CIL Frequently asked questions

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) floorspace for Chargeable uses
  – see Charging Schedule; or
- Involves the creation of one or more dwellings.

This includes development permitted by a ‘general consent’ (including permitted development).

My application is CIL liable, what forms do I need?
If your application is liable for CIL you must submit:

- CIL Questions Form 1
- Assumption of Liability Form 2

Are outline applications liable for the levy?
Outline planning permissions granted after the date the CIL Charging Schedule comes into effect, will
be liable to pay CIL when the development is built, but as the liability is calculated at Reserved
Matters stage there is no need to submit any CIL forms with the outline application. If an outline
application includes phasing of development, each phase is treated as a separate development for
the purpose of paying CIL. As above, the CIL liability for each phase is calculated at reserved matters
stage for that phase.

It should also be noted that if a scheme is granted outline planning permission before the CIL
implementation date, the subsequent approval of reserved matters will not trigger a liability for CIL.

Will a development be liable to pay CIL if there was a planning permission before
the CIL Charging Schedule came into effect, but an approval of a Section 73
application to vary or remove conditions of that planning permission is made
after the CIL Charging Schedule came into effect?
Yes, whilst a planning permission granted prior to April 1st 2014 can be implemented in its current
form without incurring CIL, if a fresh application is submitted then any residential development it
comprises, granted planning permission after 1st April 2014, would be liable for CIL even if it was
within the application site of the development that had been granted planning permission
previously. Residential floorspace previously granted planning permission cannot be set against CIL
liability on the new development. The exception to this is S73 applications mentioned above where
there is only a minor amendment to the original scheme.
Will a development be liable to pay CIL if there was a refusal of planning permission before the CIL Charging Schedule came into effect on 1st December 2014, but an approval of planning permission on appeal is made after 1st December 2014?
Yes. If planning permission was refused before 1st December 2014, but a grant of planning permission was made on appeal after 1st December, the development granted planning permission on appeal may be liable to pay CIL.

Is VAT applied to CIL charges?
The charge levied in £ / m² on the net additional increase in floorspace for the CIL is exempt from VAT.

What are buildings that people do not normally go into?
Buildings into which people do not normally go and buildings into which people only go intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

Is CIL chargeable for subdividing a house into two or more homes?
No, unless additional new build floorspace is provided as part of the scheme in which case the additional floorspace may be liable.

Is CIL chargeable on second homes?
Yes, providing they are not temporary buildings. Second homes are still dwellings that come under Use Class C3

Is CIL chargeable on mobile homes?
No. CIL can only be charged on buildings. Mobile homes are not normally buildings as defined by law therefore no CIL will be charged on them unless the proposal is considered to be a building.

Is CIL payable on garages?
Garages that are an integral part of planning applications for new houses count as “residential floorspace” and are liable for CIL whether integral to the new house design or detached.

No CIL is payable on “lean to” or fully open sided car ports/canopies.

Is CIL chargeable on a barn conversion?
Potentially, but a change of use from a barn to a residential use should not result in CIL liability as long as the barns are permanent usable buildings in lawful use. To be usable such buildings should be weather-tight with 4 walls, floor and a roof. The definition of lawful use includes a requirement to be “in use” for a continuous 6 months out of the 3 years prior to planning permission first permitting development; the onus of proof being on the applicant. However any additional new build floorspace proposed as part of the application, extending the barns or to provide new build garages for example would be charged CIL.
Should loft areas be included in the calculation of CIL floorspace.
Loft space that is not generally accessible except via a loft ladder should not be included as chargeable floorspace. Loft space that is used as rooms with stairs or a permanent ladder is chargeable floorspace. This includes accessible storage areas and height under 1.5 metres.

What constitutes Lawful-Use?

The premise is being used for its intended purpose as reflected in the decision on case R. (on the application of Hourhope Ltd) v Shropshire Council [2015] and evidence of lawful use must be provided.

What evidence of lawful use can be used?

If the existing/former use was a business, then evidence is required from more than one source including records from business rates, environmental health, licensing, and bank statements. If it was a residential use, then evidence may include council tax records and utility bills. Evidence must show lawful use for the time period required.

If I am implementing a scheme given permission under a general consent when do I need to serve the Notice of Chargeable Development

S64 of the CIL Regulations refers to the Notice of Chargeable Development needing to be served before development authorised by the general consent is commenced.

Therefore the trigger point would be the works or change of use whichever comes first (see S56(1)(c) of the 1990 Planning Act). However where the Council is aware that there may be a CIL charge arising from a scheme given permission under a general consent the owner or agent will be invited to submit a CIL Questions Form so that everybody is aware of potential CIL liability at an early date.

Do I have to pay CIL for a cycle/bin store?

It is unlikely that cycle/bin store will be subject to a CIL charge as they are similar to greenhouses, garden store, fuel stores and the like in residential and not a building that people go into regularly or go into intermittently for the purpose of inspecting or maintaining fixed plan or machinery. However, each application will be reviewed on a case by case basis to determine whether the size and usage constitute a building.