

Report of:	Head of Economic Development
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Key Decision:	Yes
Report Track:	Council: 12/08/15

COUNCIL**12 AUGUST 2015****CANNOCK CHASE COMMUNITY INFRASTRUCTURE LEVY (CIL) GUIDANCE AMENDMENTS, EXCEPTIONAL RELIEF AND PAYMENTS IN KIND PROTOCOL****1 Purpose of Report**

- 1.1 To consider and approve amendments to the adopted Community Infrastructure Levy (CIL) Guidance for Landowners and Developers (2014).
- 1.2 To approve formal introduction of an exceptional circumstances relief policy and payments in kind policy.
- 1.3 To consider and approve a protocol for determining whether or not to grant exceptional relief from CIL and accepting payments in kind where requested by a landowner/developer.

2 Recommendations

- 2.1 That the proposed amendments, as set out in this report, to the CIL Guidance for Landowners and Developers (2014) be adopted.
- 2.2 That the proposed exceptional circumstances relief policy and payments in kind (of infrastructure) policy take effect from 1st October 2015 and a protocol for determining whether or not to grant exceptional relief from CIL and accepting payments in kind where requested on a case by case basis by a landowner/developer be agreed.
- 2.3 That the Head of Finance and the Head of Economic Development be delegated authority to jointly make decisions on whether or not to offer exceptional relief from CIL and accept payments in kind on a case by case basis, in consultation with the Portfolio Holder for Resources.

3 Key Issues and Reasons for Recommendation

- 3.1 The Council approved the CIL Charging Schedule and Regulation 123 List of infrastructure projects eligible to receive funding in the first year of operation of CIL at its meeting on 15/04/2015. CIL came into effect in relation to relevant chargeable development on 01/06/2015. The approved Charging Schedule refers to the fact that the Council proposes to introduce a process for giving relief from CIL in exceptional circumstances. It also states that the Council will consider accepting payments in kind on a site by site basis i.e. accepting land or items of infrastructure as payment for the whole or part of the levy. The Council was informed of the publication of a 'CIL Guidance for Landowners and Developers' (hereafter referred to as the Guidance) at this meeting in order to support the implementation of CIL.
- 3.2 Sections 9.3, 9.5 and 11 of this Guidance refer to the Council's enforcement approach when dealing with late payments, non-payments and non-compliance with the CIL procedures. The Guidance currently states that the Council 'may' impose surcharges for these transgressions. It is now considered that this should be amended to clarify that the Council 'will' impose surcharges so that there is a clear, consistent approach. This approach has been advised by Internal Audit and should help ensure full compliance by landowners and developers with the CIL procedures by acting as a clear deterrent.
- 3.3 Section 7 of the Guidance sets out the process for applying for 'discretionary relief for exceptional circumstances', whereby landowners and developers can make an application not to pay CIL charges if they are already committed to significant planning obligations via a Section 106 agreement. It also sets out the conditions under which the Council may grant such relief. These applications will be considered on a case by case basis and this report seeks authority for the Heads of Finance and Economic Development to consider and determine such applications, in consultation with the Portfolio Holder for Resources. This will ensure that the applications are considered in accordance with national legislative requirements. The Council's proposal to offer discretionary relief for exceptional circumstances will be advertised in accordance with regulation 56 of the Community Infrastructure Levy (England and Wales) Regulations 2010 (as amended) (the CIL Regulations,)to take effect from the 1st October 2015.
- 3.4 Section 10 of the Guidance sets out the circumstances under which payments in kind (of land or infrastructure) will be considered by the Council on a site by site basis. The Council's proposal to accept payments in kind will be advertised in accordance with regulation 73B of the Community Infrastructure Levy (England and Wales) Regulations 2010 (as amended) (the CIL Regulations,)to take effect from the 1st October 2015.

4 Relationship to Corporate Priorities

4.1 This report supports the Council's Corporate Priorities as follows:

Environment and Planning

- Increase the economic, social and environmental prosperity of the District through delivery of sustainable development.
- Improve town centres through regeneration and management.

Active and Healthy Lifestyles

- Provide accessible leisure and cultural facilities.
- Encourage investment in sporting and cultural facilities.

Improved Living Environment

- Improve countryside site provision.

5 Report Detail

5.1 The CIL Regulations 80-88 (2010, as amended) allow Council's to impose surcharges and interest on the relevant landowners and developers for failing to assume liability for CIL charges; late payments of CIL charges; and failing to notify the Council of the commencement of a development. CIL Regulations 89-94 (2010, as amended) allow Council's to issue 'stop notices' for developments which have commenced without paying their CIL charges. These measures are all discretionary but they have been adopted by many other CIL charging authorities so that there is a clear enforcement procedure in place.

5.2 Sections 9.3, 9.5 and 11 of the Guidance set out the Council's enforcement approach, which is in line with the relevant CIL regulations set out above. The Guidance currently states that the Council 'may' impose surcharges and 'may' issue stop notices for transgressions. It is now considered that this should be amended to clarify that the Council 'will' impose surcharges so that there is a clear, consistent approach and no room for discretion. This should help ensure full compliance by landowners and developers with the CIL procedures by acting as a clear deterrent.

5.3 An amended version of the Guidance is attached to this report. It is recommended that the amended Guidance be adopted by the Council to ensure that the enforcement procedures are clear for all stakeholders involved in the process and to act as a clear deterrent from non-compliance.

5.4 The CIL Regulations 55 to 57 allow Council's to offer 'discretionary relief for exceptional circumstances' and sets out the procedure to be followed if they do so. The Council has opted to allow landowners and developers to apply for such relief where required. The Council's proposal to offer discretionary relief for exceptional circumstances will be advertised in accordance with the CIL Regulations, to take effect from the 1st October 2015. Section 7 of the Guidance

sets out that the Council may only grant relief from payment of a developments' CIL charge where a planning obligation under S106 of the Town and Country Planning Act 1990 has been entered into and the Council –

- a. considers that to require payment of the CIL charge would have an unacceptable impact on the economic viability of the development and
 - b. is satisfied that to grant relief would not constitute a State aid which is required to be notified to and approved by the European Commission.
- 5.5 The CIL charge is non-negotiable in most cases and applicants can only apply for exceptional circumstances relief where they have already entered into a S106 agreement and have produced robust evidence to show that to pay the CIL charge in addition would have an unacceptable impact on the economic viability of the development. The payment of CIL is not necessary in order to make a development acceptable in planning terms, unlike a planning obligation. Therefore the decision as to whether a landowner or developer is offered exceptional relief is one purely based upon the financial viability of a development scheme. There are no planning merits as such to consider. Therefore the process of making judgements on applications for exceptional circumstances relief is not a function within the remit of the Planning Control Committee. It is proposed that these applications be considered and determined on a case by case basis jointly by the Heads of Finance and Economic Development, in consultation with the Portfolio Holder for Resources.
- 5.6 The decision as to whether a landowner or developer is offered exceptional relief will be based upon the findings of a financial viability assessment which the applicant will have to provide, and these will be independently checked in order to inform the Council's decision. This process will ensure that the applications are considered in accordance with national legislative requirements.
- 5.7 CIL Regulations 73-74 allow Council's to consider and accept payments in kind of land or infrastructure and set out the stipulations for such transactions. The Council has opted to consider accepting payments in kind on a site by site basis. The Council's proposal to accept payments in kind will be advertised in accordance with the CIL Regulations, to take effect from the 1st October 2015 (the Council is required to formally give notice of its willingness to accept payments of infrastructure in kind). Section 10 of the Guidance sets out the circumstances under which the Council will consider payments in kind. Any land offered in kind must be used to provide or facilitate the provision of infrastructure and the value of the land should be independently verified. In the case of infrastructure offered in kind, the Council must ensure that the items are deliverable by the developer having sufficient control over the land and having obtained the relevant statutory authorisations to enable the works to be carried out.
- 5.8 Any land to provide infrastructure, or any infrastructure provided must not be necessary to make the development acceptable in planning terms i.e. it must not be infrastructure which would normally be the subject of a S106 agreement. It should be infrastructure identified in the Regulation 123 list or a separate list of relevant infrastructure to be delivered in this way. Therefore there are no

planning merits as such to consider and the process of making judgements on applications for payments in kind is not a function within the remit of the Planning Control Committee. It is proposed that these applications be considered and determined on a case by case basis jointly by the Heads of Finance and Economic Development, in consultation with the Portfolio Holder for Resources.

6 Implications

6.1 Financial

As referred to in para 2.3 of the report, the Head of Finance and the Head of Economic Development will have delegated authority to jointly make decisions on whether or not to offer exceptional relief from CIL on a case by case basis, in consultation with the Portfolio Holder for Resources.

This will only apply in circumstances where the applicant has already entered into a S106 agreement and has produced robust evidence to show that to pay the CIL charge in addition would have an unacceptable impact on the economic viability of the development.

The financial impact of granting “exceptional Relief” is to reduce the level of CIL receipts that the Council has available to fund future Projects.

As referred to in para 3.2 the tightening up of the “*Enforcement Procedures for Non Compliance*” will ensure that the Council recoups its costs in cases of late payments, non-payments and non-compliance with the CIL procedures. In cases of late payment, any surcharges imposed or interest received will be available to increase the funds available to fund future Projects.

6.2 Legal

Legal implications are set out in the report.

6.3 Human Resources

None

6.4 Section 17 (Crime Prevention)

None

6.5 Human Rights Act

None

6.6 Data Protection

None

6.7 Risk Management

Having a clear enforcement procedure in place reduces the risk of non-compliance by acting as a deterrent. It also ensures the Council recoups costs of enforcement proceedings and late payments via surcharges and interest payments.

6.8 Equality & Diversity

None

6.9 Best Value

None

7 Appendices to the Report

Appendix 1	CIL Guidance for Landowners and Developers (amended)
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Previous Consideration

Council	15/04/2015
Cabinet	17/07/2014 and 21/11/2013

Background Papers

Planning Act 2008
Community Infrastructure Levy Regulations 2010,2011, 2012, 2014
DCLG National Planning Procedure Guidance on CIL and S106
Cannock Chase Local Plan June 2014
Cannock Chase Community Infrastructure Levy Charging Schedule June 2015

CANNOCK CHASE COUNCIL
COMMUNITY INFRASTRUCTURE LEVY (CIL)
GUIDANCE FOR APPLICANTS & DEVELOPERS

JULY 2015

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1. Introduction

- 1.1 The Community Infrastructure Levy (CIL) is a tax that local authorities can charge on types of development in their area in order to fund infrastructure required to support the housing and commercial growth proposals identified in an up to date Local Plan. Cannock Chase Council adopted its Local Plan on 11th June 2014. The plan covers the period 2006 to 2028. CIL can only be introduced following an independent examination.
- 1.2 The Council's CIL Charging Schedule was approved by the Inspector on 10/02/2015 following submission for examination on 31/10/2014. The Council at its meeting on 15/04/2015 agreed to commence introduction of charging on 1st June 2015.
- 1.3 The charge will only apply to new floorspace resulting from most types of residential development, including in some cases change of use to residential, and some major retail developments. It will not apply to other forms of built development including offices, industry, warehousing and leisure uses.
- 1.4 This guide provides details of the charges, advice on how the system of calculating and collecting CIL will operate, the types of development which are exempt nationally, the circumstances where relief from the charges may be available and enforcement provisions.
- 1.5 The statutory instruments which govern the processes and the latest guidance from the Department for Communities & Local Government are listed at section 14 below.

2. Purposes for which CIL funds will be used and relationship with S106 Planning Obligations

- 2.1 CIL receipts can be used for the provision, improvement, replacement, operation or maintenance of infrastructure. Infrastructure is defined in the Regulations as including roads and other transport facilities, flood defences, schools and other education facilities, medical facilities, sporting and recreational facilities and open spaces. This list is not meant to be exhaustive.
- 2.2 Details of the infrastructure required to deliver the policies and proposals in the Local Plan is contained in the Infrastructure Delivery Plan (IDP) last updated in May 2014. This can be found at

http://www.cannockchasedc.gov.uk/downloads/file/4894/infrastructure_delivery_plan_may_2014_update.

Projects in the IDP which need funding from CIL are identified in the Regulation 123 list which can be found at

www.cannockchasedc.gov.uk/downloads/file/4892/cil_draft_charging_schedule_august_2014.

This will be updated regularly as projects are delivered and other priorities for funding come forward.

- 2.3 The Council will continue to use planning obligations (S106 of the Town & Country Planning Act 1990) to secure infrastructure which is essential to enable major developments to take place and also for delivery of affordable housing. The detailed policy context for making decisions on the circumstances when CIL funds or S106 obligations will be used to deliver infrastructure is set out in the Developer Contributions & Affordable Housing Supplementary Planning Document, elaborating the relevant adopted Local Plan Policies CP2 Developer Contributions for Infrastructure, CP5 Social Inclusion & Healthy Living, CP7 Housing Choice, CP10 Sustainable Transport, CP13 Cannock Chase Special Area of Conservation. The Cannock Chase Local Plan - Local Plan (Part 1) 2014 can be read at

www.cannockchasedc.gov.uk/downloads/file/4746/cannock_chase_local_plan_part_1_2014

- 2.4 In Parished areas of the District (Rugeley, Brereton & Ravenhill, Cannock Wood, Brindley Heath, Hednesford, Heath Hayes & Wimblebury, Bridgtown and Norton Canes) 15% of CIL receipts collected from developments taking place in those areas, with a cap of £100 per existing dwelling per year, are payable to the respective Parish/Town Councils. The percentage increases to 25% with no cap if the Parish has adopted a Neighbourhood Plan. These funds can be spent not just on infrastructure but anything else which is concerned with addressing the demands development places on the area. The following Wards are not parished – Cannock North, Cannock East and Cannock West. Parts of Cannock South Ward (outside Bridgtown Parish) and Rawnsley Ward (outside Cannock Wood Parish) are also not parished. In these areas 15% of receipts can also be spent by the District Council on this broader range of matters.
- 2.5 In addition to the CIL Charging Schedule (see section 3 below) and the Regulation 123 list of projects, the Council will publish an Annual CIL Monitoring Report setting out what funds have been collected, what has been spent, what has been passed to Parishes or other infrastructure providers, e.g. Staffordshire County Council in relation to education and transport projects, and what has been retained in order to accumulate sufficient funds to deliver future projects.

3. The Cannock Chase CIL Charging Schedule

- 3.1 The CIL Charging Schedule sets out the rates which will apply to development within Cannock Chase District for which planning permission is granted on or after 1st June 2015.

Use Class	CIL rate - £ per sq. metre
C3 – Residential excluding specialist housing for the elderly	£40
A1 – Out of centre retail park development & supermarkets of 278 sq. metres sales area or larger only	£60
A1 – A5 – All other retail, financial and professional services and food and drink uses	£nil

B1a – Offices	£nil
B1b/B1c, B2 & B8 Industry, Storage & Distribution	£nil
C1, C2, C4 – Hotels, residential institutions, houses in multiple occupation	£nil
D1, D2 – Non-residential institutions, assembly and leisure	£nil
All other buildings	£nil

3.2 The charge for residential development applies to the creation of one or more dwellings, either by new build or change of use where in the latter case the floorspace has not been in use for 6 months of the previous 3 years on the day planning permission is granted.

3.3 Examples of when developments will or will not be liable to pay CIL –

- Planning permission is granted before 01/06/2015 – no CIL liability.
- Outline planning permission granted before 01/06/2015 but reserved matters not approved before that date – no CIL liability.
- Full planning permission granted before 01/06/2015 but pre-commencement conditions not approved before that date – no CIL liability.
- Resolution to grant planning permission subject to planning obligation (S106) made before 01/06/2015 but obligation not completed and permission not issued until on or after that date – yes liable to pay CIL.
- Planning permission refused before 01/06/2015 but granted on appeal on or after that date – yes liable to pay CIL.

3.4 Where CIL liable development is approved in outline on or after 01/06/2015 the liability to pay arises at the time when reserved matters approval is issued.

4. Calculation of CIL Liability

4.1 CIL is charged on the basis of £s per square metre of additional gross internal floorspace, net of demolitions and net of any retained buildings or parts of buildings as defined in paragraphs 4.3 and 4.4 below. It is payable on all new dwellings, excluding specialist housing for the elderly (see table at 3.1 above) affordable housing and self-build housing (see section 6 below on how to claim exemptions), no matter what size they are and on the types of retail developments at or above the floorspace size specified in the above table where the proposed additional development is 100 square metres or more.

4.2 CIL will apply to all such buildings regardless of the way planning permission is obtained, whether from the Local Planning Authority, on appeal or “call in” from the Secretary of State or by the terms of a Development Order e.g. Permitted Development rights under the General Permitted Development Order 1995 (as amended), a Local Development Order or a Neighbourhood Development Order.

- 4.3 Demolitions – The gross internal areas of buildings, parts of which have been in lawful use for a continuous period of at least 6 months within a period of 3 years ending on the date planning permission is granted for chargeable development and which are to be demolished, is deducted from the chargeable amount.
- 4.4 Retained parts of in-use buildings – Where the lawful use is not proposed to change or a use is able to be carried out lawfully and permanently without the need for a further planning permission on the day before planning permission is granted for chargeable development, this floorspace is not chargeable.

5. Developments exempt from CIL

- 5.1 Within Cannock Chase District only new dwellings, excluding specialist housing for the elderly, and retail developments as described in section 3 above are liable to pay CIL. All other types of development e.g. restaurants, pubs, takeaways, industrial, storage and distribution, offices, schools, residential institutions, hotels, cinemas, leisure centres are zero rated so pay no CIL.

- 5.2 The following exemptions apply nationally –

- Any floorspace created which is less than 100 square metres unless the development comprises one or more new dwellings.
- Residential annexes and extensions within the curtilage of an existing dwelling.
- Self-build housing to be occupied as the sole or main residence of the people on whose behalf it is being built, but with clawback provisions see section 6.5 below for details of the process of how to claim this exemption.
- Any development where the total chargeable amount is less than £50 (this is deemed to be zero rated).
- Retail mezzanine floors.
- Structures or buildings that people only enter for the purpose of inspecting or maintaining fixed plant or machinery.
- Any floorspace where the headroom is less than 1.5 metres unless under a stairway.

- 5.3 A detailed definition of how to calculate floorspace produced by the Royal Institute of Chartered Surveyors (RICS) is set out at Appendix B.

6. Availability of social housing relief, charitable relief and self-build exemption from CIL

- 6.1 Mandatory relief from CIL is available in the circumstances described below. In all cases claims for relief cannot be made after the development has commenced and are void if development commences and no Commencement Notice has been provided. In these circumstances the Council will issue the Liability and Demand Notices specifying the full CIL liability.
- 6.2 In each case the claim for relief must be made on the appropriate form and the person making the claim must have assumed liability to pay CIL and be an owner of the land.
- 6.3 Social housing relief – This is available where a private registered provider of social housing, a registered social landlord or a local housing authority is building qualifying dwellings to rent or for shared ownership. More details on what are qualifying dwellings is contained in the guidance notes produced by the Planning Portal. Planning Portal Form 2: Claiming Exemption or Relief needs to be completed (see section 13 below). If dwellings cease to be qualifying dwellings within 7 years, the relief is disqualified and the outstanding CIL must be paid.
- 6.4 Exemption for charities – This applies where chargeable development is to be carried out by a charitable institution and will be used wholly or mainly for charitable purposes. The appropriate form is also Planning Portal Form 2. Again if the development ceases to be used for charitable purposes within 7 years, the relief is disqualified and the outstanding CIL must be paid.
- 6.5 Self-build exemption - This applies where a dwelling is built by a person or on behalf of a person to be occupied as that person's sole or main residence. A claim for exemption must be made to the Council before commencement of the development using the Self Build Exemption Claim Form: Part 1 followed by Part 2 within 6 months of completion (see section 13 below). The property must be occupied by the claimant as their sole or main residence for a period of 3 years from completion otherwise CIL will become payable. There is a separate self-build exemption form for annexes and extensions, but in any event extensions of less than 100 square metres are exempt without the need to complete a form.

7. Discretionary Relief for Exceptional Circumstances

- 7.1 Exceptional circumstances - The Council proposes to operate a process of giving discretionary relief in exceptional circumstances from liability to pay CIL in respect of chargeable development in accordance with the requirements of Regulations 55 to 57 of the 2010 Regulations (as amended). Relief may only be granted where a planning obligation under S106 of the Town and Country Planning Act 1990 has been entered into and the Council –
- a considers that to require payment of the CIL charge would have an unacceptable impact on the economic viability of the development and
 - b is satisfied that to grant relief would not constitute a State aid which is required to be notified to and approved by the European Commission.

- 7.2 Information on the reasons for seeking relief must be set out on Form 2; Claiming Exemption or Relief. You are strongly advised to contact the relevant Council officers who are dealing with the planning application and S106 agreement before completing the form.

8. Calculating the CIL charge

- 8.1 CIL charge = Net additional new build gross internal floorspace (A) x CIL rate (R) x Inflation index (I).

- 8.2 Where:

A = The gross internal new build floorspace in square metres net of any demolitions.

R = The relevant levy rate set out in section 3 above.

I = The all-in tender price index of construction costs in the year planning permission was granted, divided by the all-in tender price index for The year the Charging Schedule took effect.

- 8.3 CIL payments are not subject to VAT.

9. Planning application and CIL processes

- 9.1 All full planning applications involving construction of new floorspace in chargeable development categories and in some cases those involving change of use to dwellings must provide sufficient information to allow the Council to determine the amount of the charge. Where an outline application is submitted which does not specify the floorspace of the proposed buildings, the information must be submitted at the reserved matters stage. A Planning Portal CIL Additional Information Requirements Form must be submitted with the appropriate applications (see section 13 below). Failure to submit this information will mean that the application will not be validated until the information is supplied.

- 9.2 Assumption of liability – The responsibility to pay CIL lies with the landowner(s). However the developer may assume liability. It is the responsibility of the person(s) who will pay CIL to serve an Assumption of Liability Notice (Planning Portal CIL Form 1) on the Council prior to the commencement of development. The Council recommends that this be done during the planning application process. Liability may be transferred at any time before a development commences by completion of CIL Form 3, Transfer of Liability, and CIL Form 4, Withdrawal of Liability (see section 13 below).

- 9.3 Where no one has assumed liability prior to commencement, this automatically defaults to the landowner(s). Failure by any parties to assume liability before commencement will mean that payments become due immediately and the instalments policy set out below will not apply. In addition a surcharge of £50 will be imposed and where the Council has to apportion liability between more than one owner a further surcharge of £500 per owner will be imposed.

- 9.4 Liability Notice – When planning permission is granted for CIL liable development, the Council will issue a Liability Notice with the Planning Decision Notice. The Liability Notice will specify the amount to be paid and when payment is due. It will be sent to the applicant/owner or other parties who have assumed liability and copied to any agent working on the applicant’s behalf. No payment is due at this stage.
- 9.5 Commencement Notice – Prior to the development commencing, the Council must be served with a Commencement Notice (Planning Portal CIL Form 6) stating the date when the development will commence. Failure to submit a valid Commencement Notice before development commences will result in the Council imposing a surcharge of 20% of the amount due, up to a maximum of £2,500. In addition payments will not be allowed to be made by instalments and the full amount will be payable immediately.
- 9.6 Demand Notice – The Council will serve a Demand Notice following receipt of a Commencement Notice or a decision made by the Council to deem that development has commenced. The Demand Notice will set out precise details of payment arrangements, including instalment options.
- 9.7 If a valid Commencement Notice has not been submitted before development commences, payment will be due in full on the day that the Council believes the development to have commenced.
- 9.8 If a development takes place in phases, each phase is a separate chargeable development and the payments can be made in line with the instalments policy.

Total CIL Liability	Number of Instalments	Payment period and amount
Amount less than £25,000	No instalments	100% payable within 60 days of commencement date
Amounts between £25,001 and £100,000	2 instalments	1 st instalment – 25% payable within 60 days of commencement date 2 nd instalment – 75% payable within 240 days of commencement date
Amounts between £100,001 and £500,000	3 instalments	1 st instalment – 25% payable within 60 days of commencement date 2 nd instalment – 25% payable within 240 days of commencement date 3 rd instalment – 50% payable within 365 days of commencement date But the full balance is payable on completion of the development if this occurs before any of the due instalment dates
Amounts between £500,001 and £1,000,000	4 instalments	1 st instalment – 20% payable within 60 days of commencement date 2 nd instalment – 20% payable within 240 days of commencement date

		3 rd instalment – 30% payable within 365 days of commencement date 4 th instalment – 30% payable within 540 days of commencement date But the full balance is payable on completion of the development if this occurs before any of the due instalment dates
Amounts over £1,000,000	4 instalments	Negotiated on a case by case basis

9.9 The flow chart at Appendix A provides a summary of the normal process.

10. Alternatives to payment as a monetary sum

10.1 There may be circumstances where the Council will wish to enter into an agreement with a person liable for the levy, to accept land and/or infrastructure as an alternative to cash payments to support development of its area.

10.2 In the case of payment in land, the Council must aim to ensure that the acquired land is used to provide or facilitate the provision of infrastructure. The value of the land must be determined by an independent person on the basis of what price the land might reasonably be expected to obtain if sold on the open market at the same time as the proposed acquisition.

10.3 In the case of payment in infrastructure, the Council must ensure that the items of infrastructure are deliverable by the developer having sufficient control over the land and having obtained the relevant statutory authorisations to enable the works to be carried out. The infrastructure must be identified in either the Regulation 123 list or a separate list of relevant infrastructure identified to be delivered in this way. The infrastructure to be provided must also not be necessary to make the development granted permission by the relevant planning permission acceptable in planning terms i.e. it must not be infrastructure which would normally be the subject of a S106 agreement which would need to meet the tests in Regulation 122 of the CIL Regulations 2010 (as amended).

10.4 Agreements of this nature will be specific to the circumstances of the case and there is no standard application form.

11. Enforcement

11.1 Late payment interest - Failure to pay CIL on time will result in the imposition of late payment interest by the Council at 2.5% above Bank of England base rate.

11.2 Late payment surcharge – Continued failure to pay will result in the Council imposing one or more late payment surcharges as follows –

- 5% of the outstanding amount where payment is still overdue after 30 days subject to a £200 minimum.
 - A further 5% of the outstanding amount where payment is still overdue after 6 months, subject to a £200 minimum.
- 11.3 CIL Stop Notice – If the Council considers that interest and late payment surcharges will not be effective in securing overdue payments, it is empowered to serve a CIL Stop Notice to prohibit development from continuing until payment is made. Continuing to develop after such a notice has been issued is a criminal offence, potentially punishable by unlimited fines.
- 11.4 Before serving a CIL Stop Notice the Council will first issue a warning to all those who could be affected by the notice and will also post a warning notice on the site itself. The warning will set out the amount overdue and the date on which a CIL Stop Notice will be served if payment is not made.
- 11.5 Distrain on Goods (Asset Seizure) – The Council is empowered to seek a Court’s consent to seize and sell assets to recover the debt owing. These assets may include land. The Council will give notice of its intention to do this.
- 11.6 Committal to prison – Where a liable party continues to fail to pay CIL the Council can ask a Magistrate’s Court to commit the relevant person(s) to prison for up to three months. To do this the Council must be able to demonstrate to the Court that it has been unable to recover the amount due by seizing and selling assets.

12. Reviews and Appeals

- 12.1 Once a CIL Charging Schedule is adopted, the rate of the levy is non-negotiable, except where an application for discretionary relief for exceptional circumstances is made as described in paragraph 6.3 above.
- 12.2 The process allows a liable person to request a review of the chargeable amount which must be done within 28 days from the date on which the Liability Notice has been issued. **The purpose of this is solely to enable the Council to review the calculation for accuracy.** A decision must be issued within 14 days.
- 12.3 Appeals must be made using the forms published by the Secretary of State available on the Planning Portal. The grounds for appeal are –
- Calculation of the chargeable amount is still incorrect following a review.
 - Apportionment of liability is incorrect.
 - The surcharges were calculated incorrectly. Liability notice was not served or the breach did not occur.

- The deemed commencement notice has been determined incorrectly.
- Against a Stop Notice, if no warning notice was issued or the development has not commenced.
- A person aggrieved by the levy or an attempt to collect the levy can appeal to the Magistrates Court.

13. Relevant Forms

The following forms and guidance notes are available to download from the Planning Portal.

<http://planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

- Additional questions document
- Associated guidance note
- Form 1 Assumption of Liability
- Form 2 Claiming Exemption or Relief
- Form 3 Withdrawal of Assumption of Liability
- Form 4 Transfer of Assumed Liability
- Form 5 Notice of Chargeable Development
- Form 6 Commencement Notice
- Self Build Exemption Claim Form Part 1 – before commencement
- Self Build Exemption Claim Form Part 2 – within 6 months of completion
- Self Build Annexe or Extension Claim Form

14. Further Information

Community Infrastructure Levy Regulations 2010

Community Infrastructure Levy Regulations 2011

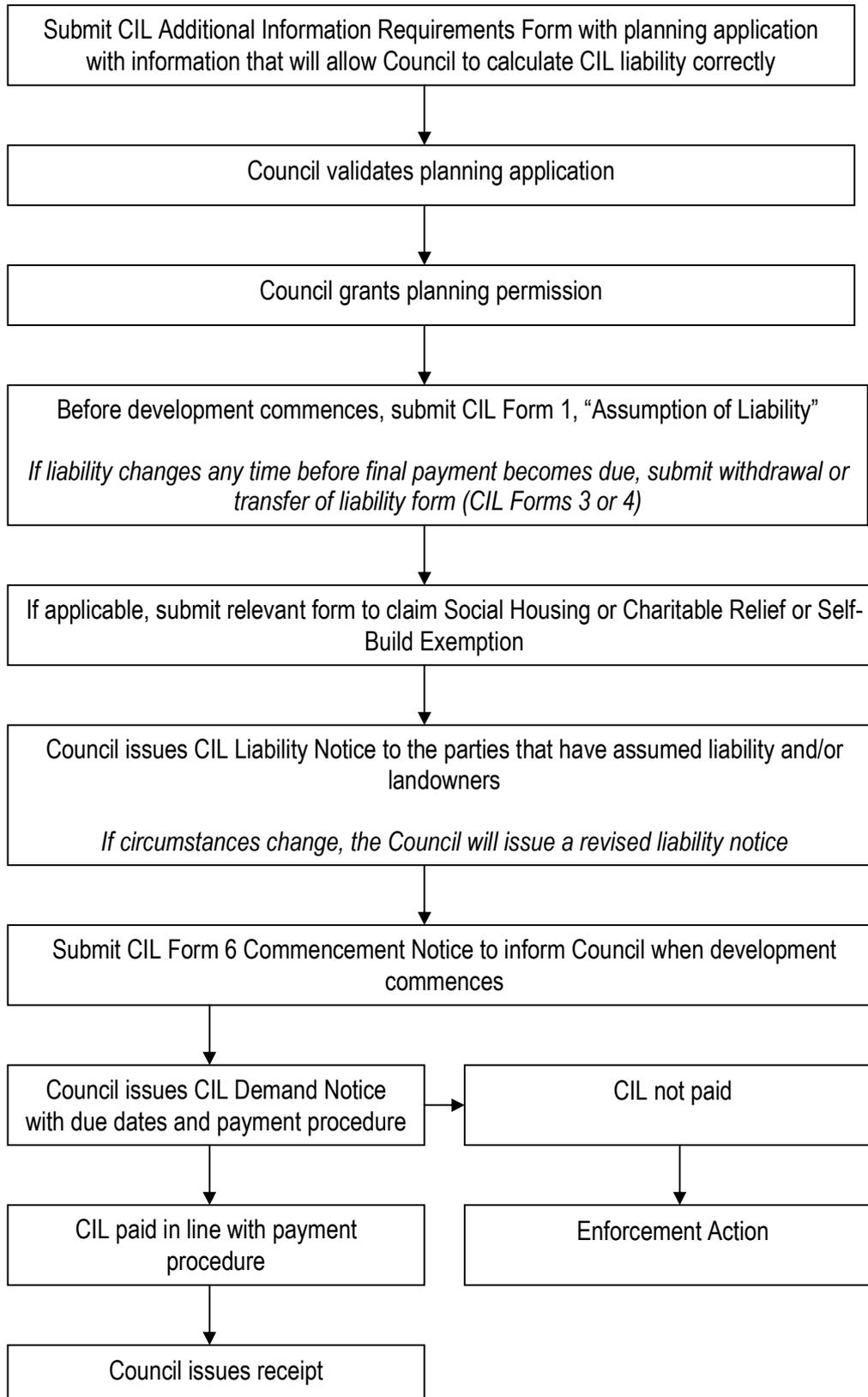
Community Infrastructure Levy Regulations 2012

Community Infrastructure Levy Regulations 2013

Community Infrastructure Levy Regulations 2014

National Planning Practice Guidance – Guidance on the Community Infrastructure Levy first published at <http://planningguidance.planningportal.gov.uk> on 12/06/2014 and subject to periodic updates.

Appendix A Summary of process in most cases where development is granted planning permission



Appendix B – RICS Code of Measuring Practice 6th edition

Floorspace within the chargeable development is measured as gross internal floorspace (GIA) in square metres. This could include:-

- Areas occupied by internal walls and partitions.
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts and the like.
- Atria and entrance halls, with clear height above, measured at base level only.
- Internal open-sided balconies, walkways and the like.
- Structural, raked or stepped floors are property to be treated as a level floor measured horizontally.
- Horizontal floors, with permanent access, below structural, raked or stepped floors.
- Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies).
- Mezzanine floor areas with permanent access (subject to exclusion provided see paragraph 3.4).
- Lift rooms, plant rooms, fuel stores, tank rooms which are housed in a covered structure of a permanent nature, whether or not above the main roof level.
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaner's rooms and the like.
- Voids over stairwells and lift shafts on upper floors.
- Loading bays.
- Areas with a headroom of less than 1.5 m under stairways.
- Pavement vaults.
- Garages.
- Conservatories.

When measuring the GIA the following is excluded:

- Perimeter wall thicknesses and external projections.

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- External open-sided balconies, covered ways and fire escapes.
- Canopies.
- Voids over or under structural, raked or stepped floors.
- Greenhouses, garden stores, fuel stores and the like in residential.
- Areas with a headroom of less than 1.5 m, except under stairways.