100/dwelling, paid to Parish
Parish Council <input checked="" type="checkbox"/> Neighbourhood Plan <input checked="" type="checkbox"/> = 25% uncapped, local authority consults with community	Parish Council <input checked="" type="checkbox"/> Neighbourhood Plan <input checked="" type="checkbox"/> = 15% capped at £100/dwelling, local authority consults with community

These percentages will still apply if there are no Neighbourhood Plans or Parish Councils, but we will keep these contributions, and engage with local communities to determine how best to spend the money. The funds will be passed on every six months, at the end of October and April.

If a developer has contributed in kind CIL payments in the form of infrastructure, we will ensure a cash equivalent contribution to local communities.

The percentage passed to neighbourhoods can be spent on a wider range of infrastructure than the rest of CIL, as long as it still supports the development of the area.

17.0 Review

The CIL viability study can only demonstrate viability at a moment in time and cannot forecast future changes in the market. Therefore we will keep our CIL charges under review to make sure they remain appropriate. If market conditions change significantly, or the infrastructure funding gap changes, we will review and alter the CIL charges as necessary. Any proposed changes to

the CIL charge will be posted on the CIL pages on our website, and you will have the opportunity to comment before any changes are made.

We can decide to stop charging a CIL at any time. If we were to do this, any CIL liability relating to a development which hasn't started would be dissolved and no CIL would be payable.

18.0 Monitoring

Regulations state we must let you know how we're spending any CIL income. We will publish a report (at least) annually (by 31 December each year, for the previous financial year) explaining how much we've received in CIL payments, how much we've spent, and on what, and how much we're carrying over into future years.

Town and Parish Councils must also report on their CIL spending.

19.0 Sustainability

The CIL charging schedule does not require a Sustainability Appraisal as it is a short financial document rather than a "land use planning" document.

20.0 Equalities

An Equality Impact Assessment (check wording) has been completed for the Preliminary Draft Charging Schedule. This can be viewed at www.birmingham.gov.uk.

21.0 What happens next? How do I comment?

The consultation will commence on Monday 29th September 2014 and end on Monday 10th November 2014 and can be found at www.birminghambeheard.org.uk/development/community-infrastructure-levy-draft-charging-sched

The expected timetable is as follows:

- Submission of DCS
- EIP
- Examiner's Report received which could recommend that the charge is adopted, amended or rejected.
- Adoption of the Draft Charging Schedule by resolution of the Full Council.

Paper copies of documents are available at 1 Lancaster Circus and you can speak to someone about CIL on 0121 303 4820. Alternative copies are able available in braille or other languages upon request.

Comments are welcome on any aspect of the CIL and documents listed above, but are particularly invited on the CIL charges, instalment policy, geographic differentiations and variations within use category.

Representations can be made by email to hayley.anderson@birmingham.gov.uk and post to Hayley Anderson, Planning and Regeneration, Birmingham City Council, PO Box 28, Birmingham, B1 1TU.

In order to take your comments into account, they must be received by 5pm on Monday 10th November 2014. Comments will then be considered and summarised for publication on the Council's CIL webpage.

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Glossary and Further Information/FAQs.

Is CIL payable if existing buildings are being demolished or converted?

The gross internal area of any buildings on the site that are going to be demolished or re-used may be deducted from the calculation of CIL liability. However, deductions are only applied where those buildings have been in lawful use for a continuous period of at least 6 months within the period of three years ending on the day planning permission first permits the chargeable development. In this context, “in use” means that at least part of the building has been in use.

It will be for the applicant or their agent to demonstrate that a building has been in use by providing appropriate evidence such as Council Tax records or Business Rates documentation.

The day “planning permission first permits development” is defined in the CIL regulations as the date at which development may commence. If there are any pre-commencement conditions attached to the planning permission, this date is the date at which the final pre-commencement condition is discharged. If there are no such conditions, then the date is the date of planning permission.

In relation to outline applications, subject to any phasing arrangements that may apply, development will only be permitted when the last of the reserved matters is approved.

Is CIL payable if my scheme does not need planning permission?

A CIL payment is required whether or not the development needs planning permission. If you intend to carry out development authorised by “general consent” (including permitted development) should serve the City Council with a Notice of Chargeable Development.

Do charities have to pay CIL?

If you are a charitable institution, and you own a material interest in the land, you will get full relief from your portion of CIL where the chargeable development will be used wholly, or mainly, for charitable purposes. We can also offer discretionary relief to a charity landowner if the greater part of the development will be held as an investment and the profits applied for charitable purposes.

To qualify for charitable relief:

- You must be a charitable institution
- You must own a material interest in the land
- You must not own this interest jointly with a person who is not a charitable institution.

And a charitable institution is defined in the regulations as:

- A charity

- A trust of which all the beneficiaries are charities
- A unit trust scheme in which all the unit holders are charities

If you are providing social housing, we will also grant full relief from CIL charges, for those social housing units. This relief may also be available for those parties who are not charities.

An [application](#) for relief must be made to the City Council before commencement of the development to which it relates.

Be aware that if you claim charitable relief, you must continue to be eligible for that charitable relief for seven years following the commencement of your development. If, at any point in those seven years:

- The purpose of the development changes to an ineligible use;
- The owner of the interest in the land changes, and no longer qualifies for relief;
- The terms of the leasehold changes, and no longer qualifies for relief;

You must inform us of this change within 14 days, and we will “clawback” the relevant parts of the relief given. If you do not notify us within 14 days, we will charge an additional 20% of the chargeable amount, or £2,500 (whichever is lesser).

The regulations regarding charitable relief can be found [here](#).

What if I am building social housing?

Full CIL relief can be given to those parts of a development which are going to be used as social housing if a claim is submitted to the City Council by an owner of a material interest in the relevant land.

This will benefit most social rent, affordable rent, intermediate rent provided by us or Private Registered Provider, and also shared ownership dwellings.

When [applying](#) for this relief, you must provide evidence that the chargeable development qualifies for social housing relief. To ensure that relief is not used to avoid CIL payments, the regulations provide that any relief must be repaid if the development no longer qualifies for the relief granted within seven years from the commencement of the development.

The regulations regarding social housing relief can be found [here](#).

Social housing relief is calculated according to the three formulas in [Regulation 50](#).

Discretionary social housing relief applies to those affordable dwellings which meet the criteria set out in Regulation 49A (2014 Regs).

What if I am building my own home?

If you are building your own home, or have commissioned your own home, and you are going to live in that home for a minimum of three years after completion, you don't have to pay CIL.

You can submit your [claim](#) at any time as long as the work hasn't commenced, and this exemption does not apply retrospectively. As with other exemptions, you must notify us of your circumstances change during those three years.

To claim the exemption, you will need to submit the relevant [form](#) within six months of completion.

The regulations regarding self-build housing relief can be found [here](#).

What about residential extensions or annexes?

If you want to extend your house, or build a residential annex within your grounds, you don't have to pay CIL. If your residential extension is under 100sqm, you don't have to pay CIL. You must submit this [form](#) before you start work on your extension or annex.

The regulations regarding residential extensions and annexes can be found [here](#).

What happens if I can't afford to pay the CIL?

If you can't afford to pay CIL, you won't automatically receive exemption from your CIL payments. There are certain conditions which must be met, and each application will be considered on a case by case basis.

To claim exceptional circumstances relief,

- A signed S106 agreement must be in place
- We must accept that paying the CIL would have a unacceptable impact on the development's economic viability
- There must not be any notifiable state aid as a result of the relief

If you wish to claim any exemptions under [regulation 56](#) of the regulations, make sure you submit your [claim](#) in good time as most forms of relief or exemption must be approved before you commence development.

As with all other forms of relief, there is a clawback period of seven years if the circumstances of that relief change. This could include:

- Charitable or social housing included on the development site
- Any sale of relevant land
- Not starting development within one year of relief being granted

You must inform us of this change within 14 days, and we will "clawback" the relevant parts of the relief given. If you do not notify us within 14 days, we will

charge an additional 20% of the chargeable amount, or £2,500 (whichever is lesser).

How do you decide if a building has been abandoned?

We will decide if a building has been legally abandoned. We will take into account;

- The condition of the property
- The period of non use
- Whether there has been an intervening use, and
- Any evidence regarding the owner' intention

What about phased developments?

It is possible to allow a planning application to be divided into “phases” for the CIL, which is especially useful for large, planned developments. This applies for both detailed and outline permissions (and therefore “hybrid” permissions too), and each phase would be treated as a separate chargeable development. This allows for payments in line with the instalment policy which we may have adopted.

The principle of phased delivery must be apparent from the planning permission.

For outline permissions, if the CIL is in force when the outline permission is granted, each phase of that permission is subject to CIL, or any replacement CIL charging schedules which may be introduced.

What happens if I want to alter my permission? Do I pay twice?

If you want to revise or submit a new planning application for a development which has started but is not finished, we are able to take into account any CIL payments which can be credited against the new permission. This is called abatement. However, if your development has finished, you cannot apply for abatement.

If the revised development has a lower CIL liability than the original, no refunds will be paid.

You can only apply for abatement before development commences under the alternative permission.

Can I appeal against a CIL decision?

Yes, in certain circumstances, you can appeal against the levy calculation. Please see the section 2.5 of the associated [DCLG CIL guidance](#).

What happens if I have overpaid?

We will pay back any overpayment as long as the refund exceeds the administrative costs for processing that refund. We will not refund overpayments if those overpayments are the result of an in kind payment.

What if no one assumes liability for the development?

If no one assumes liability, the liability falls to the owners of the land. This also means that full payment will become due when development commences. If no one assumes liability, we may approach potential people or organisations who might want to assume liability and point out the benefits (such as payment in instalments) if they assume liability.

Liability can be transferred at any time up to the day before the final payment is due by submitting a [Transfer of Assumed Liability form](#).

What happens if I don't pay?

The regulations allow us to impose penalties for late payment.

If a party has assumed liability and doesn't pay, we can issue a Default Liability Notice to the owners of any material interest in the land within the chargeable development.

If the debt still isn't settled, we can take more direct action to recover the CIL funds due. We can stop any development on site until payment is received, and in extreme cases, we can seize and sell assets, or even apply to send the liable party to prison for up to three months.

Can CIL be spent outside the Birmingham boundary?

Yes, if we believe that the infrastructure will benefit the development of the area. We can also pool our CIL receipts with other charging authorities to fund large, strategic projects which we would all benefit from.

Links to other relevant information:

[DCLG CIL information](#)
[DCLG CIL Guidance February 2014](#)

CIL regulations
HMSO

Community Infrastructure Regulations (March 2010) (Statutory Instrument 2010 no. 948):

http://www.legislation.gov.uk/ukxi/2010/948/pdfs/ukxi_20100948_en.pdf

(It should be noted that these principal regulations have been amended in part by subsequent regulations and the HMSO web site should be consulted for all relevant amendments)

Further information is available from:

[The Planning Portal](#)

[The Planning Advisory Service - CIL](#)

[Planning Advisory Service Frequently Asked Questions](#)

[Valuation Office Agency - CIL Frequently Asked Questions](#)

[Valuation Office Agency - CIL Appeals](#)

[Note on consequences of failing to follow the CIL payment procedure](#)

CIL forms

[CIL Form - \(CIL Form Guidance\)](#)

[Form 1: Assumption of Liability](#)

[Form 2: Claiming Exemption or Relief](#)

[Form 3: Withdrawal of Assumption of Liability](#)

[Form 4: Transfer of Assumed Liability](#)

[Form 5: Notice of Chargeable Development](#)

[Form 6: Commencement Notice](#)