

Chorley Council

Land and Infrastructure Payment Policy

Community Infrastructure Levy Regulations 2010 (as amended)

The Community Infrastructure Levy (CIL) Regulations 2010 as amended, allows the Council to accept payment of CIL in the form of land or infrastructure in satisfaction of the whole or part of the CIL due in respect of a chargeable development.

Chorley Council will allow the payment of CIL by the provision of land and /or by infrastructure payments in accordance with Regulations 73, 73A, 73B and 74.

It is recommended that if you wish to include the transfer of land and /or infrastructure in payments in any CIL agreement that you discuss this with the Council as early as possible to establish if the principle would be appropriate in this instance.

The Council is not obliged to accept any offer of payment in kind by land or infrastructure

Any agreement signed between the Council and a developer in regard to the payment in kind provisions of the Regulations must not form part of an agreement signed under S106 of the Town and Country Planning Act 1990.

This policy is effective from 12 April 2016.

Paying CIL in the form of Land

In certain circumstances you may be able to pay a part or the entire CIL amount in the form of land. This depends on the following conditions:

- The chargeable amount payable under CIL must be greater than £50,000;
- The Council as charging authority must agree either to acquire the land or to nominate another person (with their agreement) to acquire the land;
- The Council must aim to ensure the acquired land is used for a relevant purpose to provide or facilitate the provision of infrastructure which is identified in the Council's Regulation 123 list to support the development of its area;
- The person who wishes the Council or nominated person to acquire the land must have assumed liability to pay CIL beforehand;
- The land to be acquired must have been independently valued by a suitably qualified person agreed by the Council. The valuation must be the price that the land might reasonably be expected to obtain if sold on the open market on the day it is valued. The price is not to be assumed to be reduced on the ground that the whole of the acquired land is to be placed on the open market at the same time;
- Development on the site must not have commenced before a written agreement with the Council has been made. The agreement must state the value of the land to be transferred.
- In accordance with Regulation 75(2)(b) the Council is not required to repay overpayment where it is a result of a land payment.

By agreement with the Council land can be transferred by instalments as long as it is in line with the payment proportions and due dates laid out in the Councils Charging Schedule..

In the event a liable party commences development having failed to submit a Commencement Notice to the Council, any agreement regarding a land payment for that liable development will be void and the land will not be accepted as payment. Instead the full value of the CIL liability will be due immediately in money.

Where a land payment is not received in full on or before the day on which it is due, the unpaid balance of the CIL payment becomes payable in full immediately in money.

Any outstanding CIL amounts left after the transfer of land in the form of money will be paid in line with the payment due dates laid out in the Demand Notice.

Paying CIL in the form of Infrastructure

In certain circumstances you may be able to pay a part or the entire CIL amount in the form of one or more items of infrastructure. This depends on the following conditions:

- The Council as charging authority must agree to the infrastructure payment;
- The infrastructure provided to the Council through an infrastructure payment will be used to support the development of its area and must be in accordance with the Council's Regulation 123 List;
- The person providing the infrastructure to the Council as payment must have assumed liability to pay CIL beforehand;
- The person providing the infrastructure to the Council is required to demonstrate that they have, or are likely to have, sufficient control over the land on which the infrastructure is to be constructed to enable them to provide the infrastructure; and that they have obtained, or are likely to obtain, any relevant statutory authorisations that are necessary to enable the infrastructure to be constructed;
- Development on the site must not have commenced before a written agreement with the Council has been made;
- The value of any infrastructure offered by way of payment has to be determined by a suitably qualified independent person, with any costs associated with this assessment paid for by the liable party.
- The valuation of infrastructure must be based on the actual construction cost of the proposed infrastructure and fees relating to the design of the infrastructure. These costs and fees must be realistic and agreed with the Council;
- The agreement must state the value of the infrastructure; state the date by which the infrastructure is to be provided and provide for payment to the Council of the CIL cash amount and interest, in money if the infrastructure is not provided by that date, or in accordance with an agreed extension to that date.
- The agreement must ensure that by the time the CIL cash amount would be payable if it was being paid in money, an amount equal to the CIL amount must either have been used to provide the infrastructure or be subject to the arrangement in Regulation 73A9(b).
- In accordance with Regulation 75(2) (b) the Council is not required to repay overpayment where it is a result of an infrastructure payment.

In the event a liable party commences development having failed to submit a Commencement Notice to the Council, any agreement regarding an infrastructure payment for that liable development will be void and the infrastructure will not be accepted as payment. Instead the full value of the CIL liability will be due immediately in money.

Where an amount payable is not received in full on or before the day on which it is due, the unpaid balance of the CIL payment becomes payable in full immediately in money.