

For publication

Community Infrastructure Levy (CIL) – Review of CIL Instalments Policy (J010R)

Meeting: Cabinet

Date: *10th September 2019*

Cabinet portfolio: Economic Growth

Report by: Economic Growth Manager

For publication

1.0 Purpose of report

1.1 To update members on progress with the Community Infrastructure Levy (CIL) and review the CIL Instalments Policy.

2.0 Recommendations

2.1 That Cabinet approves a revised CIL instalments policy for publication under Regulation 69B of the Community Infrastructure Levy Regulations 2010 (as amended).

3.0 Background

3.1 CIL works as a charge on certain types of new development, with the money raised through the levy helping to fund the infrastructure that is needed to support new development and

growth. The Council began charging CIL on new development approved from 1st April 2016.

4.0 Review of CIL Instalments Policy

4.1 National Planning Policy Guidance advises that an instalments policy can assist the viability and delivery of development by taking account of financial restrictions, recognising that few if any developments generate value until they are complete either in whole or in phases. A willingness to allow an instalments policy can be a material consideration in assessing the viability of proposed levy rates. The CIL Regulations allow charging authorities the freedom to decide the number of payments, the amount and the time due. Authorities may revise or withdraw the policy when appropriate. CIL Regulation 70 provides for payment by instalment where an instalment policy is in place. The CIL demand notice must explain the payment periods

Chesterfield CIL charging scheme – Instalments Policy

4.2 To help with developer finance and to try and make sure that development is deliverable the Chesterfield CIL charging scheme currently includes an [Instalments policy](#) (Appendix 1). This allows CIL payments, above a certain amount, to be paid in instalments.

4.3 The current Chesterfield scheme sets a threshold of £50,000 before payment in instalments is allowed. This mirrors schemes from other comparable CIL charging authorities' schemes, although the picture is variable, with other similar authorities' instalments policies setting a lower threshold (between £10,000 (Sheffield), £15,000 (Gedling), and £24,999 (Bradford)).

4.4 Experience of operating the CIL charging scheme during the first three charging years indicates that developments above £50,000 which have triggered the instalments policy have to

date experienced no significant difficulties in meeting instalments payment timescales. However around 15% of those schemes with a CIL liability of under £50,000 (below the current threshold to qualify for the ability to pay in instalments) have reported difficulties in meeting the payment deadline, being unable make the full payment within the required 60 days of the date of commencement, usually due to cash flow problems as a result of the achievable rate of delivery on site. Not only does this create difficulties for developers but it also causes administrative challenges for the borough council in pursuing late payments. This suggests a need to review the threshold for instalments payments towards the lower end of CIL liability in order to ensure that it remains responsive to the ability of developers to meet payments deadlines and does not create a barrier to development coming forward.

- 4.5 It is important to ensure that payment thresholds continue to be set at an appropriate level. In considering this, there is a balance to be struck between ensuring that developers are able to meet payment deadlines so that development continues to be supported across the borough, whilst also ensuring that CIL revenues are received within a reasonable timescale, and that the management of the Chesterfield CIL scheme remains efficient and cost effective.
- 4.6 In view of the experience gathered in the first three charging years, it is recommended that the threshold for offering the ability to pay by instalments is lowered and that a new instalments policy is adopted which offers greater flexibility to developers but which does not significantly increase the administrative burden or cost for the charging authority.
- 4.7 The recommended revision to the thresholds and payment periods of the CIL Instalment Policy is set out in Appendix 1.

5.0 Financial considerations

- 5.1 The financial ramifications of introducing a CIL were originally reported to Cabinet in December 2011 and in subsequent reports. Importantly, the CIL regulations permit financing of initial set-up and ongoing administration costs from up to 5 per cent of CIL receipts. Therefore, over time, it should be possible to recover the costs of preparing the CIL evidence base and Charging Schedule and other on-going administrative costs.
- 5.2 Changes to the instalments policy will make no difference to the overall level of CIL income, only to the timing of some payments. This may result in some payments (of between £5,000 and £25,000) being received no more than 120 days later than they would be under the existing arrangements. 50% of liable CIL on such developments (amounting to between £5,000 and £25,000) would still be due within the 60 days set out in the base regulations.

6.0 Risk management

- 6.1 The potential risks of introducing a CIL Charging Schedule were considered by Members in October 2015 and are shown below. The proposed review of the Instalments Policy has been added.

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
Developers not assuming liability in timely manner	L	M	Set up robust monitoring including reminders to developers	L	L
Developers not notifying LPA of commencement	M	M	Set up robust monitoring including reminders to developers	L	L
CIL funds not received within	M	M	Set up robust enforcement procedures	L	L

specified time period			including reminders to developers		
Review of Instalments Policy					
Delay in receipt of CIL income as a result of lower thresholds	M	H	Robust application of policy to ensure only used where applicable; Policy should also reduce risk of delays to development	L	M
Resources used to pursue unpaid CIL liabilities if policy not revised	M	M	Implement revised instalments policy	L	L
Development does not proceed due to CIL liability if not revised	H	M	Implement revised instalments policy	L	L
Payments not received in a time – costs of pursuing	M	H	Implement revised instalments policy	L	L

7.0 Legal and human rights implications

- 7.1 The preparation of CIL has been in accordance with the statutory requirements of the Planning Act 2008 and CIL regulations 2010 (as amended).
- 7.2 In order to be able to pay CIL by instalments it is a pre-condition that the charging authority has published an instalment policy

on its website (CIL Regulation 69B(1)). This should state when it is possible to pay by instalments, the number and amount of the instalments and when due. The instalment policy cannot take effect before the date it first appears on the website. This process was followed in introducing the current Instalment Policy, Where a charging authority wishes to bring into effect a new instalment policy, the new policy must comply with these same requirements (CIL Reg. 69B(4)).

- 7.3 CIL collecting authorities have the power at any time to issue a revised liability notice (reg. 65(5)), but are only expressly obliged to issue a revised liability notice in specified circumstances. These are if there is a change in the chargeable amount or the availability of a relief or a change in the charging authority's instalment policy (reg. 65(4)). A change to the CIL instalments policy may therefore necessitate reissuing CIL liability notices for each development with a liability over £50,000 where the liability has not yet been settled.

8.0 Consultation

- 8.1 The Planning Act 2008 and CIL Regulations 2010 (as amended) do not require consultation in publishing a revised instalments policy.

9.0 Environmental sustainability and bio-diversity

- 9.1 Local authorities have a duty to have regard to the conservation of biodiversity in exercising their functions in accordance with the Natural Environment and Rural Communities Act which came into force on 1 October 2006.
- 9.2 CIL will provide funds to protect enhance and promote the Borough's existing green infrastructure assets.

10. Equalities Impact Assessment (EIA)

- 10.1 A further preliminary Equalities Impact Assessment (EIA) has been undertaken on the proposed revision of the CIL

Instalments Policy and no negative impacts on protected groups have been identified. On the basis of the original assessment, the Council's Policy & Equalities Team have confirmed that it is not necessary to carry out a full EIA for the proposals as set out.

11.0 Alternative options and reasons for Rejection

11.1 Continue with the current instalments policy. This would mean that a significant number of CIL-liable developments which fall under the current threshold to qualify for payment in instalments would continue to experience difficulties in meeting the payment deadline. This would continue to create difficulties for developers and administrative challenges for the borough council in pursuing late payments.

12.0 Recommendations

12.0 That Cabinet approves a revised CIL instalments policy for publication under Regulation 69B of the Community Infrastructure Levy Regulations 2010 (as amended).

13.0 Reasons for recommendations

13.1 To help facilitate sustainable development growth and Chesterfield's continued vitality through CIL investment.

Decision information

Key decision number	882
Wards affected	ALL

Document information

Report author	Contact number/email
Rick Long - Infrastructure Planning Officer	01246 345792 Rick.long@chesterfield.gov.uk
Appendices to the report	
Appendix 1	Existing and Revised CIL Instalments Policy

Appendix 1: Review of CIL Instalment Policy

Chesterfield Borough Council : Proposed CIL Instalment Policy
Where the chargeable amount is less than £10,000 <ul style="list-style-type: none">• Full payment will be required within 60 days of commencement date.
Where the chargeable amount is between £10,000 to £50,000 <ul style="list-style-type: none">• First instalment representing 50% of chargeable amount will be required within 60 days of commencement date; and• The second instalment representing 50% of chargeable amount will be required within 180 days of commencement date.
Where the chargeable amount is £50,000 to £250,000 <ul style="list-style-type: none">• First instalment representing 25% of the chargeable amount will be required within 90 days of the commencement date; and• Second instalment representing 75% of the chargeable amount will be required within 270 days of the commencement date.
Where the chargeable amount is over £250,000 <ul style="list-style-type: none">• First instalment representing 25% of chargeable amount will be required within 90 days of commencement date;• Second instalment representing 25% of chargeable amount will be required within 180 days of the commencement date;• Third instalment representing 25% of chargeable amount will be required within 360 days of commencement date; and• The fourth and final instalment representing 25% of chargeable amount will be required within 540 days of commencement date.

Chesterfield Borough Council : Current CIL Instalment Policy

Where the chargeable amount is less than £50,000

- Full payment within 60 days of commencement date.

Where the chargeable amount is £50,000 - £250,000

- First instalment representing 25% of chargeable amount will be required within 90 days of the commencement date; and
- The second instalment representing 75% of chargeable amount will be required within 270 days of commencement date.

Where the chargeable amount is over £250,000

- First instalment representing 25% of chargeable amount will be required within 90 days of commencement date;
- Second instalment representing 25% of chargeable amount will be required within 180 days of commencement date;
- Third instalment representing 25% of chargeable amount will be required within 360 days of commencement date; and
- The fourth and final instalment representing 25% of the chargeable amount will be required within 540 days of commencement date.