

# GUIDANCE NOTE 1

## Community Infrastructure Levy

### Is my development liable for CIL?

#### What type of development is CIL liable?

The following types of planning applications are liable for CIL:

- All development of 100 square metres or more of new build.
- All development regardless of size that results in the creation of a new dwelling.
- Storage warehouses that people enter into.
- The conversion of a building that is no longer in lawful use (see note below).

Applications that are CIL Liable must be accompanied by the CIL Form – [The additional questions form](#) in order for us to calculate the correct CIL liability. A planning application will **not** be valid until the Form has been submitted.

This applies even if the development would be subject to a £0 rate of CIL, or if it would be able to benefit from the relief available for affordable housing; charitable development; self build dwelling; extensions or annex.

#### Permitted development (General Consent)

In some cases permitted development (that is development that does not require planning permission) may be large enough to be CIL Liable. Permitted development could include an extension or ancillary building to a domestic property or an extension to a non residential property. If you intend to commence development under general consent you must submit CIL Form - [Notice of Chargeable development](#) on the Council before the development is commenced. The CIL charge will then calculated and applied as though planning permission had been granted.

#### What type of development is **not** CIL liable?

The following types of planning applications are not liable for CIL:

- Development containing less than 100 square metres of new build, provided that it does not result in the creation of a new open market dwelling.
- The conversion of a building that is in lawful use (see note below).
- Development of buildings into which people do not normally go (for example wind turbines, electricity sub stations).

These types of applications, unless specifically requested by us, will **not** be required to submit the CIL Form - Additional questions form.

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Some development types are also exempt from paying CIL. These include:

1. Social housing. This does not include discounted affordable housing. Please read [Guidance note 3](#) - Social housing
2. Charitable relief. If a charity owns the land the development will be used mainly or wholly for charitable purposes. Please read [Guidance note 4](#) - Charitable development.
3. Self-build dwellings. Please read [Guidance note 5](#), Self-build extensions and annex. Please read [Guidance note 6](#).

4. Reserved matters applications resulting from an outline S106 agreement that has been signed before CIL was introduced
5. For development in use class D1 a CIL charge of £0 will be applied. This includes; Medical or health service premises, crèche or day nurseries, educational establishments, Museums, Libraries, Public or exhibition halls or places of public worship.

All of these development types **will** need to complete the CIL form – [The additional questions form](#) and CIL form - [claiming exemption from relief](#) along with their normal planning application

### Who is liable to pay the CIL?

Responsibility to pay the levy runs with the ownership of the land and the levy is registered as a local land charge. Liability to pay the levy may be assumed by the land owner or another party or parties. This is done by completing and submitting an Assumption of Liability notice CIL Form - [Assumption of liability notice](#). Liability must be assumed by submission of a completed form before the development commences. Failure to submit the form prior to commencement of the development will result in the liable party/land owner losing any right to pay the levy in instalments, as set out in the Council's Instalment Policy, and may incur a surcharge. Please read [guidance note 8](#) for further details.

Liability may be transferred at any time before commencement of the development, unless an application for social housing relief has been made (Please [read Guidance note 3](#)). By submitting CIL form - [Assumption of Liability notice](#), CIL form - [Withdrawal of assumption or relief](#), or CIL form - [Transfer of assumed liability](#) as appropriate. If the Council is unable to recover CIL from a party that has assumed liability, the liability defaults to the owner/s of the land.

The CIL Liability Notice will be issued to the party/s that has assumed liability and/or to the landowner as well as to the planning applicant. The CIL needs to be paid within 60 days of the development commencing unless agreed within the term of our instalment policy. Please refer to [Guidance note 8](#).

### Examples of development types that may or may not be CIL liable

Current Site	Completed Development	CIL Liable	Chargeable Area
Cleared building site	▪ 92 sq m new residential dwelling	✓	92 sq m
Single dwelling – in use	▪ Single dwelling with a 25 sq m extension	✗	Not liable as under 100 sq m new build and does not create a new dwelling
Single dwelling – in use	▪ Single dwelling (currently 100 sq m) with a 125 sq m extension	✓	125 sq m
Cleared building site	▪ 2000 sq m residential, including 40% affordable housing (800 sq m)	✓	1200 sq m NB: the affordable housing relief (800 sq m) must be applied for and meet certain criteria to be granted
Single dwelling	▪ 125 sq m new development	✓	35 sq m

– in use but to be demolished	<ul style="list-style-type: none"> <li>90 sq m original dwelling demolished</li> </ul>		NB: not exempt as development comprises of one or more dwellings but charge reduced due to original building to be demolished being in use
Single dwelling – not in use and to be demolished	<ul style="list-style-type: none"> <li>125 sq m new development</li> <li>90 sq m original dwelling demolished</li> </ul>	✓	125 sq m NB: not exempt as development comprises of one or more dwellings and no reduction in charge as original building not in use
Single dwelling – not in use but to be retained	<ul style="list-style-type: none"> <li>35 sq m new development</li> <li>90 sq m original retained</li> </ul>	X	Not liable as under 100 sq m new build and does not create a new dwelling (but extends an existing one). NB: Original building not included in calculation as not change of use or to be demolished so does not need permission.
Shop unit – not in use	<ul style="list-style-type: none"> <li>98 sq m conversion/change of use of unit to residential</li> </ul>	✓	98 sq m NB: No exemption even though under 100 sq m as creating new dwelling. As the unit has not been in use, the floorspace is chargeable.
Shop unit – in use	<ul style="list-style-type: none"> <li>98 sq m conversion/change of use of unit to residential</li> </ul>	X	0 sq m so no charge NB: No exemption even though under 100 sq m as creating new dwelling. However, as the unit has been in use, the floorspace is deductible and so there is no charge in this scenario.
Single dwelling – not in use	<ul style="list-style-type: none"> <li>98 sq m conversion/change of use of unit to retail unit</li> </ul>	X	Not liable as change of use to non-residential and under 100 sq m new development so minor exemption applies. The fact it has not been in use is not relevant in this scenario.
4000 sq m offices – in use	<ul style="list-style-type: none"> <li>4000 sq m conversion of offices to flats</li> </ul>	X	0 sq m so no charge NB: No exemption even though under 100 sq m new development as creating new dwelling. However, as the unit has been in use, the floorspace is deductible and so there is no charge in this scenario. NB: Assuming offices are in use.
3500 sq m business development in use but to be demolished	<ul style="list-style-type: none"> <li>15000 sq m new residential</li> <li>5000 sq m new business</li> <li>3500 sq m original business demolished</li> </ul>	✓	12375 sq m residential. 4125 sq m business but as zero rate no charge. NB: The demolished amount is apportioned across the whole development e.g. $\frac{3}{4}$ development residential, $\frac{1}{4}$ business; therefore, of the 3500 sq m demolished floorspace, 2625 sq m is deducted from residential floorspace and 875 sq m from business.

### How much is the Levy?

Please see the Charging schedule on the Council's web page.

The chargeable amount will be calculated in accordance with the CIL Regulations. This is most simply stated as the chargeable amount based on the floorspace (in square metres) multiplied by the levy rate (£xx per sqm):

Levy = Chargeable Development (A) x Levy rate (R) x inflation measure (I)

- A = the gross internal area of floorspace chargeable in square metres after deducting any existing floorspace and any demolitions, where appropriate.
- R = the levy rate as set in the Charging Schedule.
- I = inflation measure calculated at the November rate proceeding the issue of the liability notice. (Inflation rates BICS All in Tender price index)

### **Appealing against payment of the CIL levy**

Appeals can be made against all aspects of the Community Infrastructure Levy collection and enforcement system, from the levy collection authority's calculation of the amount due to any enforcement actions it may take. Please see [Guidance note11](#) for further details. There are three exceptions where an appeal system does not exist, social housing relief; exceptional circumstances relief and self build extensions exemption.

### **What if it is still unclear if my development is CIL liable?**

If it is not clear if a development will be liable for CIL, we recommend that the CIL Form – [The additional questions document](#) is submitted, and we can decide whether it is required.

### **Surcharges and penalties**

If payment is not made by the due date then penalties and surcharges will apply. The Council does not have the flexibility to defer payment of CIL. The payment of CIL is enforceable through both the courts and planning process.

Notes on CIL penalties and surcharges are laid out in [Guidance note 10](#).

### **Definition of lawful use**

The definition of lawful use is contained in Regulation 40(11) of The Community Infrastructure Levy (Amendment) Regulations 2014 ,which states the following:

“ in-use building means a building which 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”