Chesterfield Community Infrastructure Levy (CIL)

Payment in Kind Policy Statement

Notice

1.1 Chesterfield Borough Council ('the Council') is a charging authority under the Community Infrastructure Levy Regulations 2010 (as amended) (the 'CIL Regulations'). The Council brought its CIL charging schedule into effect on 1st April 2016.

1.2 In accordance with Regulations 73, 73 (A) and 73 (B) and 74 of the CIL Regulations, the Council has decided to allow the payment of CIL by land payments or infrastructure payments to the Council and/or party(ies) nominated by the Council, in accordance with this policy.

1.3 This Policy is effective from 1st April 2017.

1.4 The Payment in Kind mechanism is offered at Chesterfield Borough Council's discretion. This policy statement does not oblige Chesterfield Borough Council to accept any offer or application.

2.0 Paying CIL in the form of Land

2.1 A land payment is an acquisition of land from a person who would be liable to pay CIL in respect of a chargeable development on commencement of that chargeable development.

2.2 In certain circumstances it will be possible to pay some or the entire CIL amount in the form of land. This will be dependent on certain conditions:

a. The Council must have agreed to the transfer of land as part or whole payment of the CIL.

b. The land can be used to provide infrastructure to support the development of the area.

c. The applicant must have assumed liability to pay CIL.

d. The open market value of any land or the cost (including the related design cost) of infrastructure offered by way of payment must be determined by a suitably qualified, independent person, with any costs associate with this assessment met by the liable party. This will determine how much liability the 'in-kind' payment will offset.

e. 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 in to 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 to the ownership of the Council before the Council agrees to accept any payment in kind. (This may require the owner to demonstrate to the satisfaction of the Council 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).

f. Where payment of CIL by land provision is considered acceptable, the Council will enter into an agreement with the liable party(ies) prior to the development commencing. The Council must be satisfied that the criteria in Regulation 73 have been met.

g. The agreement cannot form part of a planning obligation within a S106 Agreement.

h. An application for payment in kind will only be considered acceptable where it demonstrates compliance with the national criteria within the CIL Regulations (2010) as amended, local criteria, and subject to all necessary searches on the land being to the satisfaction of the Council.

3.0 Paying CIL in the form of infrastructure

3.1 An infrastructure payment is the provision of one or more items of infrastructure by a person who would be liable to pay CIL in respect of a chargeable development on commencement of that development.

3.2 In certain circumstances it will be possible to pay some or the entire CIL amount in the form of infrastructure. This will be dependent on certain conditions:

a. The infrastructure to be provided must be related to the provision of those infrastructure types and projects listed in the Council's Regulation 123 List.

b. The infrastructure or land offered may not be necessary to make the proposed development acceptable in planning terms.

c. The applicant must have assumed liability to pay CIL.

d. The value of the infrastructure to be transferred must have been determined by a suitably qualified, independent person, with any

costs associated with this assessment met by the liable party. This will determine how much liability the 'in-kind' payment will offset.

e. Where payment of CIL by infrastructure provision is considered acceptable, the Council will enter into an agreement with the liable party(ies) prior to the development commencing. The Council must be satisfied that the criteria in Regulation 73 have been met.

f. An infrastructure payment can only be accepted if the applicant has, or is likely to have, sufficient control over the land on which the infrastructure is to be constructed, and evidence has been provided to the Council that the applicant has obtained, or will be very like to be able to obtain, any relevant statutory authorisations that are necessary to enable the infrastructure to be constructed.

g. The reasonable costs of the Council in entering into any agreement are paid at the applicant's expense.

h. The agreement cannot form part of a planning obligation within a S106 Agreement.

4.0 Additional Terms

4.1 In addition to the conditions set out above, the Policy has the following terms:

a. The infrastructure or land offered may not be necessary to make the proposed development acceptable in planning terms.

b. Where land or infrastructure passes into the ownership of the Council, it will be added to the Council's Asset Register.

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

d. Payments in kind must be provided to the same timescales as cash payment, or otherwise on an agreed basis, subject to the provisions in the regulations and any other State Aid considerations.

e. Any outstanding CIL liable to the chargeable development after the transfer of land and/or delivery of infrastructure should be paid in money, in line with the CIL Regulations and the Council's charging Schedule.

f. Any other relevant requirements under the CIL Regulations (including any amendments after the date of this notice / policy) must be met.

5.0 Neighbourhood Element

5.1 Where the Council accepts land and/or infrastructure, as 'payment in kind' the equivalent neighbourhood contributions must still be paid to the local community as a financial payment. This will amount to 25% where there is a formal Neighbourhood Plan, or within a Neighbourhood Development Order, or 15% where there is no Neighbourhood Plan, capped at a maximum of £100 per council tax dwelling.

6.0 Preparation for an application

6.1 Persons interested in paying CIL in this way and who have not commenced development of the site in question are encouraged to discuss the possibility with the council well in advance of the commencement of development to establish if the principle of 'payment in kind' is suitable before any application is submitted.

7.0 Notwithstanding the above, this notice and policy does not oblige the Council to accept any offer for payment by way of land or infrastructure, and the Council therefore reserves the right to collect a CIL liability by way of monetary payment.

For further information, please visit our website
www.chesterfield.gov.uk/cil