

# CIL Draft Policies Document

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## Introduction

1.1 This document provides the draft Community Infrastructure Levy policies, subject to the adoption of a CIL charge in the borough relating to the following matters:

- Instalments Policy
- Land and infrastructure in kind
- Relief for charitable investment / social housing activities
- Any other discretionary relief

**Community Infrastructure Levy Regulations 2010 (As Amended)**

**Draft CIL Payments by Instalments Policy**

This instalment policy comes into effect on xxx

Cheshire East Council as Charging Authority will permit the payment of Community Infrastructure Levy by instalments. These instalments must be in line with the below payment schedule as required by the Community Infrastructure Levy Regulations 2010 (as amended)

<b>Chargeable amount (for each phase or development if applicable)</b>	<b>Number of instalments</b>	<b>Amount of proportion of CIL payable in any instalment / time at which payments are due</b>
£50,000 up to £100,000	2	1st instalment of 50% payable within 90 days of commencement 2 <sup>nd</sup> Instalment of 50% payable within 180 days of commencement
Over £100,000 up to £250,000	3	1st instalment of 25% payable within 90 days of commencement 2nd instalment of 25% payable within 180 days of commencement 3rd instalment of 50% payable within 365 days of commencement
Over £250,000 up to £500,000	3	1st instalment of 25% payable within 180 days of commencement 2nd instalment of 25% payable within 365 days of commencement 3rd instalment of 50% payable within 730 days of commencement
Over £500,000	5	1st instalment of 10% payable within 180 days of commencement 2nd instalment of 15% payable within 365 days of commencement 3rd instalment of 25% payable within 545 days of commencement 4th instalment of 25% payable within 725 days of commencement 5th instalment of 25% payable within 905 days of commencement
Over £2,000,000	5	1st instalment of 10% payable within 365 days of commencement 2nd instalment of 15% payable within 730 days of commencement

		3rd instalment of 25% payable within 1095 days of commencement 4th instalment of 25% payable within 1460 days of commencement 5th instalment of 25% payable within 1825 days of commencement
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The instalments relate to the amount payable (the chargeable amount) as indicated on the Demand Notice. The commencement date will be the Commencement Notice date as advised by the developer under CIL Regulation 67.

Where outline planning permission permits development to be implemented in phases, or where phasing is clearly identified within the planning application each phase of the development, as agreed by Cheshire East Council, can be treated as a separate chargeable development. The instalment policy will, therefore, apply to each separate phase of the development and its associated separate chargeable amount.

**Circumstances where the Instalment Policy will not apply**

In accordance with the CIL Regulations 2010 (as amended) this CIL instalment policy will **not apply** in the following circumstances:

- a) Where a Commencement Notice has **not** been submitted prior to commencement of the chargeable development,
- b) Where nobody has assumed liability to pay CIL for the chargeable development on the intended day of commencement;
- c) An instalment payment **has not been** made in full within 30 days of the due date for the instalment payment

Where the instalment policy does not apply, the chargeable amount must be paid in full within 60 days of the notified or deemed commencement date of the chargeable development or the date of the disqualifying event, whichever is the earliest. Surcharges may also apply for failure to submit Assumption of Liability Forms or Commencement Notices.

The day on which an instalment payment will be due will be calculated from the date of commencement of development on site. This date will be taken to be the date advised by the developer in the Commencement Notice as laid out in CIL regulation 67.

**Cheshire East Council**

**Community Infrastructure Levy Regulations 2010 (As Amended)**

**Draft Payment in Kind Policy – Land and Infrastructure**

In accordance with Regulation 73, 73A, 73B and 74 of the CIL Regulations (as amended), Cheshire East Council may accept one or more infrastructure / and or land payments in satisfaction of the whole or part of the CIL payment due in respect of a chargeable development.

This policy will be effective from XXX and subject to the following conditions:

1. It is at the Councils' discretion whether to accept the transfer of land or infrastructure in lieu of CIL.
2. The Regulation 123 list sets out the range of infrastructure to be funded in whole or in part by CIL. The Councils may consider accepting infrastructure projects and / or types of infrastructure from this list to discharge part or all of a levy liability.
3. The Council must be satisfied that the transfer of land and / or provision of infrastructure is appropriate to support the delivery of the Local Plan and development in the Borough.
4. A charging authority may not accept a land payment unless the chargeable amount payable is greater than £100,000.
5. The land is acquired by Cheshire East Council as the charging authority or a person nominated by the Council.
6. The chargeable development must not have commenced before a written agreement with the Councils to pay part or the entire CIL amount as land / and or infrastructure has been made. This written agreement must be prepared in accordance with the criteria set out in Regulation 73 and 73A of the CIL Regulations (as amended).
7. The person transferring the land and / or providing infrastructure to the charging authority as payment must have assumed liability to pay CIL and completed the relevant CIL forms.
8. Where CIL is paid by way of a land payment and / or infrastructure the amount of CIL paid is the amount equal to the value of the acquired land and / or infrastructure.
9. The land and / or infrastructure to be acquired must be valued by a suitably qualified and experienced independent person to be agreed with the Council, with any costs associated with the assessment paid for by the liable party. The valuation of land must represent the price that the land might reasonably be expected to obtain if sold on the open market on the day the valuation takes place and reflect the relevant purposes for which the land will be utilised. The valuation of infrastructure provided must reflect the cost of providing the infrastructure on the day the valuation takes place.
10. The land, subject to transfer, must be free from any interest in land and any encumbrance to the land, buildings or structures. (This may require the owner to demonstrate that the land is suitable through the submission of further information

to the Council, including but not limited to topographical information, reports on contamination and archaeology and details of any underground services.)

11. The land, and or infrastructure subject to transfer must be fit for a relevant purpose being the land and or infrastructure appropriate to support the delivery of the Local Plan and development in the Borough.
12. The liable party will be required, at its expense, to undertake such searches as the Council requires on any land that is proposed to be transferred into the ownership of the Council and share the resultant information with the Council before the Council agree to accept any payment in kind. The liable party must also notify the Council of any restrictions on the use or disposal of the land that is proposed to be transferred into the ownership of the Council before the Council agree to accept any payment in kind
13. The Council may transfer the land, at nil cost to a third party for the provision of infrastructure (This will be limited to other infrastructure providers).
14. Where land or infrastructure passes into the ownership of the Council, it will be added to the Council's Asset Register.

Before submission of an application the liable party is encouraged to discuss proposals with the Council's CIL Officer to establish if the principle of payment in kind would be appropriate in that instance.

It should be noted that the agreement to pay in land and or infrastructure may not form part of a planning obligation entered into under Section 106 of the Town and Country Planning Act 1990.

Any outstanding CIL liable to the chargeable development after the transfer of land and / or delivery of infrastructure should be paid in line with the payment dates set out in the demand notice.

**Cheshire East Council**

**Community Infrastructure Levy Regulations 2010 (As Amended)**

**Draft Statement of Discretionary Charitable Relief**

This policy will be effective from XXX

In accordance with Regulation 46 of the Community Infrastructure Regulations 2010 (as amended), this document gives notice that discretionary charitable relief for investment activities is available in the Cheshire East Borough Council area under Regulation 44.

Subject to the requirements as set out in the CIL Regulations 2010 (as amended), the following are the circumstances in which discretionary charitable relief will be granted by Cheshire East Council:

- Where a charitable institution is otherwise liable for the CIL, and the whole or greater part of the development will be held by the charitable institution as an investment from which the profits will be applied for charitable purposes; and
- that portion of the chargeable development to be held as an investment will not be occupied by the claimant for ineligible trading activities: and
- the relief would not constitute notifiable State Aid.

## Cheshire East Council

### Community Infrastructure Levy Regulations 2010 (As Amended)

#### Draft Statement of Discretionary Social Housing Relief

This policy will be effective from XXX

Cheshire East Planning Policy for Affordable Housing is set out in SC5 Affordable Homes in the Local Plan Strategy.

In accordance with Regulation 49B of the Community Infrastructure Levy Regulations 2010 (as amended) the following sets out the discretionary social housing relief available in Cheshire East.

The Community Infrastructure Levy Regulations 2010 (as amended) allows for 100% relief for the development of social housing. The definition of Social Housing is set out in Regulation 49 (as amended) and it covers most types of affordable housing provided in Cheshire East Council including affordable rent and shared ownership tenures. However, it does not cover shared equity tenures or discounted homes for sale which are covered by the definition of affordable housing in the National Planning Policy Framework. To ensure that the viability of affordable housing schemes and mixed tenure schemes is maintained there is a need to ensure all forms of affordable housing qualify for relief from CIL.

The Community Infrastructure Levy Regulations (Amendment) Regulations 2014 give Council's the power to allow relief for these tenures where they set a policy giving notice that the relief is allowed in their area. This is known as Discretionary Social Housing Relief.

A dwelling can qualify for this relief if:

- The dwelling is sold for no more than 80% of its market value.
- the dwelling is sold in accordance with any policy published by the charging authority under regulation 49B(1)(a)(iii); and
- The liability to pay CIL in relation to the dwelling remains with the person granted the relief should a disqualifying event occur.

If within seven years of completion a disqualifying event occurs, the relief granted would have to be paid back to the Council. A disqualifying event would be where the house is sold on the open market.

To ensure that the viability of affordable housing schemes and mixed tenure schemes is maintained there is a need to ensure all forms of affordable housing qualify for relief from CIL. This document therefore gives notice that Discretionary Affordable Housing Relief is available in Cheshire East Council.

For the purposes of regulation 49B(1)(a)(iii) of the CIL Regulations 2010, intending claimants for this relief should note the following. Where a proposed development includes housing of the type for which discretionary social housing relief is claimed, the Council will require the

entry into a planning obligation in the form of a section 106 agreement in terms that are acceptable to the Council.