Session 2

Calculating CIL liabilities under the amendment regulations

Workshop 19th November 2019

Answer Booklet

planning advisory service

Calculating the chargeable amount

Aim of the session

- To understand how the chargeable amount is calculated in different circumstances; including examples of:
  - Calculation in standard cases
    - ‘Greenfield’ residential (i.e. no retention or demolition of existing buildings)
    - ‘Greenfield’ mixed use
    - Demolition and retention of existing buildings
    - Phased development (and use of value Ex)
  - Section 73 amendments
    - Increases and decreases in internal area
    - Mixed use and change in area and redistribution in uses
    - Taking account of social housing
  - Calculation in transitional cases (pre-CIL permissions amended through section 73 post introduction of CIL (in-CIL)
    - Increase in internal area
    - Phase credits

Standard cases

(Schedule 1, Part 1)

1. The chargeable amount is an amount equal to the aggregate of the amounts of CIL chargeable at each of the relevant rates.

2. The relevant rates are the rates, taken from the relevant charging schedules, at which CIL is chargeable in respect of the chargeable development.

Excerpt from (a fictitious) CIL Charging Schedule (Introduced in 2015)	
Development type	CIL Rate (£ per square metre)
Residential	£150
Retail	£100
Office	£50
All other uses	£0

3. At its most basic, the amount of CIL chargeable at a given relevant rate (R) is:

$$Rate(R) \times Net\ Area(A)$$

4. However to take account of inflation, the amount of CIL chargeable at a given relevant rate (R) must be calculated by applying the following formula—

$$\frac{R \times A \times I_P}{I_C}$$

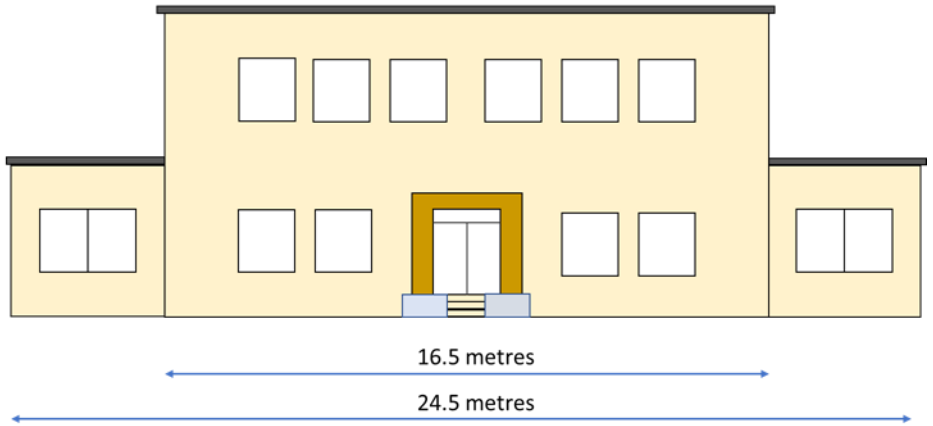
Where:

- A = the deemed net area chargeable at rate R;
- I_P = the index figure for the calendar year in which planning permission was granted; and
- I_C = the index figure for the calendar year in which the charging schedule containing rate R took effect.

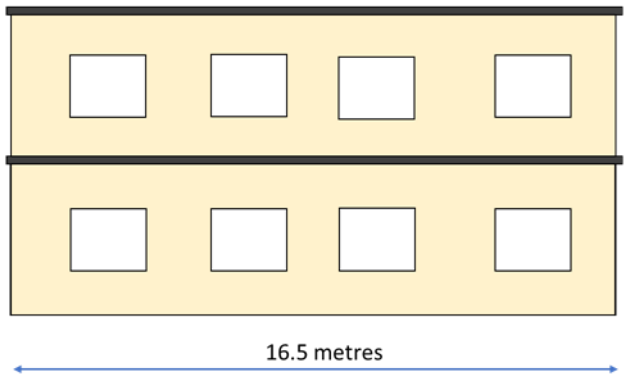
CIL Index Figures			
Calendar year	Index figure for calendar year	Inflationary multiplier (i.e. Ip/Ic)	Effect of inflationary multiplier on rate (e.g. retail): (R x Ip/Ic)
2015 (Ic)	255	1	£100
2016	275	1.08	£108
2017	286	1.12	£112
2018	313	1.23	£123
2019	318	1.25	£125

Example 1 – ‘greenfield’ residential development (granted planning permission in 2017)

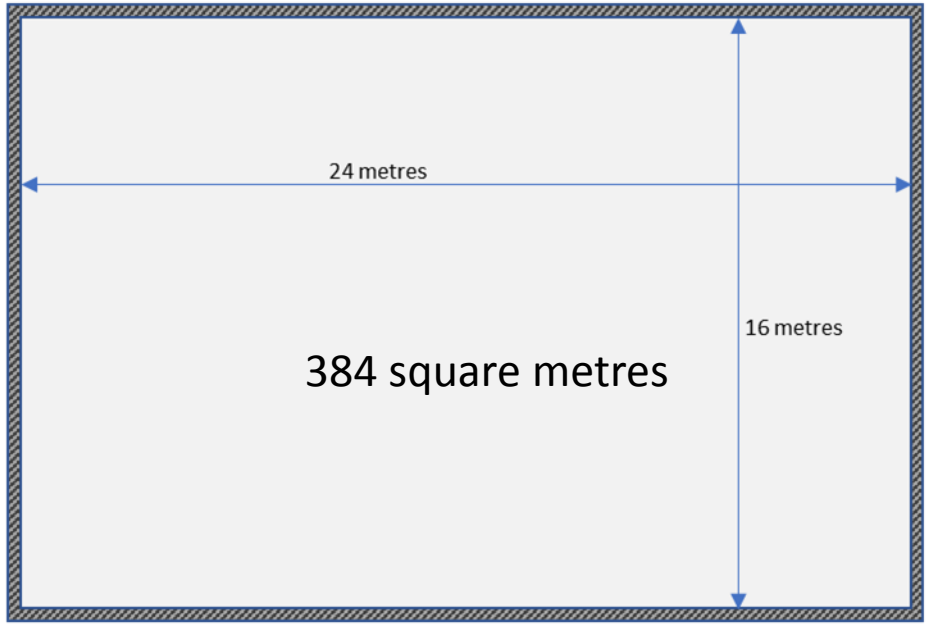
Front elevation



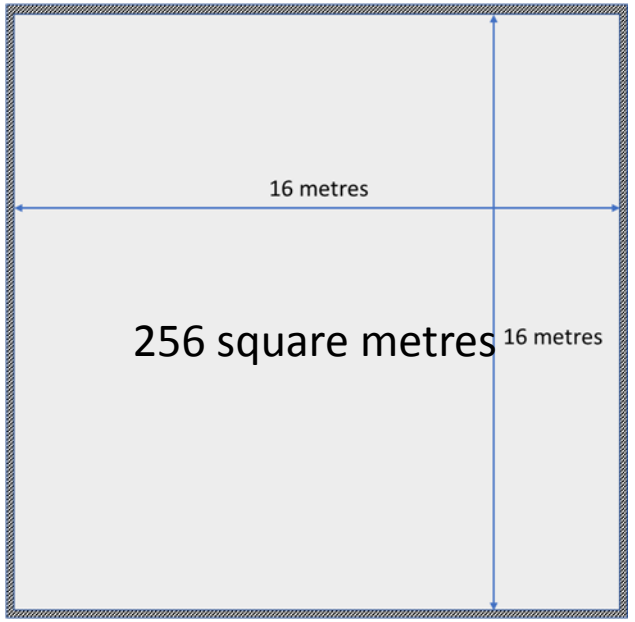
Side elevation



Ground floor – internal area



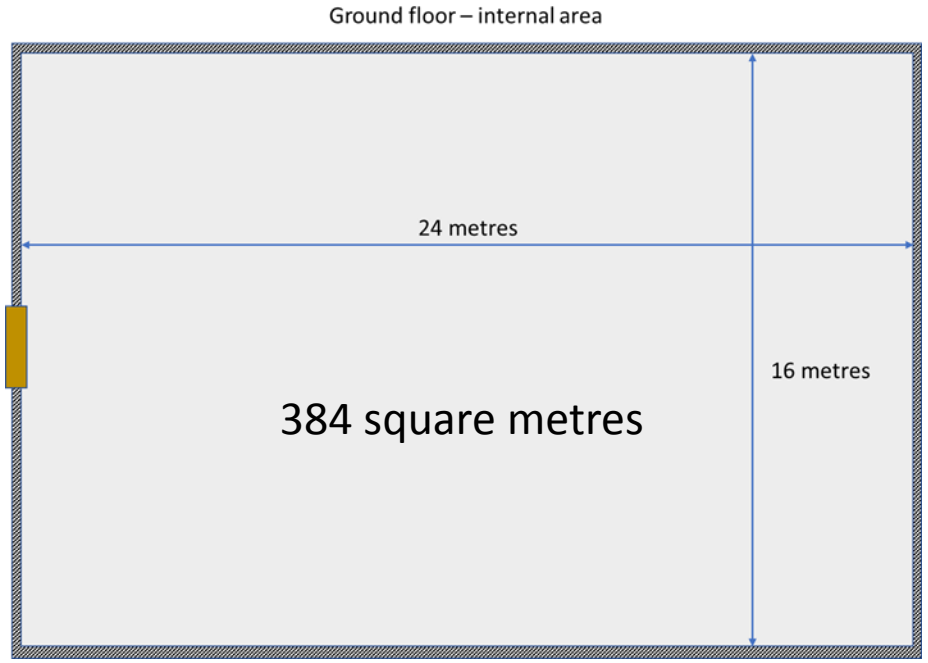
First floor – internal area

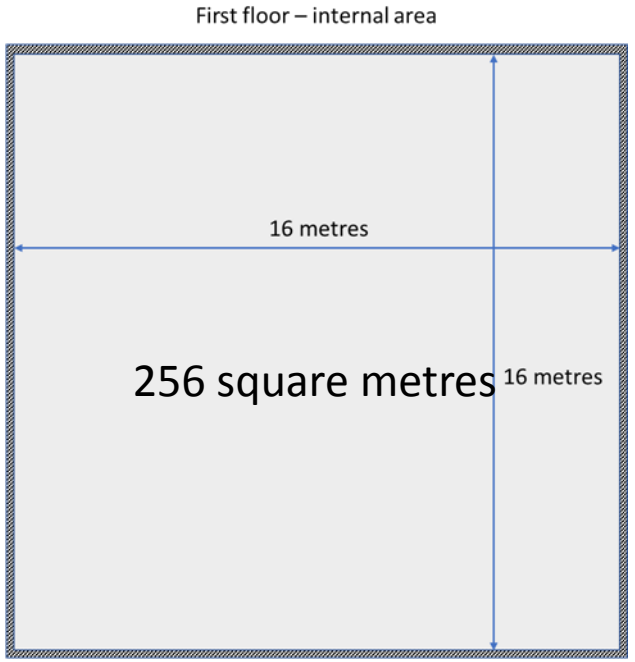


Example 1 – ‘greenfield’ residential development

Variable		Value
Rate (Residential)	R	£150 per square metre
Net Area (at rate R)	A	384 + 256 = 640 square metres
Index for year planning permission was granted (2017)	I_p	286
Index for year charging schedule was adopted (2015)	I_c	255

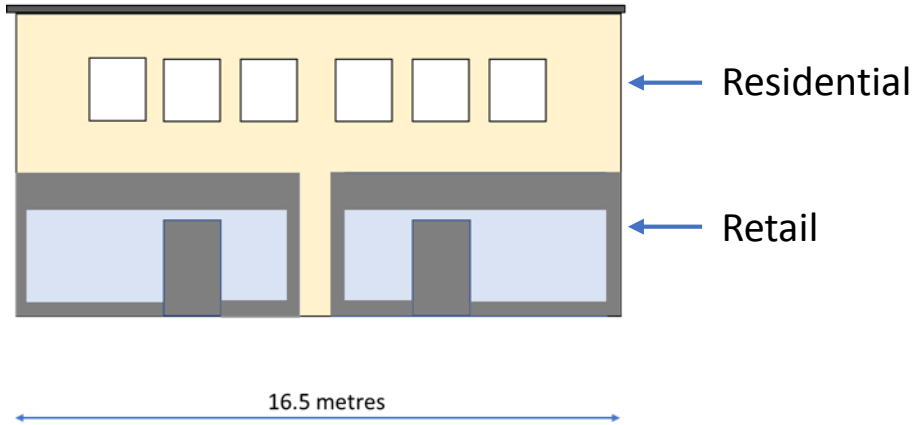
$$\frac{R \times A \times Ip}{Ic} = \frac{150 \times 640 \times 286}{255} = \textbf{£107,670.60}$$



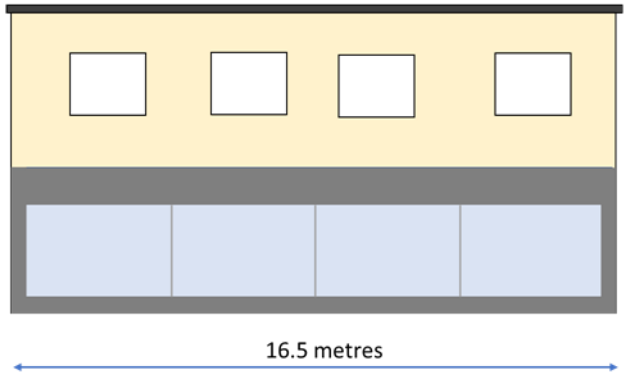


Example 2 – ‘greenfield’ mixed development

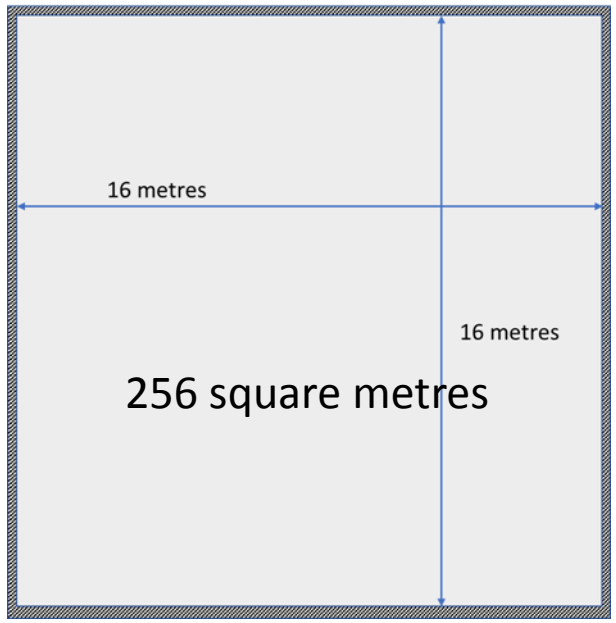
Front elevation



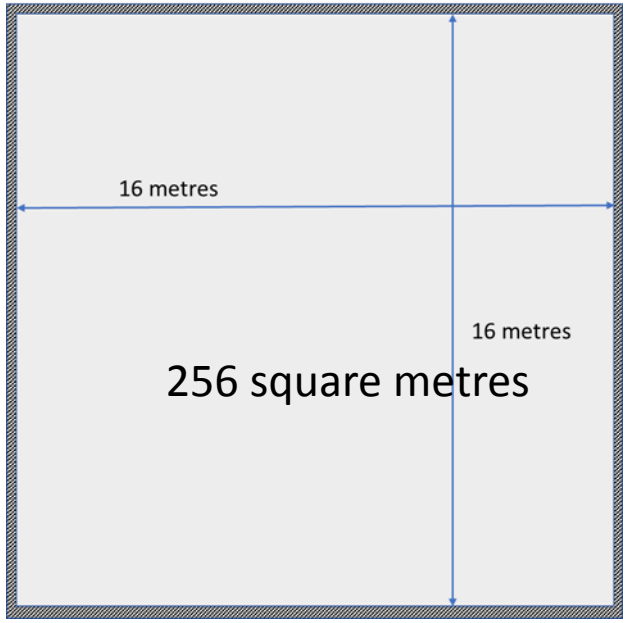
Side elevation



Ground floor (Retail) – internal area



First floor (Residential) – internal area



Example 2 – ‘greenfield’ mixed development

Variable (Retail)		Value
Rate (Retail)	R	£100 per square metre
Net Area (at rate R)	A	256 square metres
Index for year planning permission was granted (2017)	I_p	286
Index for year charging schedule was adopted (2015)	I_c	255

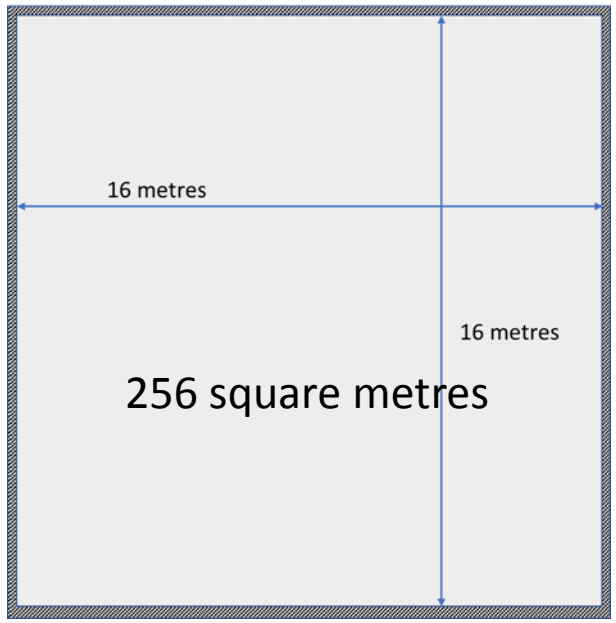
$$\frac{R \times A \times Ip}{Ic} = \frac{100 \times 256 \times 286}{255} = \textbf{£}28{,}712.16$$

Variable (Residential)		Value
Rate (Residential)	R	£150 per square metre
Net Area (at rate R)	A	256 square metres
Index for year planning permission was granted (2017)	I_p	286
Index for year charging schedule was adopted (2015)	I_c	255

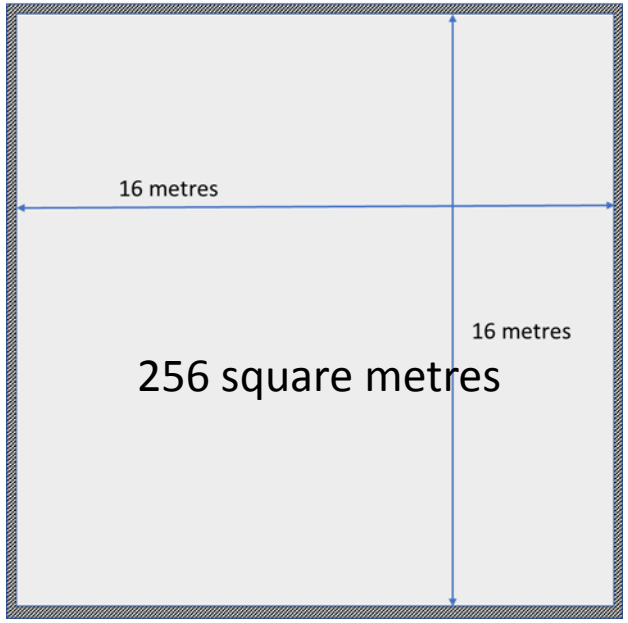
$$\frac{R \times A \times Ip}{Ic} = \frac{150 \times 256 \times 286}{255} = £43{,}068.24$$

Total chargeable amount = £28,712.16 + £43,068.24 = **£71,780.40**

Ground floor (Retail) – internal area



First floor (Residential) – internal area



Understanding the ‘deemed net area (A)’

(How to deal with existing floorspace)

Certain buildings which are situated on the land with planning permission on the day that planning permission first permits development and are to be retained or demolished can be taken into account to reduce the internal area subject to a CIL liability.

The following slides explain which buildings can be used to offset CIL liability and those that can't.

Retained buildings (K_R)

(i) Retained parts of in-use buildings.

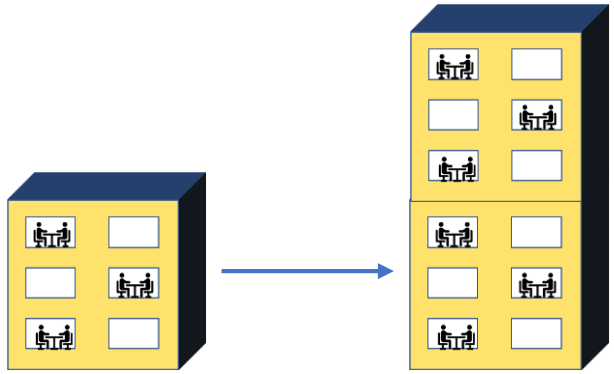
'Retained parts'

"part of a building which will be—
(i) on the land with planning permission on completion of the chargeable development;
(ii) part of the chargeable development on completion, and
(iii) chargeable at rate R".

'In-use building':
"a building which—
(i) is a relevant building (i.e. a building on the land with planning permission), and
(ii) contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development";

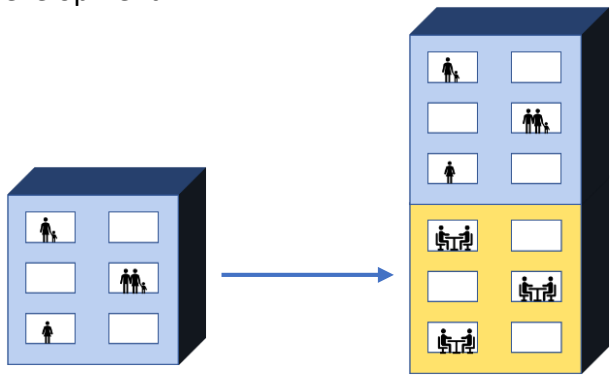
(ii) Retained parts of not in-use buildings.

Retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;



In-use office space to be retained as office space in new development

Area of retained building can be used to reduce the chargeable area of office space in new development



In-use residential development to be retained but converted to office development as part of new mixed use development

Area of retained building can be used to reduce the net chargeable area of office space in new development (i.e. not residential – even though the new development contains residential development).

Certain buildings which are situated on the land with planning permission on the day that planning permission first permits development and are to be retained or demolished can be taken into account to reduce the internal area subject to a CIL liability.

Retained buildings (K_R)

(i) Retained parts of in-use buildings.

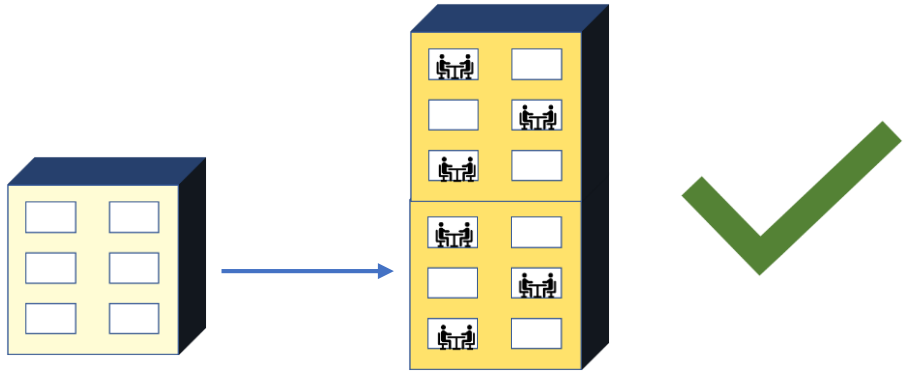
'Retained parts'

"part of a building which will be—
(i) on the land with planning permission on completion of the chargeable development;
(ii) part of the chargeable development on completion, and
(iii) chargeable at rate R".

'In-use building':
"a building which—
(i) is a relevant building (i.e. a building on the land with planning permission), and
(ii) contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development";

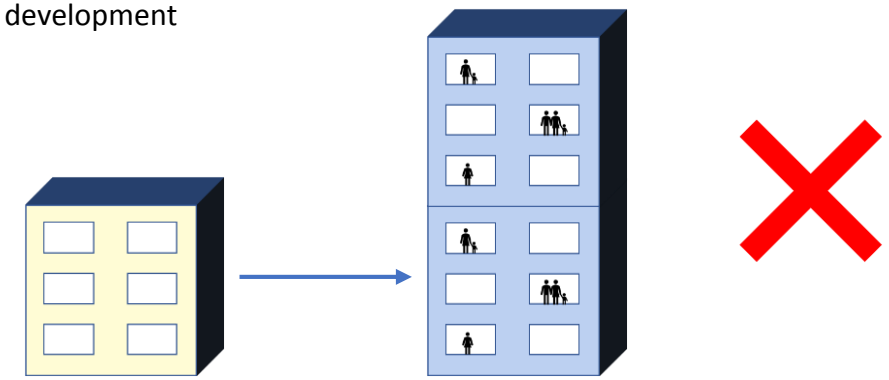
(ii) Retained parts of not in-use buildings.

Retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;



Area of retained building to be used as office space can be used to reduce the chargeable area of office space in new development

Parts of a not in-use building which can lawfully be used as office space without further planning permission to be retained as office space in new development



Area of retained building cannot be used to reduce the net chargeable area of residential development.

Parts of a not in-use building which can lawfully be used as office space without further planning permission to be retained but used as residential development.

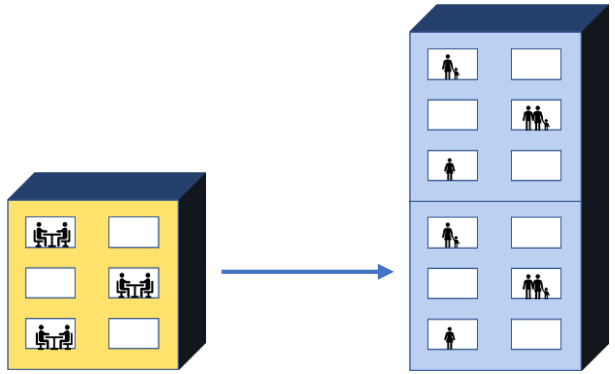
Certain buildings which are situated on the land with planning permission on the day that planning permission first permits development and are to be retained or demolished can be taken into account to reduce the internal area subject to a CIL liability.

The following slides explain which buildings can be used to offset CIL liability and those that can't.

Buildings to be demolished (E)

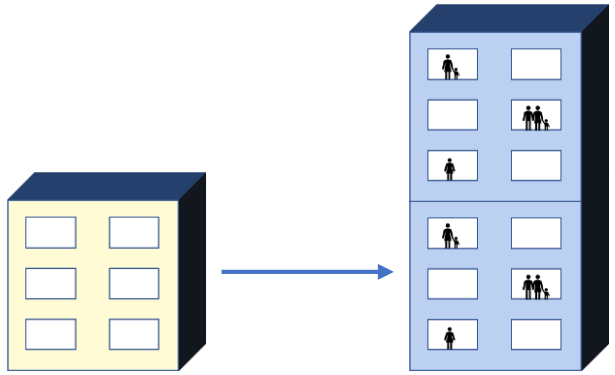
The gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development;

'In-use building':
"a building which—
(i) is a relevant building (i.e. a building on the land with planning permission), and
(ii) contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development";



In-use office space (or any other lawful use) to be demolished

Area of in-use building to be demolished can be used to reduce the chargeable area of the new development



Not in-use building to be demolished.

Area of existing not in-use building cannot be used to reduce the net chargeable area of residential development.

The calculation to determine the value of A ('deemed net area) uses the following formula—

$$G_R - K_R - \left(\frac{G_R \times E}{G}\right)$$

where—

G = the gross internal area of the chargeable development;

G_R = the gross internal area of the part of the chargeable development chargeable at rate R;

K_R = the aggregate of the gross internal areas of the following—

(i) retained parts of in-use buildings; and

(ii) for other relevant buildings, retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;

E = the aggregate of the following—

(i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development; and

(ii) for the second and subsequent phases of a phased planning permission, the value E_x (as determined under sub-paragraph (7)), unless E_x is negative.

Key points to be aware of:

- Where the chargeable development includes more than one development type with different rates (R) (for example, residential and retail development) the deemed net area of each type of development should be calculated separately.

- When determining the gross internal area of retained parts of in-use buildings, the key consideration is the use to which the retained area is to be put – not what it is in the existing development. For example, if an in-use office is to be retained and converted into residential space, that area can be used to reduce the net area of residential development.

- Similarly, if some parts of an existing in-use building are to be used as office space, and other parts of the same building are to be used for residential development, the area of those parts that are to be used as office space can be used to reduce the net area of office space, and those parts set to be residential development can be used to reduce the net area of residential development.

- The demolition of in-use buildings is treated differently, as the gross internal area of such buildings is apportioned across the different rate types in the new development. So that if 60% of the new development is to be used as residential space, 60% of the gross internal area of the in-use buildings is used to reduce the net area of residential space. The remaining 40% is apportioned across the other rate types in the new development.

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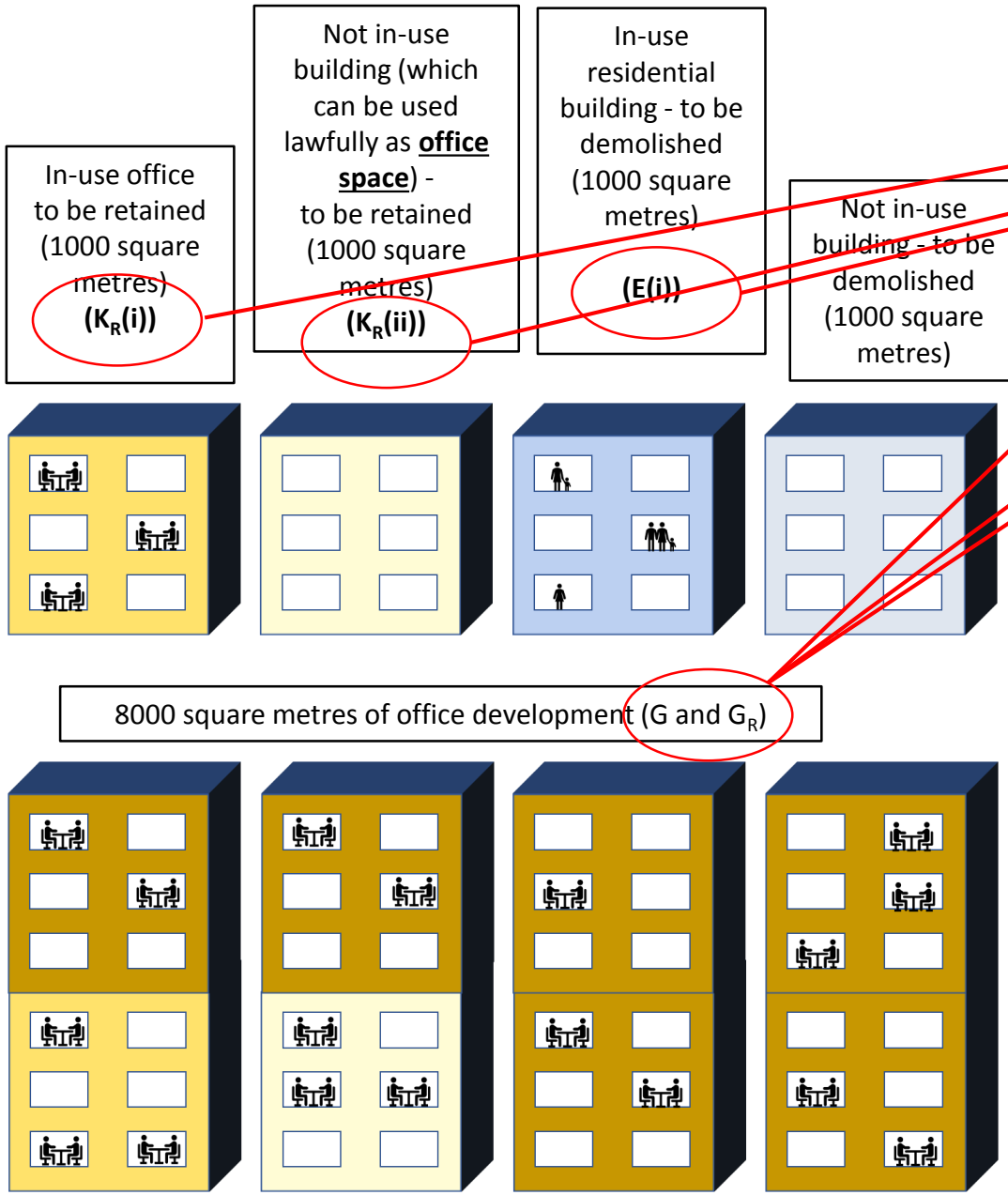
Example 3 – retained buildings and demolition



Deemed net area (A) chargeable at rate (R):

$$= G_R - K_R - \left(\frac{G_R \times E}{G}\right)$$

$$= 8000 - (1000 + 1000) - \left(\frac{8000 \times 1000}{8000}\right)$$

$$= 8000 - 2000 - 1000 = \textbf{5,000 square metres}$$

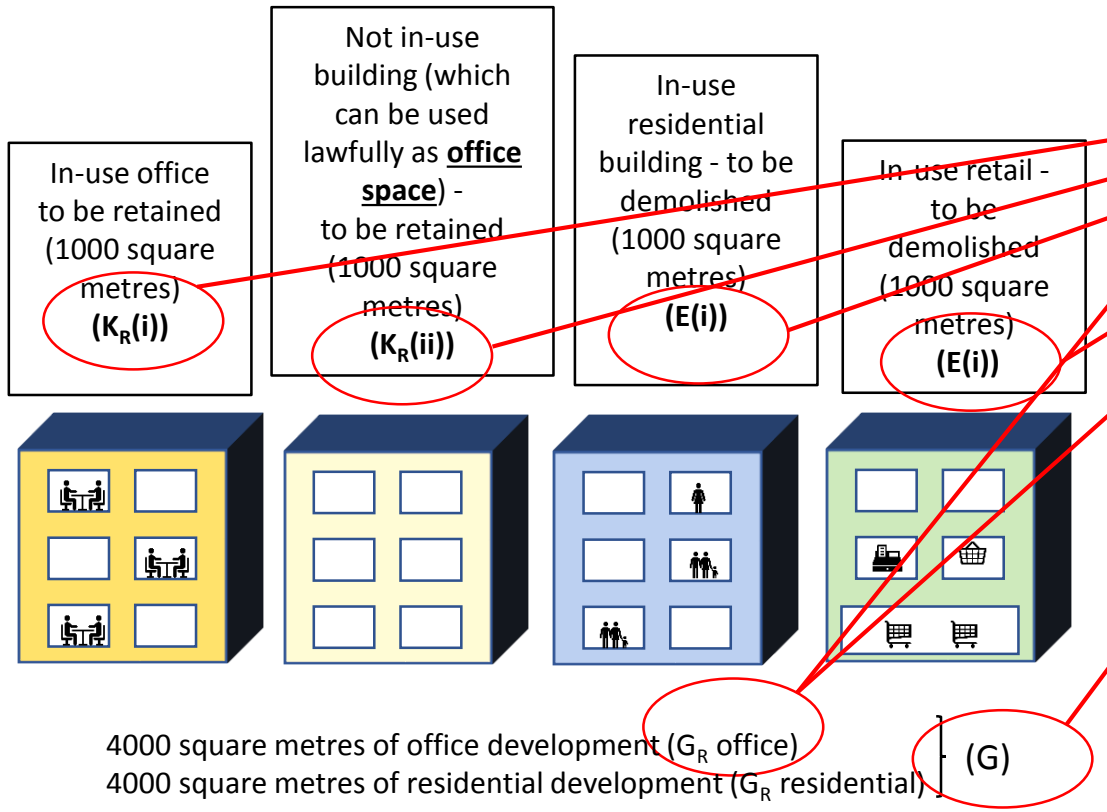
Variable		Value
Rate (Office)	R	£50 per square metre
Net Area (at rate R)	A	5000 square metres
Index for year planning permission was granted (2017)	I_p	286
Index for year charging schedule was adopted (2015)	I_c	255

$$\text{Chargeable amount} = \frac{R \times A \times Ip}{Ic}$$

$$= \frac{50 \times 5000 \times 286}{255}$$

$$= \textbf{£280,392.20}$$

Example 4 – mixed use with retained buildings and demolition - permitted in 2017



1. Office development

Deemed net area (A) chargeable at rate (R):

$$= G_R - K_R - \left(\frac{G_R \times E}{G}\right)$$

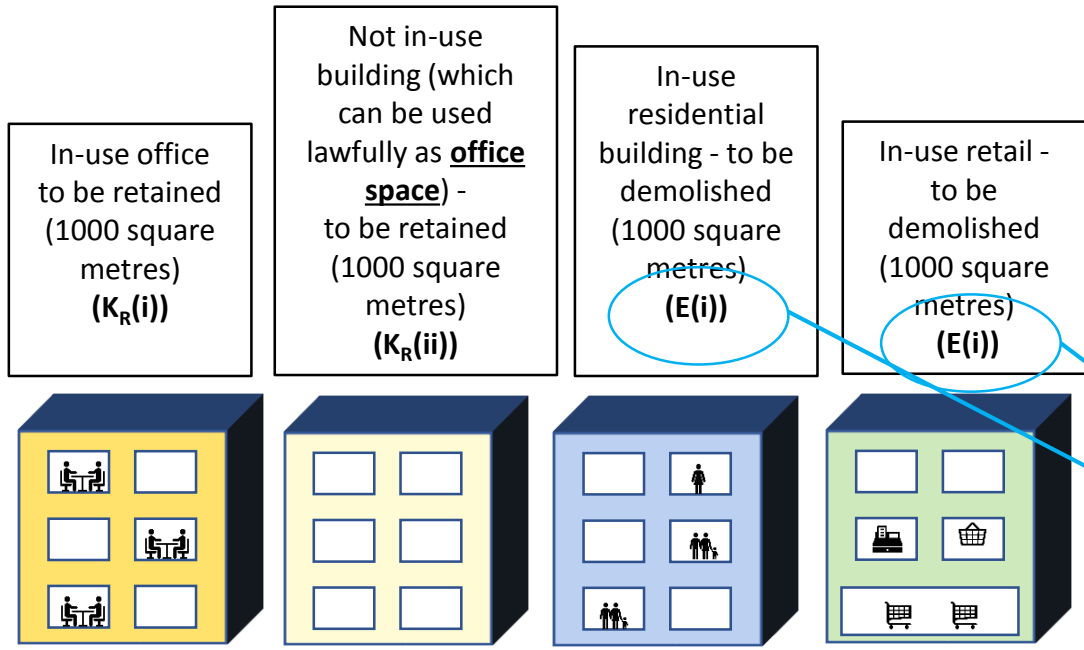
$$= 4000 - (1000 + 1000) - \left(\frac{4000 \times 2000}{8000}\right)$$

$$= 4000 - 2000 - 1000 = \textbf{1,000 square metres}$$

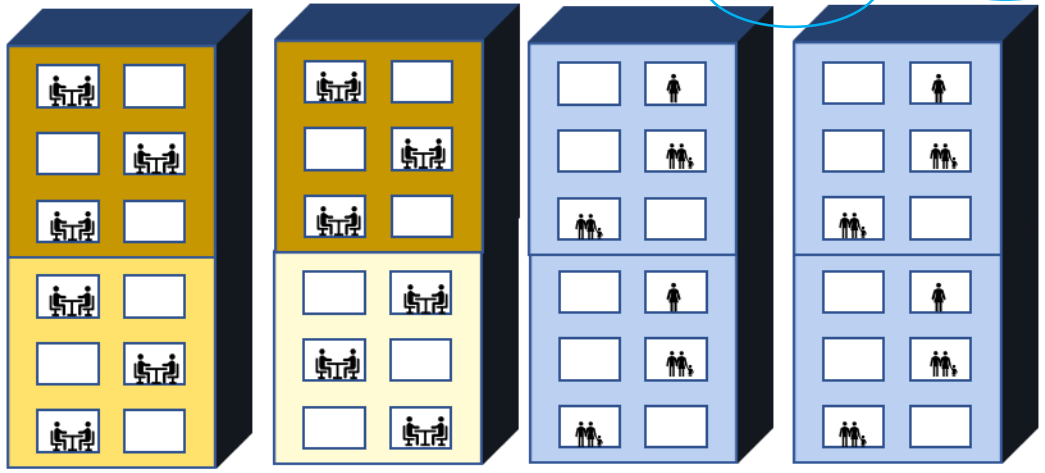
Chargeable amount (office) = $\frac{R \times A \times Ip}{Ic}$

$$= \frac{50 \times 1000 \times 286}{255} = \textbf{£56,078.43}$$

Example 4 – mixed use with retained buildings and demolition - permitted in 2017



4000 square metres of office development (G_R office)
4000 square metres of residential development (G_R residential) } (G)



1. Office development

Deemed net area (A) chargeable at rate (R):

$$= G_R - K_R - \left(\frac{G_R \times E}{G}\right)$$

$$= 4000 - (1000 + 1000) - \left(\frac{4000 \times 2000}{8000}\right)$$

$$= 4000 - 2000 - 1000 = \textbf{1,000 square metres}$$

Chargeable amount (office) = $\frac{R \times A \times Ip}{Ic}$

$$= \frac{50 \times 1000 \times 286}{255} = \textbf{£56,078.43}$$

2. Residential development

Deemed net area (A) chargeable at rate (R):

$$= G_R - K_R - \left(\frac{G_R \times E}{G}\right)$$

$$= 4000 - 0 - \left(\frac{4000 \times 2000}{8000}\right)$$

$$= 4000 - 0 - 1000 = \textbf{3,000 square metres}$$

Chargeable amount (residential) = $\frac{R \times A \times Ip}{Ic}$

$$= \frac{150 \times 3000 \times 286}{255} = \textbf{£504,705.88}$$

Total chargeable amount = £56,078.43 + £504,705.88 = **£560,784.31**

Section 73 permissions

(Schedule 1, Part 2)

Chargeable amount – amended planning permissions

- The 2019 Regulations amended the way that the chargeable amount for development which is granted planning permission when a charging schedule is in effect and is then amended through a section 73 permission is calculated.
- The changes mean that where there is an increase in the internal area, the additional area is charged at the latest rate including indexation, while the existing internal area continues to be charged at the rates or rates that applied when they were permitted.
- Where there is a reduction in the internal area, the reduction in liability is based on the rate and index for inflation for the year in which the original permission was granted.
- Where there is no change is liability, the chargeable amount is the amount shown in the most recent liability notice in relation to the planning permission being amended.

Chargeable amount – amended planning permissions

Part 2 to Schedule 1 of the CIL Regulations makes provision for calculating the chargeable amount where a planning permission is amended through section 73 of the TCPA 1990.

- The first step to calculate the chargeable amount for the amended permission (as set out in paragraph 3 of the schedule) is to determine whether there has been a change in the notional amount between the earlier planning permission (A) and the amended planning permission (B).
- Where the notional amount for (B) is the same as the notional amount for (A), the chargeable amount is the chargeable amount shown in the most recent liability notice issued in relation to (A).
- Where the notional amount for (B) is larger than the notional amount for (A), the procedure in paragraph 4 of schedule 1 applies; and where the notional amount for (B) is smaller than the notional amount for (A), paragraph 5 of the schedule applies.

Principle behind section 73 calculations

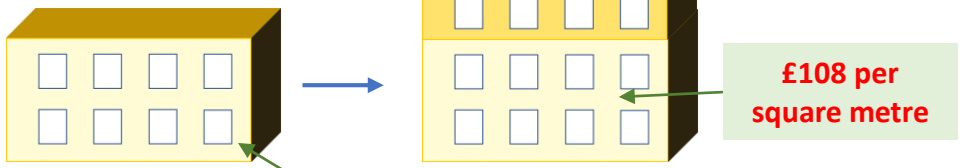
<u>Increase in changeable amount (chargeable amount is (X-Y)+Z)</u>

Planning permission (A) granted in 2016.

Section 73 planning permission (B) granted in 2017.

£112 per square metre

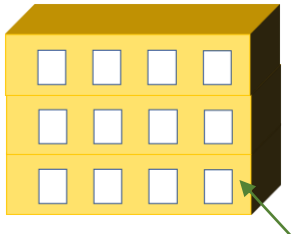
£108 per square metre



£108 per square metre

Actual chargeable amount for planning permission (A) is set out in liability notice issued at the time (2016).
This is value (Z)

(1) Calculate **notional** chargeable amount for (B) (permitted in 2017).
This is value (X)

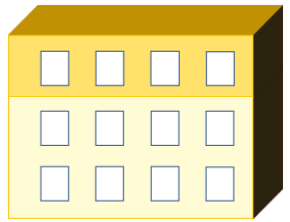


(2) Calculate **notional** chargeable amount for (A) as if permitted in 2017.
This is value (Y)

£112 per square metre

(3) Subtract value (Y) from (X). Which equals new floor space indexed at year of planning permission (B).
This is (X-Y)

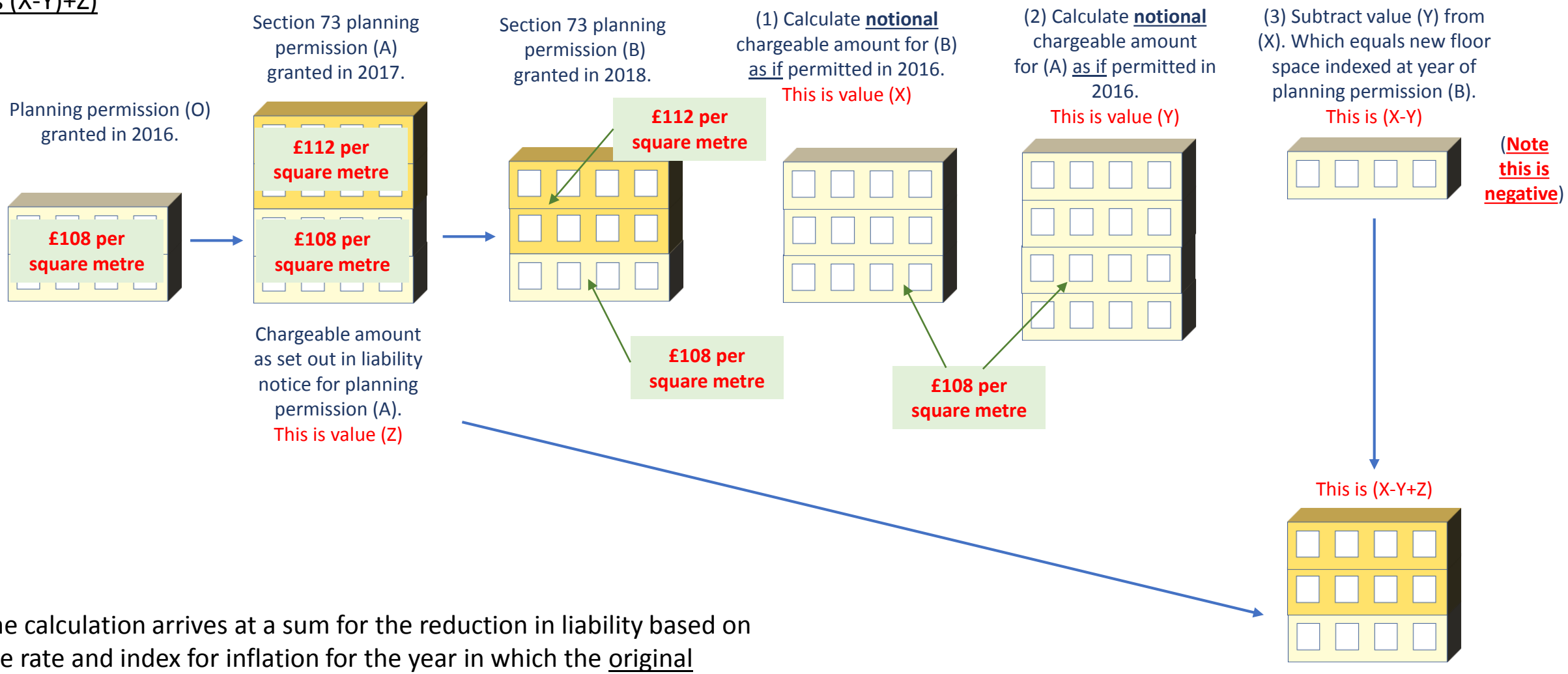
This is (X-Y+Z)



The effect of the calculation is to ensure that only the additional internal area is charged at the latest rate including indexation, while the existing internal area continues to be charged at the rates or rates that applied when they were permitted.

Principle behind section 73 calculations

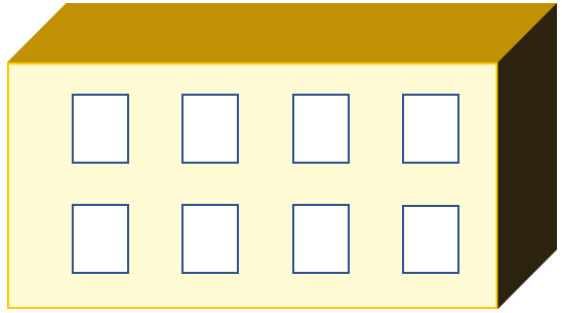
<u>Decrease in changeable amount (chargeable amount is (X-Y)+Z)</u>



The calculation arrives at a sum for the reduction in liability based on the rate and index for inflation for the year in which the <u>original permission</u> was granted.

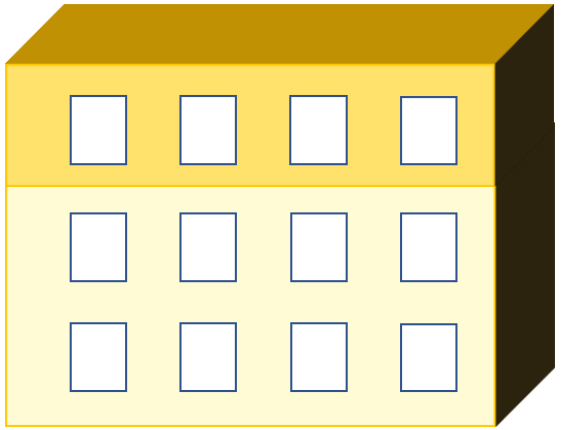
Example 5. A planning permission for a residential development is amended to increase the internal area

600 square metres of residential development permitted in 2017.



Original permission (A)		
Residential rate (£ per square metre)	(R_R)	£150
Gross internal area of residential development (square metres)	(A_{R1})	600
Index for year planning permission (A) was granted (2017)	(I_{p1})	286
Index for year charging schedule was adopted (2015)	(I_c)	255

Permission amended in 2019 to provide 900 square metres of residential development



Amended permission (B)		
Residential rate (£ per square metre)	(R_R)	£150
Gross internal area of residential development (square metres)	(A_{R2})	900
Index for year planning permission (B) was granted	(I_{p2})	318
Index for year charging schedule was adopted	(I_c)	255

Step 1

To determine whether the notional amount has changed, and if so, whether it has increased or decreased.

The notional chargeable amount for **planning permission (A)** is calculated using the formula in paragraph 1 of the schedule:

$$\frac{R_R \times A_{R1} \times I_{p1}}{Ic} = \frac{150 \times 600 \times 286}{255} = \textbf{£ 100,941.18}$$

The notional chargeable amount for **planning permission (B)** is calculated using the formula in paragraph 1 but as if planning permission (B) was granted on the same day as planning permission (A) – using the index figure (Ip) and rate (R) in the charging schedule that applied to planning permission (A) – (i.e. Ip is 286 and not 318). In this example, the charging schedule is the same, so the rate is unchanged. The outcome is:

$$\frac{R_R \times A_{R2} \times I_{p1}}{Ic} = \frac{150 \times 900 \times 286}{255} = \textbf{£151,411.76}$$

The notional amount for (B) is therefore larger than for (A), so paragraph 4 applies.

Step 2

The amount of CIL payable is:

$$(X - Y) + Z$$

Where:

X = the chargeable amount for the development for which (B) was granted calculated in accordance with paragraph 1;

Y = the chargeable amount for the development for which (A) was granted calculated in accordance with paragraph 1, but as if (A) first permits development on the same day as (B) - so the index figure Ip for (A) to be used is the index figure for the calendar year in which (B) was granted;

Z = the chargeable amount for (A) as shown in the most recent CIL notice issued in relation to (A).

Using the previous figures :

$$X = \frac{R_R \times A_{R2} \times I_{p2}}{Ic} = \frac{150 \times 900 \times 318}{255} = £168,352.94$$

$$Y = \frac{R_R \times A_{R1} \times I_{p2}}{Ic} = \frac{150 \times 600 \times 318}{255} = £112,235.29$$

The value of Z should be taken from the latest liability notice issued for planning permission (A). Where planning permission (B) is not the first section 73 amendment, the value of Z might include the accumulated liabilities from a number of earlier permissions. As the figure is recorded on the latest liability notice, it does not need to be recalculated.

However, for the purposes of this example it would be:

$$Z = \frac{R_R \times A_{R1} \times I_{p1}}{Ic} = \frac{150 \times 600 \times 286}{255} = = £100,941.18$$

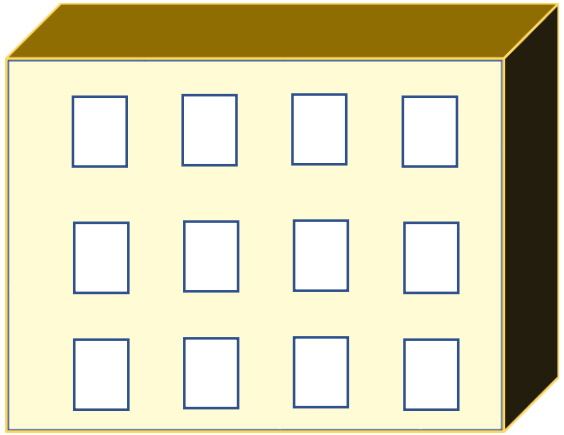
Bringing this altogether gives the chargeable amount for (B) of:

$$£168,352.94 - £112,235.29 + £100,941.18 = £157,058.83$$

The effect of the calculation is to ensure that only the additional internal area is charged at the latest rate including indexation, while the existing internal area continues to be charged at the rates or rates that applied when they were permitted.

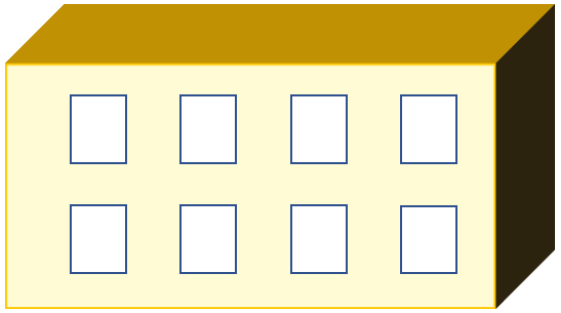
Example 6. A planning permission for a residential development is amended to decrease the internal area

900 square metres of residential development permitted in 2017.



Original permission (A)		
Residential rate (£ per square metre)	(R_R)	£150
Gross internal area of residential development (square metres)	(A_{R1})	900
Index for year planning permission (A) was granted (2017)	(I_{p1})	286
Index for year charging schedule was adopted (2015)	(I_c)	255

Permission amended in 2019 to reduce the internal area to 600 square metres



Amended permission (B)		
Residential rate (£ per square metre)	(R_R)	£150
Gross internal area of residential development (square metres)	(A_{R2})	600
Index for year planning permission (B) was granted (2019)	(I_{p2})	318
Index for year charging schedule was adopted (2015)	(I_c)	255

Step 1

To determine whether the notional amount has changed, and if so, whether it has increased or decreased.

The notional chargeable amount for **planning permission (A)** is calculated using the formula in paragraph 1 of the schedule:

$$\frac{R_R \times A_{R1} \times I_{p1}}{Ic} = \frac{150 \times 900 \times 286}{255} = \textbf{£ 151,411.76}$$

The notional chargeable amount for **planning permission (B)** is calculated using the formula in paragraph 1 but as if planning permission (B) was granted on the same day as planning permission (A) – using the index figure (Ip) and rate (R) in the charging schedule that applied to planning permission (A) – (i.e. Ip is 286 and not 318). In this example, the charging schedule is the same, so the rate is unchanged. The outcome is:

$$\frac{R_R \times A_{R2} \times I_{p1}}{Ic} = \frac{150 \times 600 \times 286}{255} = \textbf{£100,941.18}$$

The notional amount for (B) is therefore smaller than for (A), so paragraph 5 applies.

Step 2

The amount of CIL payable is:

$$(X - Y) + Z$$

Where:

X = the chargeable amount for the development for which (B) was granted calculated in accordance with paragraph 1 - but as if (B) first permits development on the same day as the original planning permission. Note that this could either be the planning permission being amended ((A) – as in this example, or an earlier one (referred to as planning permission (O) in the regulations));

Y = the chargeable amount for the development for which (A) was granted calculated in accordance with paragraph 1 - but as if (A) first permits development on the same day as the original planning permission;

Z = the chargeable amount for (A) as shown in the most recent CIL notice issued in relation to (A).

Therefore:

$$X = \frac{R_R \times A_{R2} \times I_{p1}}{Ic} = \frac{150 \times 600 \times 286}{255} = \textbf{£100,941.18}$$

$$Y = \frac{R_R \times A_{R1} \times I_{p1}}{Ic} = \frac{150 \times 900 \times 286}{255} = \textbf{£151,411.76}$$

The value for Z does not need to be recalculated as it is set out on the most recent liability notice for planning permission (A). However, for the purposes of this example, it is:

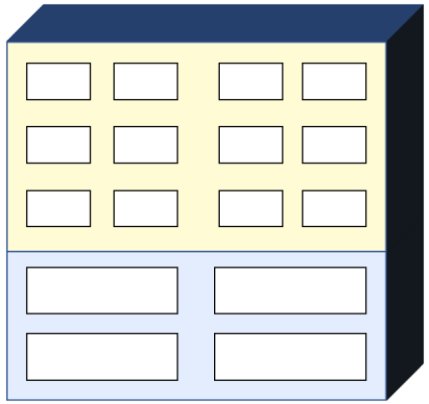
$$Z = \frac{R_R \times A_{R1} \times I_{p1}}{Ic} = \frac{150 \times 900 \times 286}{255} = \textbf{£151,411.76}$$

Bringing this altogether gives the chargeable amount for (B) of:

$$£100{,}941.18 - £151{,}411.76 + £151{,}411.76 = \textbf{£100,941.18}$$

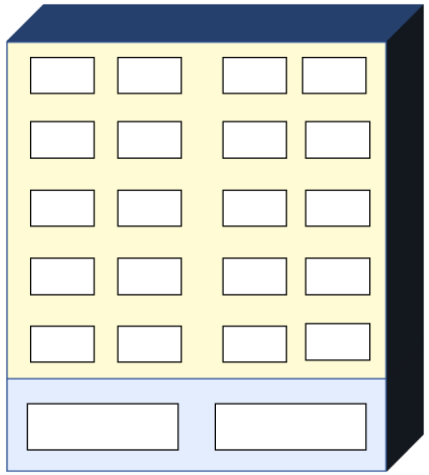
Example 7. A planning permission for residential development and office space is amended to increase the total internal area and redistribute the area of the two development types

1200 square metres of residential development and 800 square metres of office space permitted in 2017.



Original permission (A)		
Residential rate (£ per square metre)	(R_R)	£150
Office rate (£ per square metre)	(R_O)	£50
Gross internal area of residential development (square metres)	(A_{R1})	1200
Gross internal area of office development (square metres)	(A_{O1})	800
Index for year planning permission (A) was granted (2017)	(I_{P1})	286
Index for year charging schedule was adopted (2015)	(I_c)	255

2000 square metres of residential development and 400 square metres of office space permitted in 2019.



Amended permission (B)		
Residential rate (£ per square metre)	(R_R)	£150
Office rate (£ per square metre)	(R_O)	£50
Gross internal area of residential development (square metres)	(A_{R2})	2000
Gross internal area of office development (square metres)	(A_{O2})	400
Index for year planning permission (B) was granted (2019)	(I_{P2})	318
Index for year charging schedule was adopted (2015)	(I_c)	255

Step 1

The first step is to determine whether the notional amount has changed, and if so, whether it has increased or decreased.

The notional chargeable amount for **planning permission (A)** is calculated using the formula in paragraph 1 of the schedule for each rate type:

(1) Residential:

$$\frac{R_R \times A_{R1} \times I_{p1}}{I_c} = \frac{150 \times 1200 \times 286}{255} = £201{,}882.35$$

(2) Office:

$$\frac{R_o \times A_{o1} \times I_{p1}}{I_c} = \frac{50 \times 800 \times 286}{255} = £\,44{,}862.75$$

The notional chargeable amount for planning permission A is the aggregate of the two notional sums:

$$£201{,}882.35 + £44{,}862.75 = £246{,}745.1$$

Step 1 (continued)

The notional chargeable amount for **planning permission (B)** is calculated using the formula in paragraph 1 but as if planning permission (B) was granted on the same day as planning permission (A) – using the index figure (Ip) for planning permission (A) – i.e. 286 (and not 318). The outcome is:

Residential:

$$\frac{R_R \times A_{R2} \times I_{p1}}{I_c} = \frac{150 \times 2000 \times 286}{255} = \text{£}336{,}470.59$$

Office:

$$\frac{R_O \times A_{O2} \times I_{p1}}{I_c} = \frac{50 \times 400 \times 286}{255} = \text{£}22{,}431.37$$

The notional amount for (B) is

$$\text{£}336{,}470.59 + \text{£}22{,}431.37 = \text{£}358{,}901.96$$

The notional amount for (B) is therefore larger than for (A), so paragraph 4 applies.

Step 2

As in step 1, each rate type is calculated separately, and the outcome are added together.

Residential

The amount of CIL payable for the residential component is:

$$(X - Y) + Z$$

Where:

X = the chargeable amount for the development for which (B) was granted calculated in accordance with paragraph 1;

Y = the chargeable amount for the development for which (A) was granted calculated in accordance with paragraph 1 (but as if (A) first permits development on the same day as (B)) - so the index figure Ip for (A) to be used is the index figure for the calendar year in which (B) was granted;

Z = the chargeable amount for (A) as shown in the most recent CIL notice issued in relation to (A).

(1) Residential:

Using the figures above:

$$X = \frac{R_R \times A_{R2} \times I_{p2}}{I_c} = \frac{150 \times 2000 \times 318}{255} = £374,117.65$$

$$Y = \frac{R_R \times A_{R1} \times I_{p2}}{I_c} = \frac{150 \times 1200 \times 318}{255} = £224,470.59$$

The value of Z should be taken from the latest liability notice issued for planning permission (A). This would have involved the same calculation as for Y except that the index figure Ip relates to the calendar year in which the planning permission was granted. It shouldn't therefore need to be recalculated. However, for the purposes of this example it would be:

$$Z = \frac{R_R \times A_{R1} \times I_{p1}}{I_c} = \frac{150 \times 1200 \times 286}{255} = £201,882.35$$

Bringing this altogether gives the chargeable amount for residential development for planning permission (B) of:

$$£374,117.65 - £224,470.59 + £201,882.35 = £351,529.41$$

(2) Office:

$$X = \frac{R_o \times A_{o2} \times I_{p2}}{I_c} = \frac{50 \times 400 \times 318}{255} = £24,941.18$$

$$Y = \frac{R_o \times A_{o1} \times I_{p2}}{I_c} = \frac{50 \times 800 \times 318}{255} = £49,882.35$$

The value of Z should be taken from the latest liability notice issued for planning permission (A). As above it shouldn't need to be recalculated. However, for the purposes of this example it would be:

$$Z = \frac{R_o \times A_{o1} \times I_{p1}}{I_c} = \frac{50 \times 800 \times 286}{255} = £44,862.75$$

Bringing this altogether gives the chargeable amount for office development for planning permission (B) of:

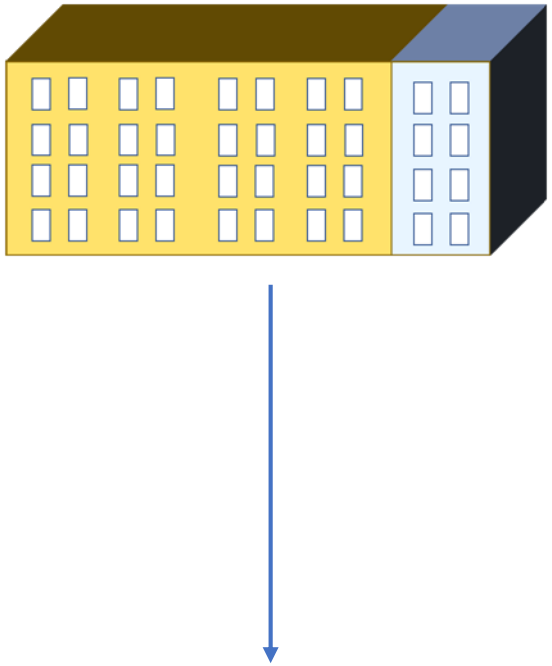
$$£24,941.18 - £49,882.35 + £44,862.75 = £19,921.58$$

The new chargeable amount for planning permission (B) is:

Residential chargeable amount + Office chargeable amount =

$$£351,529.41 + £19,921.58 = £371,450.99$$

Example 8. A planning permission for residential development with social housing relief which is amended through section 73.



Original permission (A)		
Residential rate (£ per square metre)	(R_R)	£150
Gross internal area of residential development (square metres)	(A_{R1})	2000
Gross internal area of social housing (square metres)	(A_{Rel1})	200
Index for year planning permission (A) was granted (2017)	(I_{p1})	286
Index for year charging schedule was adopted (2015)	(I_c)	255

Amended permission (B)		
Residential rate (£ per square metre)	(R_R)	£150
Gross internal area of residential development (square metres)	(A_{R2})	2500
Gross internal area of social housing (square metres)	(A_{Rel2})	250
Index for year planning permission (B) was granted (2019)	(I_{p2})	318
Index for year charging schedule was adopted (2015)	(I_c)	255

Step 1

The first step is to determine whether the notional amount has changed, and if so, whether it has increased or decreased. When doing so, the notional chargeable amount for planning permission (B) is calculated as if it had been granted on the same day as planning permissions (A). Any applicable relief should be deducted from the notional amounts as illustrated below.

The notional chargeable amount for **planning permission (A)** is calculated using the formula in paragraph 1 of the schedule:

$$\frac{R_R \times A_{R1} \times I_{p1}}{I_c} = \frac{150 \times 2000 \times 286}{255} = \textbf{£}\ 336{,}470.60$$

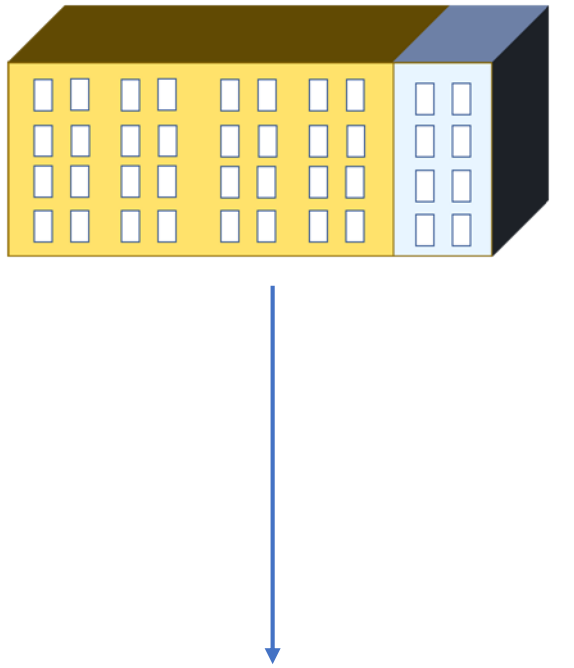
From this is deducted the applicable relief - which in this case is:

$$\frac{R_R \times A_{Rel1} \times I_{p1}}{I_c} = \frac{150 \times 200 \times 286}{255} = \textbf{£}\ 33{,}647.06$$

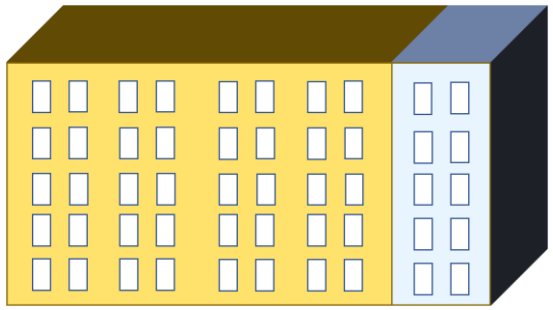
The notional amount for planning permission (A) is therefore:

$$£336{,}470.60 - £33{,}647.06 = \mathbf{£302{,}823.54}$$

Example 8. A planning permission for residential development with social housing relief which is amended through section 73.



Original permission (A)		
Residential rate (£ per square metre)	(R_R)	£150
Gross internal area of residential development (square metres)	(A_{R1})	2000
Gross internal area of social housing (square metres)	(A_{Rel1})	200
Index for year planning permission (A) was granted (2017)	(I_{p1})	286
Index for year charging schedule was adopted (2015)	(I_c)	255



Amended permission (B)		
Residential rate (£ per square metre)	(R_R)	£150
Gross internal area of residential development (square metres)	(A_{R2})	2500
Gross internal area of social housing (square metres)	(A_{Rel2})	250
Index for year planning permission (B) was granted (2019)	(I_{p2})	318
Index for year charging schedule was adopted (2015)	(I_c)	255

The notional chargeable amount for **planning permission (B)** is calculated using the formula in paragraph 1 but as if planning permission (B) was granted on the same day as planning permission (A) – using the index figure (Ip) for planning permission (A) – i.e. 286 (and not 318). The outcome is:

$$\frac{R_R \times A_{R2} \times I_{p1}}{I_c} = \frac{150 \times 2500 \times 286}{255} = \textbf{£420,588.24}$$

From this is deducted the applicable relief which in this case is:

$$\frac{R_R \times A_{Rel2} \times I_{p1}}{I_c} = \frac{150 \times 250 \times 286}{255} = \textbf{£42,058.82}$$

The notional amount for planning permission (B) is therefore:

$$£420{,}588.24 - £42{,}058.82 = \textbf{£378,529.41}$$

The notional amount for (B) is therefore larger than for (A), so paragraph 4 applies.

Step 2

The amount of CIL payable in respect of the development is the chargeable amount for the development minus the relief amount where—

(a) the chargeable amount for the development is:

$$(X - Y) + Z$$

Where:

X = the chargeable amount for the development for which (B) was granted calculated in accordance with paragraph 1;

Y = the chargeable amount for the development for which (A) was granted calculated in accordance with paragraph 1 (but as if (A) first permits development on the same day as (B)) - so the index figure Ip for (A) to be used is the index figure for the calendar year in which (B) was granted;

Z = the chargeable amount for (A) as shown in the most recent CIL notice issued in relation to (A).

(b) the relief amount is:

$$(Rx - Ry) + Rz$$

Where:

Rx = the amount of any applicable relief in relation to the development for which (B) was granted calculated in accordance with Part 6 of the Regulations;

Ry = the amount of any applicable relief in relation to the development for which (A) was granted under Part 6 of the Regulations (but as if (A) was granted on the same day as (B));

Rz = the amount of any applicable relief in relation to the development for which (A) was granted under Part 6 of the Regulations (and as shown on the most recent liability notice issued in relation to (A)).

Using the figures above, the chargeable amount for the development is:

$$X = \frac{R_R \times A_{R2} \times I_{p2}}{Ic} = \frac{150 \times 2500 \times 318}{255} = \mathbf{£467,647.06}$$

$$Y = \frac{R_R \times A_{R1} \times I_{p2}}{Ic} = \frac{150 \times 2000 \times 318}{255} = \mathbf{£374,117.65}$$

The value of Z should be taken from the latest liability notice issued for planning permission (A). This would have involved the same calculation as for Y except that the index figure Ip relates to the calendar year in which the planning permission was granted. It shouldn't therefore need to be recalculated it is on the latest liability notice. However, for the purposes of this example it would be:

$$Z = \frac{R_R \times A_{R1} \times I_{p1}}{Ic} = \frac{150 \times 2000 \times 286}{255} = \mathbf{£336,470.59}$$

Bringing this altogether gives the chargeable amount for (B) of:

$$£467647.06 - £374,117.65 + £336,470.59 = \mathbf{£430,000}$$

From this is deducted the relief amount which is calculated as below:

$$Rx = \frac{R_R \times A_{Rel2} \times I_{p2}}{Ic} = \frac{150 \times 250 \times 318}{255} = \mathbf{£46,764.71}$$

$$Ry = \frac{R_R \times A_{Rel1} \times I_{p2}}{Ic} = \frac{150 \times 200 \times 318}{255} = \mathbf{£37,411.76}$$

$$Rz = \frac{R_R \times A_{Rel1} \times I_{p1}}{Ic} = \frac{150 \times 200 \times 286}{255} = \mathbf{£33,647.06}$$

The relief amount is therefore:

$$£46,764.71 - £37,411.76 + £33,647.06 = \mathbf{£43,000.00}$$

The net amount payable is therefore:

$$£430,000 - £43,000.00 = \mathbf{£387,000}$$

The liability notice should include both the chargeable amount for (B) and the relief amount. This makes it easier to determine the amount of clawback if there is a disqualifying event within the clawback period. It also makes the calculations easier if there is a subsequent section 73 amendment which changes the chargeable amount.

Transitional cases

(Schedule 1, Part 4)

Pre-CIL permissions ‘amended’ when CIL is in effect

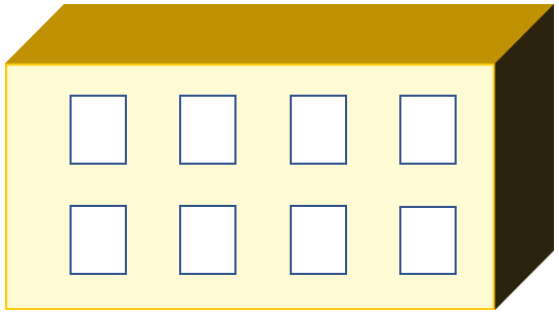
The general principle is that CIL should not be charged on development that is already permitted through a pre-CIL permission, but any additional liability that is created through the in-CIL permission should be subject to the levy.

Part 4 of Schedule 1 contains the calculations for determining the CIL liability in transitional cases. Paragraph 7 largely replaces what was regulation 128A of the 2010 Regulations and is used to determine the liability for a section 73 permission granted after a charging schedule has come into effect, where the original planning permission (either outline or full permission) were granted before a charging schedule was in effect.

The first step is to calculate a notional chargeable amount for the pre-CIL permission, as if the pre-CIL permission was granted on the same day as the later section 73 permission (i.e. using the latest indexation). The same calculation is undertaken for the section 73 permission. The former figure is then deducted from the latter to give the chargeable amount for the development. This means there is no CIL charge on the original pre-CIL development, but there is a CIL charge for any additional liabilities created through the post-CIL section 73 permission.

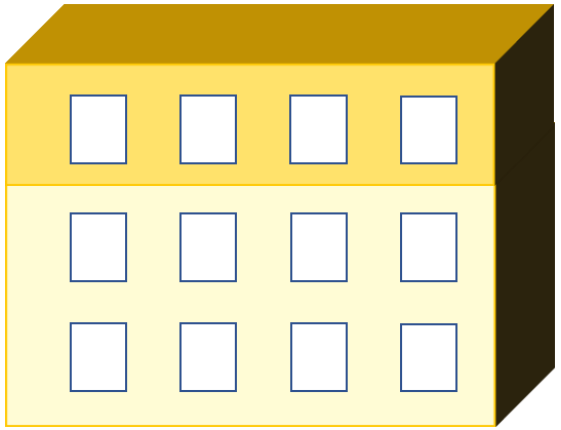
Example 9. Transitional case - planning permission for a residential development is amended to increase the internal area

600 square metres of residential development permitted before charging schedule in effect.



Original permission (A)		
Residential rate (£ per square metre)	(R_R)	N/A
Gross internal area of residential development (square metres)	(A_{R1})	600
Index for year planning permission (A) was granted (2014)	(I_{p1})	N/A
Index for year charging schedule was adopted (2015)	(I_c)	N/A

Section 73 permission increases GIA to 900 square metres after charging schedule in effect.



Amended permission (B)		
Residential rate (£ per square metre)	(R_R)	£150
Gross internal area of residential development (square metres)	(A_{R2})	900
Index for year planning permission (B) was granted (2019)	(I_{p2})	318
Index for year charging schedule was adopted (2015)	(I_c)	255

The amount of CIL payable is:

$$(X - Y)$$

To determine the notional amount for the pre-CIL permission (Y), the equation in paragraph 1 of schedule 1 is used as if the pre-CIL permission was granted on the same day as the in-CIL permission.

Y = the notional chargeable amount for **planning permission (A):**

$$\frac{R_R \times A_{R1} \times I_{p2}}{Ic} = \frac{150 \times 600 \times 318}{255} = \textbf{£ 112,235.29}$$

X = the notional chargeable amount for **planning permission (B)** calculated using the formula in paragraph 1 of schedule 1.

$$\frac{R_R \times A_{R2} \times I_{p2}}{Ic} = \frac{150 \times 900 \times 318}{255} = \textbf{£168,352.94}$$

The chargeable amount for planning permission (B) is therefore:

$$£168{,}352.94 - £112{,}235.29 = \textbf{£56,117.65}$$

Phase credits (Transitional cases only)

(Schedule 1, paragraph 8)

Developments delivered in phases often alter as the development progresses. For example, the use or scale of the development in one phase might be switched with that of another phase through a section 73 permission.

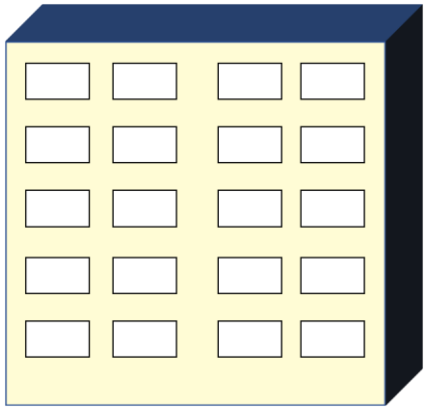
In transitional cases, ‘phased credits’ are used to ensure that levy liabilities fairly reflect the net change in liability across several phases. A phase credit can be created for the phase with the negative liability (termed the ‘donating phase’) and applied to the phase with the actual liability (the ‘receiving phase’). This ‘balances’ any liability overall.

The following example illustrates how phase credits can be created in a pre-CIL phased development and can be applied, if appropriate, to offset the levy liability of other phases of the development resulting from a section 73 planning permission.

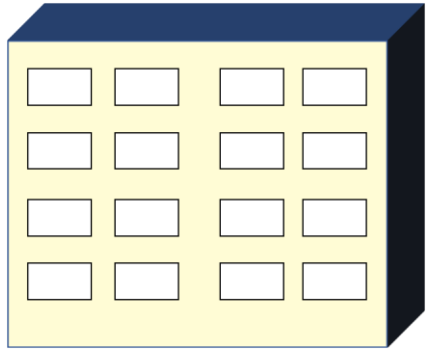
The example involves a residential development divided into 3 phases which was permitted before a charging schedule came into effect. It is subsequently amended through section 73 after a charging schedule has been introduced.

Example 10: Creating and donating a phase credit

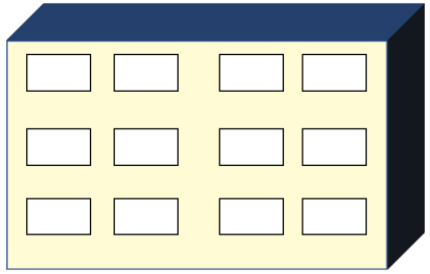
Phase 1 – 1000 square metres of residential development



Phase 2 – 800 square metres of residential development

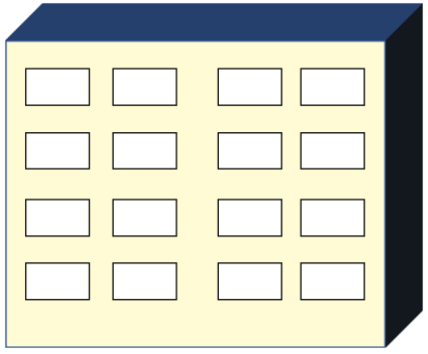


Phase 3 – 600 square metres of residential development

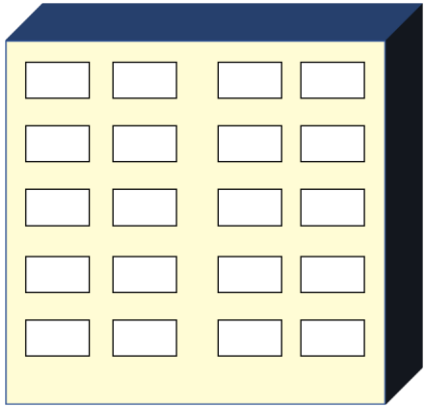


Original planning permission
(GIA = 2400 square metres)

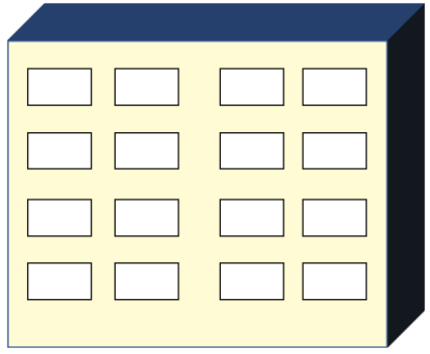
Phase 1 – 800 square metres of residential development



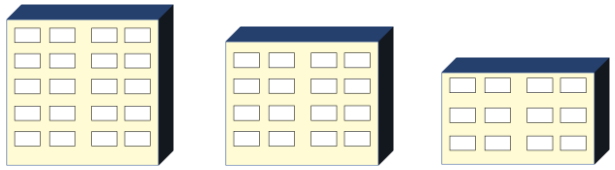
Phase 2 – 1000 square metres of residential development



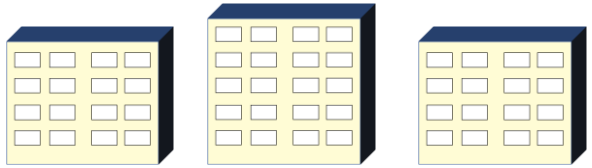
Phase 3 – 800 square metres of residential development



S73 planning permission
(GIA = 2600 square metres)



Pre-CIL planning permission (P)		
Residential rate (£ per square metre	R	N/A
Phase 1 – gross internal area (square metres)	(A_{P1})	1000
Phase 2 – gross internal area (square metres)	(A_{P2})	800
Phase 3 – gross internal area (square metres)	(A_{P3})	600
Index for year planning permission (P) was granted	(I_p)	N/A
Index for year charging schedule was adopted	(I_c)	N/A



In-CIL planning permission (B)		
Residential rate (£ per square metre	(R)	£150
Phase 1 – gross internal area (square metres)	(A_{B1})	800
Phase 2 – gross internal area (square metres)	(A_{B2})	1000
Phase 3 – gross internal area (square metres)	(AB_3)	800
Index for year planning permission (P) was granted (2019)	(I_p)	318
Index for year charging schedule was adopted (2015)	(I_c)	255

Phase 1

$$X = \frac{R \times A_{B1} \times Ip}{Ic} = \frac{150 \times 800 \times 318}{255} = \textbf{£149,647.06}$$

$$Y = \frac{R \times A_{P1} \times Ip}{Ic} = \frac{150 \times 1000 \times 318}{255} = \textbf{£187,058.82}$$

$$(X - Y) = £149{,}647.06 - £187{,}058.82 = \mathbf{-£37{,}411.76}$$

As the figure is negative, a phase credit is created from this phase ('the donating phase'). All or part of this phase credit can be applied to reduce the amount of CIL in respect of another phase (a 'receiving phase').

Phase 2

$$X = \frac{R \times A_{B2} \times Ip}{Ic} = \frac{150 \times 1000 \times 318}{255} = \textbf{£187,058.82}$$

$$Y = \frac{R \times A_{P2} \times Ip}{Ic} = \frac{150 \times 800 \times 318}{255} = \textbf{£149,647.06}$$

$$(X - Y) = £187{,}058.82 - £149{,}647.06 = \mathbf{£37{,}411.76}$$

The chargeable amount for Phase 2 is therefore **£37,411.76**. However, as there is a phase credit from Phase 1, the phase credit can be applied to Phase 2. In this case, the phase credit is the same as the chargeable amount so the levy liability for phase 2 is zero.

Pre-CIL planning permission (P)		
Residential rate (£ per square metre	R	N/A
Phase 1 – gross internal area (square metres)	(A_{P1})	1000
Phase 2 – gross internal area (square metres)	(A_{P2})	800
Phase 3 – gross internal area (square metres)	(A_{P3})	600
Index for year planning permission (P) was granted	(I_p)	N/A
Index for year charging schedule was adopted	(I_c)	N/A

In-CIL planning permission (B)		
Residential rate (£ per square metre	(R)	£150
Phase 1 – gross internal area (square metres)	(A_{B1})	800
Phase 2 – gross internal area (square metres)	(A_{B2})	1000
Phase 3 – gross internal area (square metres)	(AB_3)	800
Index for year planning permission (P) was granted (2019)	(I_p)	318
Index for year charging schedule was adopted (2015)	(I_c)	255

Phase 3

$$X = \frac{R \times A_{B3} \times Ip}{Ic} = \frac{150 \times 800 \times 318}{255} = \textbf{£149,647.06}$$

$$Y = \frac{R \times A_{P3} \times Ip}{Ic} = \frac{150 \times 600 \times 318}{255} = \textbf{£112,235.29}$$

$$(X - Y) = £149{,}647.06 - £112{,}235.29 = \mathbf{£37{,}411.76}$$

The chargeable amount for Phase 3 is therefore £ $\mathbf{37,411.76}$. If there had been any remaining phase credit from Phase 1, that amount could have been applied to Phase 3 to offset some or all of the liability.

Annex

Explaining how the value E_x apportions demolition across phases in standard in-CIL phased developments

(Schedule 1, Part 1)

The following two examples illustrate how the term E_x applies to the second and subsequent phases of a phased planning permission.

$$E_X = EP - (GP - KPR)$$

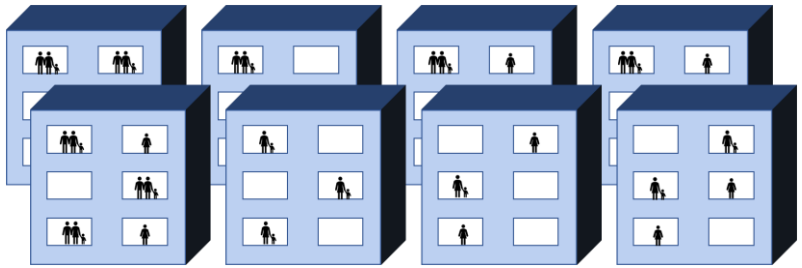
where—

E_P = the value of E for the previously commenced phase;

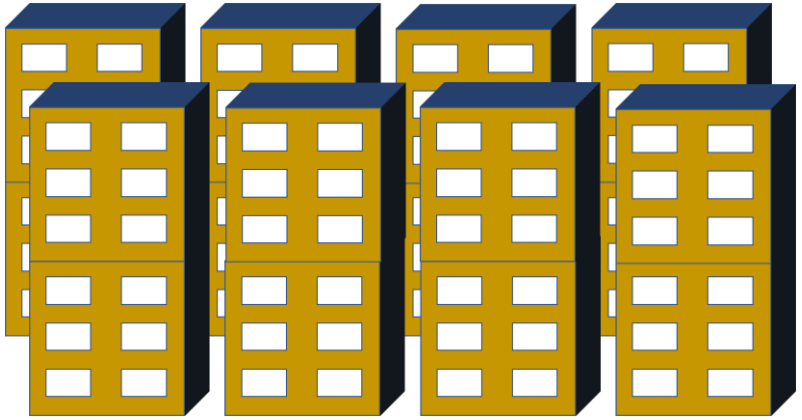
G_P = the value of G for the previously commenced phase; and

K_{PR} = the total of the values of K_R for the previously commenced phase.

Example 11a. Planning permission granted in 2017 to demolish 8,000 square metres of in-use residential development

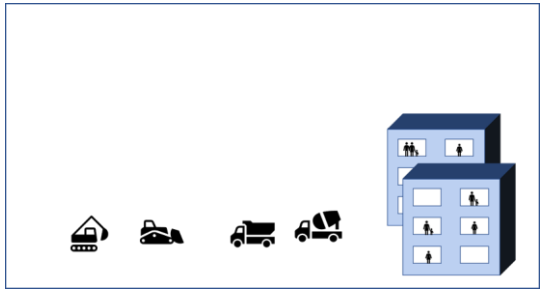


…. and replace with 16,000 square metres of residential development

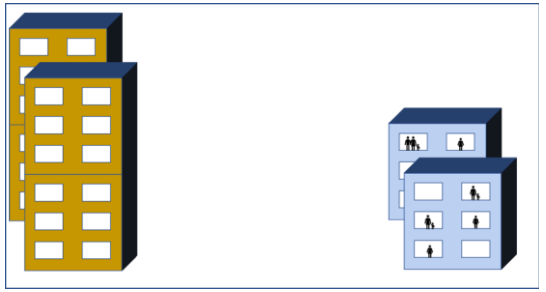


… in three phases

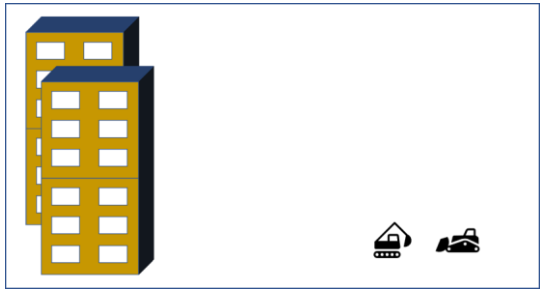
Phase 1 – demolish 6 blocks
(6,000 square metres demolished)



and build 2 blocks
(4,000 square metres built)

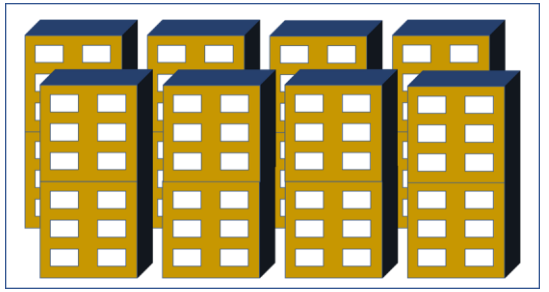


Phase 2 – demolish 2 remaining blocks
(2,000 square metres demolished)



and build 4 blocks
(8,000 square metres built)

Phase 3 – build remaining 2 blocks
(4,000 square metres built)



Example 11a: Planning permission granted in 2017 to demolish 8000 square metres of in-use residential development and replace with 16,000 square metres of residential development. (Each phase is a separate chargeable development)

Phase 1: Demolition of 6,000 square metres of in-use residential development. Construction of 4,000 square metres of residential development.

$$\text{Net } Area\ (A) = G_R - K_R - \left(\frac{G_R \times E}{G}\right)$$

$$= 4000 - 0 - \left(\frac{4000 \times 6000}{4000}\right)$$

$$= 4000 - 0 - 6000$$

$$\therefore Net\ Area = -2000\ square\ metres$$

Chargeable amount = $\frac{R \times A \times Ip}{Ic}$

$$= \frac{150 \times -2000 \times 286}{255}$$

= -**£336,470.60**
(Deemed to be zero)

Phase 2: Demolition of 2,000 square metres of in-use residential development. Construction of 8,000 square metres of residential development.

$$Net\ Area = G_R - K_R - \left(\frac{G_R \times E}{G}\right)$$

$$E = E + E_x$$

where:

$$E_x = E_P - (G_P - K_{PR})$$

= 6000 – (4000 – 0)

= 2000

$\therefore$ E = 2000 + 2000 = 4000

$$\therefore Net\ Area = 8000 - 0 - \left(\frac{8000 \times 4000}{8000}\right)$$

$$= 8000 - 0 - 4000$$

= 4000 square metres

Chargeable amount = $\frac{R \times A \times Ip}{Ic}$

$$= \frac{150 \times 4000 \times 286}{255}$$

= **£ £672,941.18**

Phase 3: Construction of 4,000 square metres of residential development.

$$Net\ Area = G_R - K_R - \left(\frac{G_R \times E}{G}\right)$$

$$E = E + Ex$$

where:

$$E_x = E_P - (G_P - K_{PR})$$

= 4000 – (8000 – 0)

= - 4000 (deemed to be zero)

$$\therefore E = 0 + 0 = 0$$

$$\therefore Net\ Area = 4000 - 0 - \left(\frac{4000 \times 0}{4000}\right)$$

$$= 4000 - 0 - 0$$

= 4000 square metres

Chargeable amount = $\frac{R \times A \times Ip}{Ic}$

$$= \frac{150 \times 4000 \times 286}{255}$$

= **£672,941.18**

Different phased scenario where more construction than demolition in earlier phases

The following two examples illustrate how the term E_x applies to the second and subsequent phases of a phased planning permission.

$E_X = EP - (GP - KPR)$

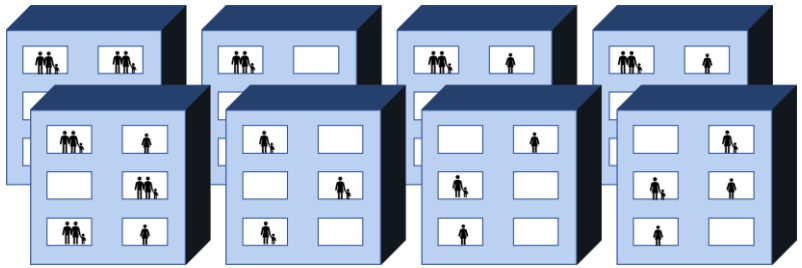
where—

E_P = the value of E for the previously commenced phase;

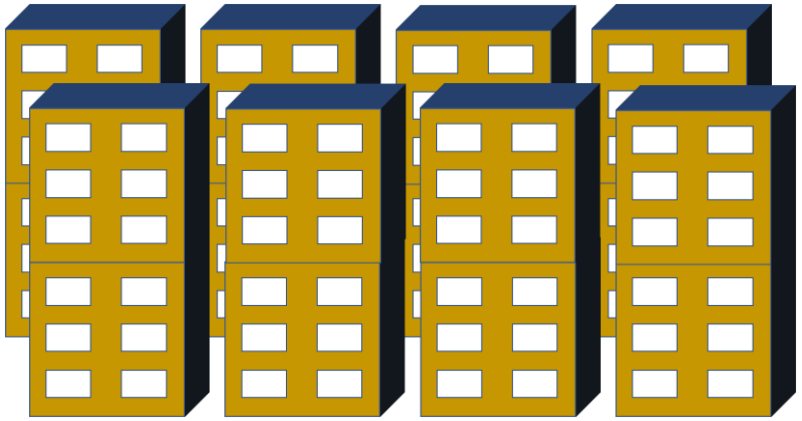
G_P = the value of G for the previously commenced phase; and

K_{PR} = the total of the values of KR for the previously commenced phase.

Example 11b. Planning permission granted in <u>2017</u> to demolish 8,000 square metres of in-use residential development

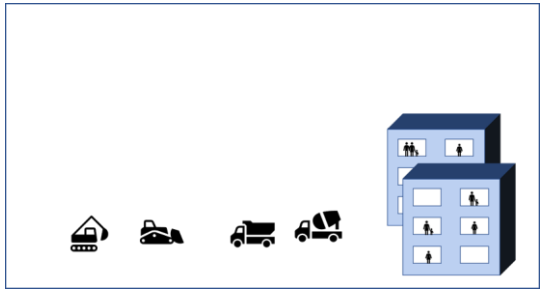


…. and replace with 16,000 square metres of residential development

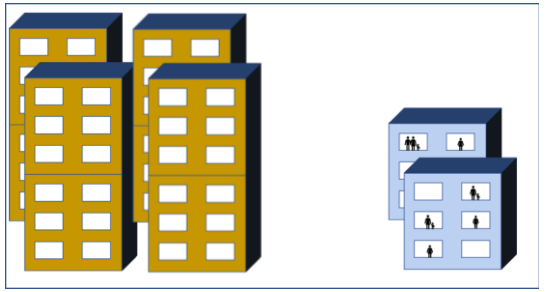


… in three phases

Phase 1 – demolish 6 blocks
(6,000 square metres demolished)



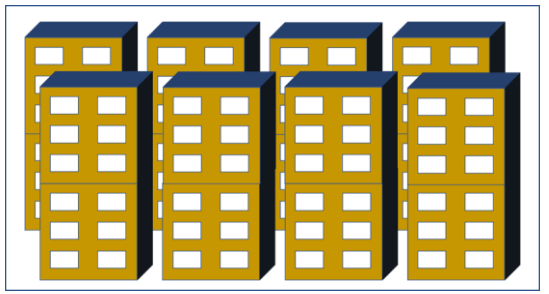
and build 4 blocks
(8,000 square metres built)



Phase 2 – demolish 2 remaining blocks
(2,000 square metres demolished)

and build 2 blocks
(4,000 square metres built)

Phase 3 – build remaining 2 blocks
(4,000 square metres built)



Example 11b. Planning permission granted in 2017 to demolish 8000 square metres of in-use residential development and replace with 16,000 square metres of residential development

Phase 1: Demolition of 6,000 square metres of in-use residential development. Construction of 8,000 square metres of residential development.

$$\text{Net } Area = G_R - K_R - \left(\frac{G_R \times E}{G}\right)$$

$$= 8000 - 0 - \left(\frac{8000 \times 6000}{8000}\right)$$

$$= 8000 - 0 - 6000$$

$$= 2000 \text{ square metres}$$

$$\text{Chargeable amount} = \frac{R \times A \times Ip}{Ic}$$

$$= \frac{150 \times 2000 \times 286}{255}$$

= **£336,470.60**

Phase 2: Demolition of 2,000 square metres of in-use residential development. Construction of 4,000 square metres of residential development.

$$Net\ Area = G_R - K_R - \left(\frac{G_R \times E}{G}\right)$$

$$E = E + E_x$$

where:

$$E_x = E_P - (G_P - K_{PR})$$

$$= 6000 - (8000 - 0)$$

$$= -2000 \text{ (deemed to be zero)}$$

$$\therefore E = 2000 + 0 = 2000$$

$$\therefore Net\ Area = 4000 - 0 - \left(\frac{4000 \times 2000}{4000}\right)$$

$$= 4000 - 0 - 2000$$

$$= 2000 \text{ square metres}$$

$$\text{Chargeable amount} = \frac{R \times A \times Ip}{Ic}$$

$$= \frac{150 \times 2000 \times 286}{255}$$

= **£336,470.60**

Phase 3: Construction of 4,000 square metres of residential development.

$$Net\ Area = G_R - K_R - \left(\frac{G_R \times E}{G}\right)$$

$$E = E + Ex$$

where:

$$E_x = E_P - (G_P - K_{PR})$$

$$= 2000 - (4000 - 0)$$

$$= -2000 \text{ (deemed to be zero)}$$

$$\therefore E = 0 + 0 = 0$$

$$\therefore Net\ Area = 4000 - 0 - \left(\frac{4000 \times 0}{4000}\right)$$

$$= 4000 - 0 - 0$$

$$= 4000 \text{ square metres}$$

$$\text{Chargeable amount} = \frac{R \times A \times Ip}{Ic}$$

$$= \frac{150 \times 4000 \times 286}{255}$$

= **£672,941.18**