

Community Infrastructure Levy (CIL) Guidance for Applicants & Developers

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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 2019. This can be found at:

http://www.cannockchasedc.gov.uk/sites/default/files/infrastructure_delivery_plan_2019_update.pdf

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

http://www.cannockchasedc.gov.uk/sites/default/files/cil_infrastructure_list_2019.pdf

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

http://www.cannockchasedc.gov.uk/sites/default/files/local_plan_part_1_09.04.14_low_res.pdf

- 2.4 In Parished areas of the District (Rugeley, Brereton & Ravenhill, Cannock Wood, Brindley Heath, 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. The Hednesford Town Neighbourhood Plan was 'made' on the 28th November 2018, therefore Hednesford Town Council will be entitled to 25% of CIL funds for planning permissions granted after this date in Hednesford Town Neighbourhood area. These funds can be spent not just on infrastructure but anything else which is concerned with addressing the demands development places on the area.
- 2.5 The following Wards are not parished – Cannock North, Cannock East and Cannock West. Parts of Cannock South Ward (outside Bridgtown Parish) and Rawsley 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.
- 2.6 In addition to the CIL Charging Schedule (see section 3 below) and the CIL Infrastructure list of projects, the Council will publish an annual infrastructure funding statement 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. These infrastructure funding statements will include receipts and expenditure regarding both Section 106 agreements and CIL.

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 net 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 and 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 2015 (as amended), a Local Development Order or a Neighbourhood Development Order. See Section 9 for further information.
- 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.
- 4.5 Where a building is not considered to meet the six-month lawful use requirement, its demolition (or partial demolition) is not deducted but its retention (or partial retention) is deducted if the proposed use could lawfully be carried out without requiring a new planning permission. Abandoned buildings are not deducted.

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.
 - Social (affordable housing); development by charities; self-build housing to be occupied as the sole or main residence of the people on whose behalf it is being built; residential annexes and extensions within the curtilage of an existing dwelling (see section 6 below for details of the process of how to claim these exemptions and for clawback provisions).
 - Any development where the total chargeable amount is less than £50 (this is deemed to be zero rated).
 - The change of use of a single dwelling house to two or more separate dwellings.
 - Retail mezzanine floors inserted into an existing building are not liable for the levy unless they form part of a wider planning permission that seeks to provide other works as well.
 - Structures or buildings that people do not normally go into and/or only enter for the purpose of inspecting or maintaining fixed plant or machinery.
 - Vacant buildings brought back into the same use.
- 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. This excludes certain parts of buildings e.g. floorspace where the headroom is less than 1.5 metres (unless under a stairway).

6. AVAILABILITY OF SOCIAL HOUSING RELIEF, CHARITABLE RELIEF, SELF-BUILD AND RESIDENTIAL ANNEX/EXTENSION EXEMPTIONS 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. In 2015, this relief was extended to non-registered providers where they let dwellings at no more than 80% of market rent to households whose needs are not adequately met by the commercial housing market. More details on what are qualifying dwellings are contained in the guidance notes produced by the Planning Portal. Planning Portal Form 10: Claiming Charitable and/or Social Housing Relief Claim Form 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 10. 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 Form 7: 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 are separate self-build exemption forms for annexes and extensions, but in any event extensions of less than 100 square metres are exempt without the need to complete a form.

- 6.6 Residential annexes or extension exemptions - This applies where an annex comprising a new dwelling (regardless of floor space) or an extension (in excess of 100sqm of new floor space) to an existing main dwelling (occupied as a single dwelling as a sole or main residence by the owner of the dwelling) is proposed. A claim for exemption must be made to the Council before commencement of the development using the Self Build Annex or Extension Claim Form. The main dwelling must remain in use as a single dwelling; the annex must not be let; and the sale of the main dwelling and annex must be undertaken at the same time to the same person otherwise CIL will become payable (within the clawback period of 3 years from completion).

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 11: Exceptional Circumstances Relief Claim Form. 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 = CIL rate (R) x Net additional new build gross internal floorspace (A) x Inflation index (I).

8.2 Where:

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

A = The gross internal new build floorspace in square metres net of any demolitions or retained buildings (calculated in accordance with CIL Regulation 40).

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 charges involving exemptions and relief will be calculated in accordance with the relevant Regulations.

8.4 CIL payments are not subject to VAT.

9. PLANNING PERMISSION 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 (Form 1) 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 In the case of permitted developments and/or prior approval planning applications, developments must submit a Notice of Chargeable Development Form prior to commencement of the development. However, this is not required in the following cases:
- the development comprises less than 100sqm of new floor space (unless it involves the creation of 1 or more dwellings);
 - a residential extension exemption is granted;
 - the chargeable amount is zero.
- 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 2) 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 the last payment is made in respect of the chargeable development using CIL Form 4: Transfer of Liability. Liability may only be withdrawn before the commencement of development, using Form 4: Withdrawal of Liability.
- 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 at least one day 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.
- 9.9 The flow chart at Appendix A provides a summary of the normal process.

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

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 CIL Infrastructure 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.
 - A further 5% of the outstanding amount where payment is still overdue after 12 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 Distraint 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.

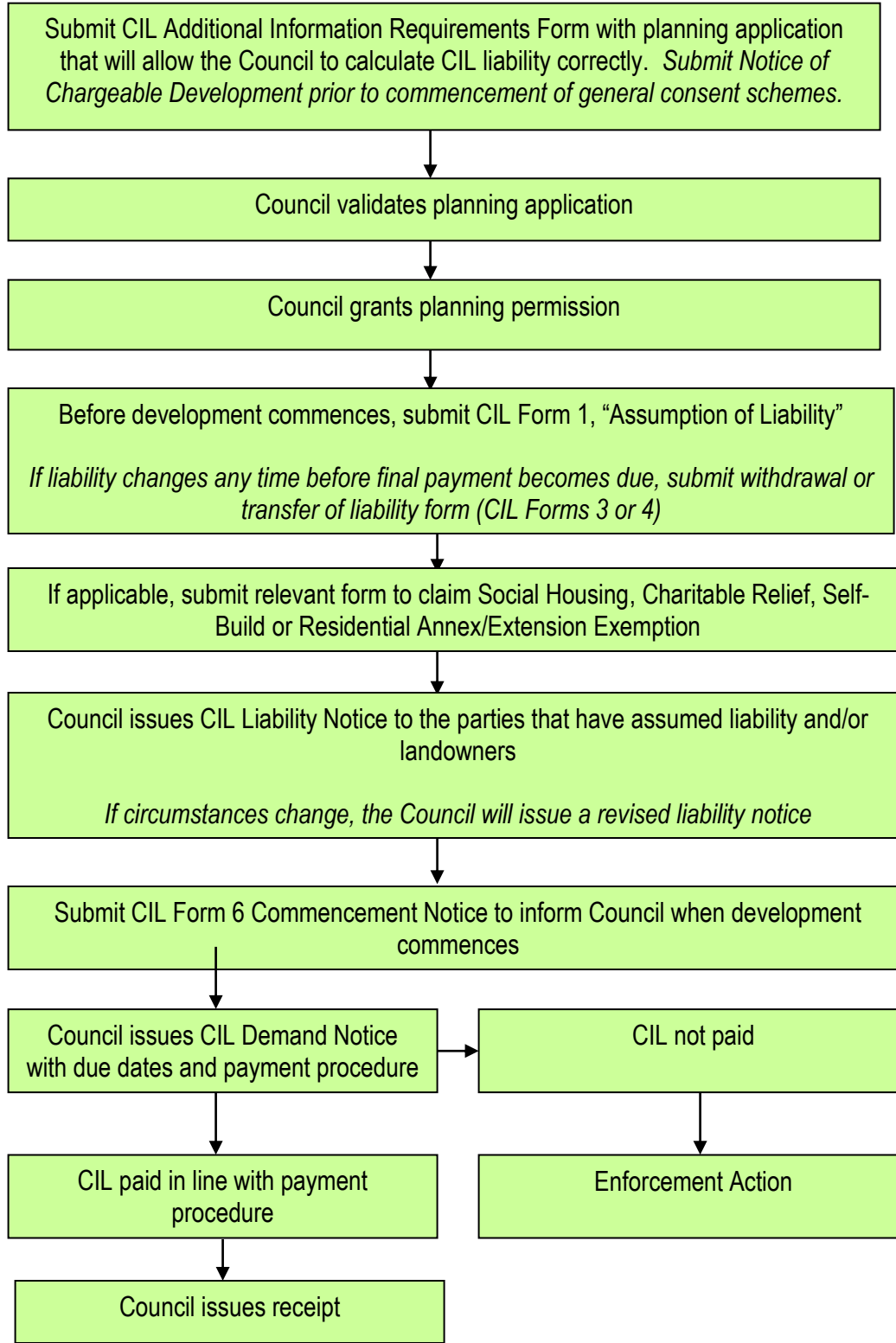
https://www.planningportal.co.uk/info/200126/applications/70/community_infrastructure_levy/5

- Form 1: Additional Information
- Associated guidance note
- Form 2: Assumption of Liability
- Form 3: Withdrawal of Assumption of Liability
- Form 4: Transfer of Assumed of Liability
- Form 5 Notice of Chargeable Development
- Form 6 Commencement Notice
- Form 7: Self Build Exemption Claim Form Part 1 – before commencement
- Form 7: Self Build Exemption Claim Form Part 2 – within 6 months of completion
- Form 8: Self Build Residential Annex Claim
- Form 9: Self Build Extension Exemption Claim
- Form 10: Charitable and/or Social Housing Relief Claim
- Form 11: Exception Circumstances Relief Claim
- Form 12: Further Charitable and/or Social Housing Relief Claim
- Form 13: Further Exemption Claim
- Form 14: Phase Credit Application

14. FURTHER INFORMATION

Community Infrastructure Levy Regulations 2010 (as amended)
National Planning Practice Guidance – Guidance on the Community Infrastructure Levy first published at
<https://www.gov.uk/government/collections/planning-practice-guidance> 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 5.2).
- 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.
- 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.

APPENDIX C- CIL WORKED EXAMPLE SCENARIOS

The summary table below provides a simple overview of when a development is likely be liable to pay CIL or not and when existing buildings are a factor in the calculation. Note: this does not take into account any national exemptions other than that for minor developments (100sqm or less) e.g. social housing or residential extension exemptions.

<i>Additional floorspace- 100sqm or more (for chargeable developments- see CIL Charging Schedule)</i>	<i>New dwelling created</i>	<i>Existing building in continuous lawful use for at least 6 months in the last 3 years prior to planning permission being granted OR retained buildings which do not require further planning permission</i>	<i>CIL Payable</i>
Yes	Yes	Yes	CIL payable on new floorspace only
Yes	Yes	No	CIL payable on existing floorspace and new floorspace
Yes	No	Yes	CIL payable on new floorspace only (NB. see also food store retail charge threshold)
Yes	No	No	CIL payable on existing floorspace and new floorspace (NB.see also food store retail charge threshold)
No	Yes	No	CIL payable on existing floorspace and new floorspace
No	No	Yes	CIL not payable
No	No	No	CIL not payable

A number of worked examples are provided below to give an overview of when a development may or may not be CIL liable and how the liability would be calculated.¹

Scenario 1

The development of a new dwelling either detached or attached to an existing dwelling. The new dwelling is 90sqm.

Though the development is less than 100sqm, it results in the creation of a new dwelling and therefore CIL applies. The CIL charge for residential development is £40 per sqm. The calculation is as follows:

90sqm x £40 per sqm = CIL liability of £3,600

Scenario 2

The development of an extension to an existing dwelling. The existing dwelling is 255sqm and the extension is 85sqm.

The size of the existing dwelling is irrelevant. The only matter of relevance is the size of the extension. As the extension is for less than 100sqm of development, and does not result in the creation of a new dwelling, CIL does not apply. If the extension was in excess of 100sqm then a residential extension exemption from CIL could be applied for.

Scenario 3

The conversion of an existing dwelling to two flats. The existing dwelling is 105sqm and the conversion will not result in any new build floor space.

The size of the existing dwelling is irrelevant. As the conversion does not result in any new development (i.e. it all takes place within the existing dwelling) and conversions of existing dwellings are nationally exempt, CIL does not apply.

Scenario 4

The conversion and extension of an existing dwelling to form 2 flats. The existing dwelling is 105sqm and the extension is 45sqm.

The size of the existing dwelling is irrelevant here. What is relevant is the level of new build. Although it is only 45sqm, because it results in a new dwelling, CIL applies. As the rest of the building is in retained lawful use and it involves the conversion of an existing dwelling no CIL is payable on the existing floorspace. The CIL charge for residential development is £40 per sqm. The calculation is as follows:

45sqm x £40 per sqm = CIL liability of £1,800

¹ These calculations are in accordance with the CIL Regulations but provide a simplified version of the calculation steps for clarity.

Scenario 5

The demolition of an existing dwelling in lawful use (for continuous six month period in last 3 years) and the construction of a block of flats in its place. The existing dwelling is 120sqm and the block of flats is 1,000sqm

The development of the block of flats results in the creation of a new dwelling therefore CIL applies. However, because the existing dwelling is in lawful use, its floor space is deducted when calculating the CIL liability. The CIL charge for residential development is £40 per sqm. The calculation is as follows:

Process 1 – deduct existing floor space from new floor space

The chargeable area is 1,000sqm – 120sqm = 880sqm

Process 2 – calculate CIL liability based on the net increase in floor space

880sqm x £40 per sqm = CIL liability of £35,200

If the existing dwelling was not in lawful use, then the 120sqm would not be deducted and the CIL liability would be 1,000sqm x £40 per sqm = CIL liability of £40,000

Scenario 6

The development of a new A1 retail unit which is 2,500sqm.

The CIL charge for A1 retail development is £60 per sqm.

The calculation is as follows:

2,500sqm x £60 per sqm = CIL liability of £150,000

Scenario 7

The development of a new A3 (food and drink) unit which is 1,000sqm.

The CIL charge for A3 development is £0. There is no CIL liability.

Scenario 8

The change of use of a former B2 class unit into an A1 retail unit which is 1,000sqm with no increase in floorspace

The CIL charge for A1 retail development is £60 per sqm. However, as there is no increase in floorspace proposed, CIL is not payable (minor development exemption).

Scenario 9

The change of use of a former B2 class unit into an A1 retail unit which is 1,000sqm with an extension of 200sqm. The unit is in lawful use (for continuous six month period in last 3 years).

The CIL charge for A1 retail development is £60 per sqm. As the extension is in excess of 100sqm it is CIL liable. As the existing building is in lawful use CIL is not payable upon the conversion of the existing 1,000sqm floorspace.

The calculation is as follows:

200sqm x £60 per sqm = CIL liability of £12,000

If the building was not in lawful use then the existing building and extension would all be CIL liable and the CIL liability would be 1,200sqm x £60 per sqm = CIL liability of £72,000.

Scenario 10

Site comprising the demolition of a warehouse building of 5,000sqm, 1,000sqm of which is in lawful use (for continuous six month period in last 3 years) and its replacement with a building of 10,000sqm, comprising 1,000sqm of retail (A1) development, 5,000sqm of office development and a block of flats 4,000sqm

The key issue here is that the existing building is in lawful use. Therefore the total amount of existing floor space can be deducted from the CIL liability. As the new building comprises a range of uses, the deduction of the existing floor space is applied on a pro rata basis across the new uses.

The CIL charge for office development is £0 per sqm.

The CIL charge for A1 retail development is £60 per sqm.

The CIL charge for residential development is £40 per sqm.

The calculation is as follows:

Process 1 – calculate the deduction factor for the existing floor space

5,000sqm (existing floor space) / 10,000sqm (new floor space) = 0.5

Process 2 – calculate the office liability

5,000sqm x £0 per sqm x 0.5 = £0

Process 3 – calculate the retail liability

1,000sqm x £60 per sqm x 0.5 = £30,000

Process 4 – calculate the flat liability

4,000sqm x £40 per sqm x 0.5 = £80,000

Process 5 – calculate the total liability

Office (£0) + retail (£30,000) + flat (£80,000) = CIL liability of £110,000

Scenario 11

The demolition of a warehouse building of 5,000sqm which is not in lawful use, and its replacement with a building of 10,000sqm, comprising 1,000sqm of retail development, 5,000sqm of office development and 4,000sqm of flats.

As the building is not in lawful use, the existing floor space is not deducted when calculating the CIL liability.

The CIL charge for office development is £0 per sqm.
The CIL charge for A1 retail development is £60 per sqm.
The CIL charge for residential development is £40 per sqm.
The calculation is as follows:

Process 1 – calculate the office liability

5,000sqm x £0 per sqm = £0

Process 2 – calculate the retail liability

1,000sqm x £60 per sqm = £60,000

Process 3 – calculate the flat liability

4,000sqm x £40 per sqm = £160,000

Process 4 – calculate the total liability

Office (£0) + retail (£60,000) + flat (£160,000) = CIL liability of £220,000

Site comprising the demolition of a warehouse building of 1,500sqm, 1,500sqm of which is in lawful use (for continuous six month period in the last 3 years) and its replacement with residential development comprising 4,500sqm of floor space. 1,500sqm will be for social housing, which is the subject of application for social housing relief from CIL, and 3,000sqm will be for market housing.

The key issues here is that the existing building is in lawful use. Therefore the total amount of existing floor space can be deducted from the CIL liability. As the development comprises an element of social housing which is the subject of a relief application, this is calculated separately to determine the actual amount of potential relief. The deduction of the existing floor space is therefore applied in a pro rata basis across the market housing and social housing, which is subject of the relief application (as opposed to being deleted from the whole floor space).

The CIL charge for residential development is £40 per sqm.
The calculation is as follows:

Process 1 – calculate the deduction factor for the existing floor space

1,500sqm (existing floor space) ÷ 4,500sqm (new floor space) = 0.67

Process 2 – calculate the social housing liability (subject of application for relief)

1,500sqm x £40 per sqm × 0.67 = £40,200

Process 3 – calculate the market housing liability

3,000sqm × £40 per sqm × 0.67 = £80,400

Process 4 – confirm the social housing relief application and the total liability

£0 social housing (granted relief for £40,200) + £80,400 market housing = CIL liability of £80,400

PLEASE NOTE: THE ABOVE EXAMPLES DO NOT INCLUDE INDEX LINKING OF CIL RATES. ADVICE SHOULD BE SOUGHT FROM THE PLANNING DEPARTMENT ON THE MOST UP TO DATE INDEX LINKED CIL RATES.