

Bath and North East Somerset Council

Parish and Town Councils Guidance

Community Infrastructure Levy (CIL) Receipts, Spend and Reporting

This document covers the following important points:

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Please note, the CIL Regulations 2010 (as amended) (from hereon referred to as the CIL Regulations) provide the relevant law / regulations and definitive guidance.

1. What is CIL?

- 1.1. CIL is a tool for local authorities in England and Wales to help deliver infrastructure to support the development of the area.
- 1.2. Bath & North East Somerset Council (B&NES) has been a CIL Charging Authority since 6th April 2015 and from that date, certain development has been liable to pay CIL.
- 1.3. CIL is collected from development in order to pay for strategic infrastructure such as schools, transport and green infrastructure, not directly related to the site, that is, or will be, needed to support the delivery of new development in the district.
- 1.4. A proportion is passed to the relevant Town/Parish Councils (in this guidance note referred to as "Parish Councils") to spend. This note focuses primarily on this CIL local element which will be in this guidance note termed Neighbourhood CIL (NCIL).
- 1.5. Previously S106 contributions were secured to fund strategic infrastructure, such as education, strategic transport, and off site public open space,

however under the CIL system, S106 obligations can normally only be secured for site related obligations such as affordable housing, on site infrastructure including open space, and infrastructure directly related to mitigating the effect of development (for example related pedestrian improvements and bus stops directly related to the site).

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2. *How is CIL calculated?*

2.1 The charge is an amount that must be paid in pounds sterling (£) per square metre of qualifying development. CIL rates are set by the charging authority, in this case B&NES Council, in a charging schedule. CIL is only calculated where permissions include approved floorspace drawings.

2.2 Refer to the detailed [link] [B&NES CIL Charging Schedule](#) approved by Full Council on 17th February 2015 for the CIL rates and plans showing the designated locations referred to within the charging schedule. The Charging Schedule came into effect on 6th April 2015.

2.3 The approved CIL Charging Schedule rates as at April 2015 plus indexed rate (as at 6 April 2018 for year to 5 April 2019) are as follows:

DEVELOPMENT TYPE	LOCATION / CRITERIA	CIL CHARGE £/M² Original	CIL charge Including Indexation 2018/2019
RESIDENTIAL (Class C3) including Specialised, Extra Care and Retirement Accommodation ¹	District wide	£ 100	£123
	Strategic Sites/ Urban Extensions	£ 50	£62
	Bath Western Riverside	£Nil	
HOTEL (Class C1)	In Bath	£ 100	£123
	Bath Western Riverside	£ Nil	
	Rest of District	£ Nil	
RETAIL In-centre / High Street Retail	Bath city centre	£ 150	£185
	Other centres	£ Nil	
	Bath Western Riverside	£ Nil	
SUPERMARKETS, SUPERSTORES AND RETAIL WAREHOUSE (over 280m ²)	District wide	£ 150	£185
	Bath Western Riverside	£ Nil	
OFFICES (Class B1)	District wide	£ Nil	
INDUSTRIAL AND	District wide	£ Nil	

WAREHOUSING			
STUDENT ACCOMMODATION	Schemes with market rents	£ 200	£246
	Schemes with submarket rents ² to be set in Section 106 planning agreement	£ Nil	
	Bath Western Riverside	£Nil	
ANY OTHER DEVELOPMENT	District wide	£Nil	

¹ Excludes Specialist, Extra Care and Retirement accommodation that provides non-saleable floorspace in excess of 30% of Gross Internal Area.

² Sub-market rent means student accommodation units which are to be let at a rent which is no more than 80% of the local market rent (including any service charges).

- Strategic sites/urban extensions:
As defined within the Core Strategy (Policies B3A, B3C, KE3A, KE4 and RA5)
- Retail (Class A1/A2/A3/A4/A5)
- In-centre / High Street Retail as defined within the Core Strategy
- Supermarket - large format convenience-led stores. The area used for the sale of goods will be above that applied for the purposes of the Sunday Trading Act of 280sq. m sales area.
- Student Accommodation (purpose built accommodation for students).
(Planning Use Classes under Town and Country Planning (Use Classes) Order 1987 (as amended))

2.4 The CIL rate is subject to indexation (RICS building cost index) each year. Indexation can be reduced as well as increased so it cannot be assumed that the rates will increase each year.

2.5 The amount of CIL payable is determined by the Gross Internal Area (GIA) of the chargeable development and the applicable CIL rate/s (multiplied by the index).

2.6 There is the ability to offset existing floorspace on change of use and demolition of existing buildings, subject to meeting certain criteria. In essence, where an existing building has been in lawful use for a continuous period of six months within the past three years – up to the date planning permission first permits the chargeable development (when development becomes liable), parts of that building that are to be demolished or retained can be deducted from the chargeable area.

2.7 There are specific exemptions and mandatory forms of relief available subject to the criteria set out in the CIL Regulations. The following exemptions and mandatory forms of relief are available:

- mandatory social housing relief (affordable housing)
- self build exemption (for a whole house)
- self build exemption (for a residential annexe or extension)
- mandatory charitable relief

2.8 These relief/exemptions are not automatically available; they must be applied for prior to commencement of development and after having assumed liability for the chargeable development. Exemptions can be granted to claimants by the charging authority up to the day before commencement of development. Exemptions cannot be claimed following commencement of development, and the exemption can be lost (and CIL become payable) if there is a disqualifying event. Disqualifying events include failure to follow procedures for example not serving a commencement notice, or a self builder not providing evidence of self build status following completion of development.

2.9 CIL is non-negotiable as it is effectively a tax and requires administration under law. Relief cannot be granted if it would constitute state aid under European Regulations i.e. it could distort competition and affect trade by favouring certain parties.

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3. What types of development are liable for CIL?

3.1 The following main development types will be liable for CIL:

- New build floorspace (including extensions and replacement) of 100sq m or more
- Proposals for one or more new dwellings either through conversion, replacement, or new build, irrespective of size of dwelling. In addition in the case of apartments, the associated communal circulation space eg stairs, lobbies and corridors are liable for CIL.

3.2 Development will not be liable for CIL if it involves:

- subdivision of a single dwelling house into two or more separate dwellings (however where there is an extension, the net additional area will be chargeable).

- building into which people do not normally go;
- building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery
- buildings permitted for a temporary period
- development subject to a £0 CIL rate

3.3 The CIL liability will only be calculated once a planning permission has been granted. CIL cannot be calculated for outline planning permissions where floorspace drawings have not been approved.

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4. When is CIL payable?

4.1 CIL is only required to be paid by developers if development commences on site. The CIL Demand Notice is issued on commencement of development. Development is taken to have commenced on the earliest date a “material operation” is carried out. A material operation is defined in the Regulations and can include any works of construction, demolition, digging foundations, laying out or constructing a road and a material change in the use of the land.

4.2 The Demand Notice sets out the payment periods. B&NES has an instalment policy (see below). Payment by instalments is dependent on the chargeable amount.

4.3 In B&NES, the current instalment policy is as follows:

CIL Liability	Number of instalments	Periods and Amounts
Any amount less than £25,000	No instalments	Total amount payable within 60 days of commencement of development
Amounts equal to or more than £25,000	Three instalments	33% within 60 days of commencement of development 33% within 12 months of commencement of development 34% within 18 months of commencement of development

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5. **What is the Neighbourhood Portion of CIL (NCIL)?**

5.1 Under the Regulation 59 of the CIL (Amendment) Regulations 2013, for those Parish Councils without a Neighbourhood Plan 15% of the total CIL collected as a result of development in a given parish area must be passed to the relevant Town/Parish Council. This proportion rises to 25% without a cap where a neighbourhood plan is made and in place.

5.2 In relation to those Parishes without a Neighbourhood Plan, the CIL Regulations Reg 59A(7) states:

“The total amount of CIL receipts passed to a local council in accordance with paragraph (5) .. [ie the 15%] shall not exceed an amount equal to £100 per dwelling in the area of the local council multiplied by I_A [the CIL index] in each financial year.”

5.3 Under the CIL Regulations, the District Council must make payments in respect of CIL it receives from 1 April to 30 September to the Town/Parish Council by 28 October of that financial year, and pay the CIL received from 1 October to 31 March by 28 April of the following financial year.

5.4 An example of how the cap applies is shown below.

5.5 Notional Example

- Development permitted in a Parish with 500 existing dwellings (Council Tax properties).
- CIL monitoring officer issued a Demand Notice following commencement 1/7/2016. Total CIL amount due = £ 600,000. The cap at commencement is say $(500 \times 100 \times 1.0463) = £52,315$
- If the developer had paid the total £600,000 within 60 days of commencement then the NCIL of £90,000 would have exceeded the cap in year 1 of £52,315 and only the capped amount of £52,315 would have been passed to the Parish Council.
- By paying in instalments the cap does not arise in this case
- First CIL instalment at 33% = £198,000 is due within 60 days of commencement date 1/7/2016. NCIL at 15% = £29,700 (paid to

Parish October 2016 in Year 1). Does not exceed cap.

- Second CIL instalment at 33% = £198,000 is due within 12 months of commencement i.e. by 1/7/2017. NCIL at 15% = £29,700 (paid to Parish in October 2017– Year 2) Does not exceed cap.
- Third CIL instalment at 34% = £204,000 is due within 18 months of commencement i.e. by 1/1/2018. NCIL at 15% = £30,600 (paid to Parish in April 2018 i.e. third financial year). Therefore does not exceed cap.
- If there had been further NCIL payments from other developments, the cap could be exceeded and only the capped amount would have been passed to the Parish Council. The cap is index linked and takes into account newly completed dwellings in the year.

5.6 In areas with an adopted Neighbourhood Development Plan the amount to be passed to the Parish/Town Council will be 25% with no cap.

“In England, where all or part of a chargeable development is within an area that has a neighbourhood development plan in place the charging authority must pass 25 per cent of the relevant CIL receipts to the parish council for that area.”

5.7 It states the charging authority must pass the 25% of the receipts to the parish council for that area. It is for the Parish Council to administer the NCIL spending and reporting.

5.8 The Neighbourhood Plan needs to have been “made” on a date prior to the date of the planning permission subject to a liability notice. Such permissions include full planning permission, reserved matters approval, section 73 variations and prior approval development i.e. where floorspace is approved. The Regulation states

“an area has a neighbourhood development plan in place in relation to a development, or part of a development, if—

(a) a neighbourhood development plan was made by a local planning authority in accordance with section 38A(4) of the Planning and Compulsory Purchase Act 2004 prior to the time at which planning permission first permits that development; and

(b) that neighbourhood development plan is extant in relation to the relevant area on the day when planning permission first permits that development.”

- 5.8 Therefore in the notional example above if say the relevant permission was granted on a date after the date the Neighbourhood Plan was “made”, based on the total CIL = £600,000, the Parish Council would receive two NCIL instalments of £49,500 and a third NCIL instalment of £51,000 giving a total NCIL of £150,000. The cap is not relevant. Alternatively the Parish Council could receive the whole £150,000 in one single financial year.

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6. When will the Town/Parish Council receive the Neighbourhood Portion?

6.1 Under the CIL Regulations, the District Council must make payments in respect of CIL it receives from 1 April to 30 September to the Town/Parish Council by 28 October of that financial year, and pay the CIL received from 1 October to 31 March by 28 April of the following financial year.

6.2 If a Town or Parish Council does not wish to receive some or all of its CIL funding it must inform B&NES Council by writing of its position. At any time a Town or Parish Council can resume their right to receive funding by giving notice to B&NES Council.

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7. How must the ‘Neighbourhood CIL Portion’ be spent by the Town/Parish Council?

7.1 The CIL Regulations require the neighbourhood portion of CIL (NCIL) to be used to support the development of the local area by funding:

“The provision, improvement, replacement, operation or maintenance of infrastructure; or

Anything else that is concerned with addressing the demands that development places on an area”

7.2 This provides Town/Parish Councils with a more flexible approach for spending their NCIL receipts in comparison to the powers of District Council. Such wider spending powers for the Town/Parish Council allow the local

community to decide what they need in order to help mitigate the impacts of development in their area.

7.3 Notwithstanding this freedom there are a number of factors that should be considered when developing a NCIL spending plan.

- CIL cannot be used as a replacement for everyday Town or Parish Council expenditure and misspent NCIL can be claimed back by B&NES Council.
- Be aware of the wider 'strategic' infrastructure in your area, there might be a benefit of combining B&NES Strategic Funds and Local Funds for timely delivery.
- Town and Parish Councils will need to consider the capacity of existing groups and local residents to engage in the NCIL process and to ensure that such processes are inclusive, and that all members of the community contribute to determining how NCIL may be spent, including those who are least vocal and most vulnerable.
- There is a temptation to spend NCIL receipts quickly on short term infrastructure projects, however Town and Parish Councils should consider the long term housing growth and resulting infrastructure needs when developing plans for the spending of NCIL.

7.4 Areas could use some of the funding to develop a neighbourhood plan where it would support development. In addition, B&NES Council suggest where appropriate, that Parish and Town Councils consider preparing a Plan to inform their spending decisions. Such a plan may provide a framework to consider priorities, and capture opinion on the needs and wants of residents and identify opportunities for collaborative spending with other groups, to achieve the best use of funding sources for the benefit of the community.

7.5 Decisions on the expenditure of the 'neighbourhood portion' funds are at the Parish Council's discretion, provided that it is in accordance with the CIL Regulations. Approval for spending of NCIL is not required from B&NES Council, however Parish/Town councils are accountable for spending their NCIL money. An annual report must be published setting out a statement of receipts and expenditure and summarising the projects which utilised NCIL funds. (See below for reporting requirements)

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8. Spending money outside the area?

8.1 The Parish Council may apply NCIL to infrastructure outside its area if to do so would support the development of its area.

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9. Is there a time limit for Parish Councils to spend their CIL monies?

9.1. Under the CIL Regulations, B&NES Council has powers to recover NCIL amount if the NCIL is not spent within 5 years, unless the Town or Parish Council has notified B&NES Council in advance, for example because of an infrastructure project in the pipeline, and agreement has been granted.

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10. What are the reporting requirements for the Town/Parish Council?

10.1 Town and Parish Councils must make proper arrangements for the proper administration of their financial affairs as set out in Section 151 of the Local Government Act 1972. They must have systems in place to ensure effective financial control in accordance with the Accounts and Audit (England) Regulations 2011. These requirements also apply when dealing with the neighbourhood proportion payments passed to Town and Parish Councils under the CIL Regulations.

10.2 Town and Parish Councils are required under Regulation 62A of the CIL Regulations to publish via their website (or B&NES's website) the amount of CIL received and spent within their area, a summary of the projects on which CIL was spent, details of any CIL returned to B&NES Council and any balances brought forward from previous years. This should occur no later than the 31st December following the reporting year (1st April to 31st March).

10.3 A copy of this report should be sent to the B&NES CIL Monitoring Officer. It would be good practice to also publish a copy of the report in any Town/Parish newsletter or on local noticeboards.

10.4 If Parish /Town Councils haven't received any CIL money (in any year) they do not have to publish a report, but may want to publish some information to this effect in the interests of transparency.

10.5 There is no prescribed format. However, the following template sets out the information requirements

Parish:	
Reporting Year 1 April _____ to 31 March _____	
A. Total CIL income carried over from previous years	£
B. Total CIL income received (receipts)	£
C. Total CIL spent (expenditure)	£
D. Total CIL repaid following a repayment notice	£
E. Total CIL retained at year end (A+B-C-D)	
CIL expenditure	
Item / Purpose	Amount spent
Item / Purpose	Amount spent
Item / Purpose	Amount spent
Total spent	£
Signed:	Verified:
Position:	Position:

10.6 The Parish /Town council must publish the report on its website - and send a copy of the report to the B&NES CIL Monitoring Officer no later than 31st December following the reported year. If the Parish council does not have a website, the Parish Council must give notice to B&NES Council to publish the report on the B&NES website by 1st December for B&NES to publish the report by 31st December following the reported year.

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11. How will the Strategic (District wide) CIL spend be decided?

11.1 The decision on the items on which the strategic CIL portion of CIL are spent lies with B&NES Cabinet and it will also be included in the annual budget papers. The principles underpinning the spending of strategic CIL income are as follows:

- Decisions are made annually but based on a longer term programme of spend to ensure a co-ordinated approach to support delivery of the Core Strategy
- Priority is given to infrastructure in the B&NES Infrastructure Delivery Plan (IDP) which is critical to supporting planned growth

- Spend should be aligned with the Council's capital programme
- Spend should take account of where CIL is generated
- Strategic and Local CIL spend should be aligned where it is beneficial

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12. Further Information and Questions

12.1 For further guidance on CIL please see the Council's web page – www.bathnes.gov.uk/cil and the Government's Planning Practice Guidance Link - [Planning Practice Guidance](#)

12.2 CIL Monitoring Officer contact details:

- Email - cil@bathnes.gov.uk
Telephone - 01225 477140
Mail to - CIL Monitoring Officer, Bath and North East Somerset Council,
Planning Services, Lewis House, Manvers Street, Bath BA1 1JG
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