



WOKINGHAM
BOROUGH COUNCIL

Wokingham Borough Council
Community Infrastructure Levy
Guidance Notes for Applicants

November 2019

Disclaimer

The information contained in this Community Infrastructure Levy (CIL) 'Guidance Notes for Applicants' is intended to assist applicants in understanding how CIL will be implemented in Wokingham Borough. It should not be regarded as definitive advice and it is not intended to replace the need to read and understand the CIL Regulations 2010 (As Amended) and other guidance on CIL produced by the government. If you have any doubts regarding your CIL liability, you are advised to seek your own professional advice.

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Introduction

- 1.1 Wokingham Borough Council's (WBC) Community Infrastructure Levy (CIL) Independent Examination was held on the 18th and 19th of September 2014. The [Final Examiner's Report](#) was received on the 29th October 2014 and concluded that the Charging Schedule was sound, subject to some minor modifications.
- 1.2 CIL was adopted by Full Council on 19th February 2015 and was brought into effect by the Council for new planning permissions granted from 6th April 2015.
- 1.3 This guide provides information for applicants on a range of issues relating to the WBC CIL. It includes information about what kinds of development will be CIL liable/exempt, how the CIL payments will be calculated and the process by which the payments will be collected.

What is CIL?

- 2.1 The CIL is a planning charge, introduced by the Planning Act 2008 (As Amended) as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. The charges have been set by WBC and are based on the location and type of development in the Borough.
- 2.2 The money raised from CIL can be used to support and manage the impacts of development by funding infrastructure that the Council and local communities want, for example new road schemes, open space improvements or schools. CIL will be used to contribute to the infrastructure requirements identified through the Council's Capital Programme, as of December 2020, the Council's Annual Infrastructure Funding Statement which sets out how much CIL is collected, how much is spent and what it is spent on.
- 2.3 The CIL [Charging Schedule](#) is a document that sets out the charging rates of the CIL in Wokingham Borough. In developing the levy charges, the Council was required to produce evidence of the infrastructure requirements across the Borough, along with a viability test of the charges to ensure that there is an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects of the levy on the economic viability of development across the Borough.
- 2.4 The rates proposed and the evidence informing these rates have been subject to two rounds of public consultation.
- 2.5 CIL will be levied in £ per square metre on net additional increase in floorspace for qualifying development (which will be outlined in this document) in accordance with the CIL Regulations 2010 (As Amended).

- 2.6 CIL *is not* an additional charge on development. It effectively alters the previous approach the Council took to collecting infrastructure contributions from planning approvals using Section 106 (S106) agreements.
- 2.7 A restriction on pooling section 106 contributions was introduced in 2010 to encourage the uptake of CIL. This restriction was withdrawn in the 2019 amended regulations which now enables local planning authorities to use five or more section 106 contributions to fund a single infrastructure project. This will also enable local planning authorities to use both section 106 contributions and CIL to fund the same piece of infrastructure.
- 2.8 From 6th April 2015, Section 106 agreements will largely only cover contributions in relation to affordable housing and site-specific improvements needed for a new development.
- 2.9 The balance between the use of S106 and CIL will be different depending on the type of development being undertaken. There should be no circumstance where a developer is paying both CIL and S106 for the same infrastructure in relation to the same development.
- 2.10 The CIL charges for Wokingham Borough are as follows:

| Table 1: CIL Rates | | |
|--|---|---------------------------|
| Development Type | Charging Zone | £ per square metre |
| Residential Development (excluding Sheltered Housing, Extra Care Housing and Residential Institutions) | South of M4 SDL | £300 |
| | South Wokingham SDL | £320 |
| | North Wokingham SDL | £340 |
| | Arborfield SDL | £365 |
| | Rest of Borough | £365 |
| Sheltered Housing | South of M4 SDL, South Wokingham SDL, North Wokingham SDL and Arborfield SDL | £365 |
| | Rest of Borough | £150 |

| | | |
|---|---|------|
| Residential Institutions and Extra Care Housing | South of M4 SDL, South Wokingham SDL, North Wokingham SDL and Arborfield SDL | £100 |
| | Rest of Borough | £60 |
| Retail | Existing town/small town/district centres | £0 |
| | Arborfield SDL | £0 |
| | Rest of Borough | £50 |
| All Other Development Types | Borough-Wide | £0 |

Please see the [CIL Charging Schedule](#) for maps of the charging zones.

The definitions of the development types included in the CIL Charging Schedule are outlined below:

Residential Development

This is all development within each of the three categories of Use Class C3: Dwelling Houses (Use Classes Order 2010) except:

1) Sheltered housing, Extra-care or other specialist housing providing care to meet the needs of older people or adults with disabilities;

The definition does not include residential uses in other categories of development (as defined by the Use Classes Order), including C1 (Hotels), C2 (Residential Institutions), C2A (Secure Residential Institutions) or C4 (Houses in Multiple Occupation).

Sheltered Accommodation

This is self-contained accommodation for older people, people with disabilities and/or other vulnerable groups which include some shared/communal facilities and where a degree of support is offered.

Residential Institutions and Extra Care Housing

This is purpose-built accommodation in which varying amounts of care and support can be offered, and where some services and facilities are shared (including a minimum of 30% of GIA provided as communal facilities). This is based on the definition provided in the Extra-

care Housing Toolkit published by the Care Services Improvement Partnership, but expanded to provide further detail on communal floor area.

Retail

This is defined as development within the uses set out in Class A1, A2, A3, A4 and A5 of the

Use Classes Order (2010) that is 'shops, hairdressers, undertakers, travel and ticket agencies, post offices, pet shops, sandwich bars, showrooms, domestic hire shops, drycleaners, funeral directors, internet cafes', restaurants and cafes, public houses, wine bars and drinking establishments; hot food takeaways; with the term 'shops' including convenience stores, supermarkets and retail warehouses.

All Other Development

This development category consists of all other development types other than those outlined above.

- 2.11 These charges have been examined by an Independent Examiner and found to be fit for purpose and in accordance with the CIL Regulations.
- 2.12 Relevant information, including the CIL Regulations and DCLG information documents is available using the links below:
- [CIL Regulations 2010 \(As Amended\)](#)
 - [CIL Regulations 2011](#)
 - [CIL Regulations 2012](#)
 - [CIL Regulations 2013](#)
 - [CIL Regulations 2014](#)
 - [CIL Regulations 2019](#)
 - [DCLG CIL Guidance](#)
 - [CIL Forms](#) on the Planning Portal

When did Wokingham's CIL come into effect?

- 3.1 The Charging Schedule came into effect in Wokingham on 6th April 2015.

- 3.2 Any new development granted planning permission after this date may be liable to pay CIL. The CIL Regulations 2010 (As Amended) specify that the relevant date for consideration is the date of issuing the planning permission notice, not when the planning application was submitted.
- 3.3 The levy charge becomes due on commencement of development (defined as material operations on site).

When is a development liable for CIL?

- 4.1 CIL applies to new developments in Wokingham which result in a net increase in floorspace (Gross Internal Area) of 100 square metres or more, or involves the creation of a new dwelling (of any size).
- 4.2 Development will be liable to pay CIL if:
- It is of a type for which a rate has been set in the Charging Schedule.
 - It is a building into which people normally go, and if upon completion of the development the increase in floorspace will be more than 100 square metres.
 - It is creating 1 or more new dwellings, even where the floorspace is less than 100 square metres.
 - If it involves the change of use of a building that has been unused for a period of time, it may be liable.
- 4.3 While any development with a floorspace of more than 100 square metres will be subject to CIL, the GIA of any existing buildings on the site to be demolished will be deducted from the final liability, provided the building has been in continuous lawful use for 6 months of the three years prior to the date of the planning permission that authorised the development.
- 4.4 Some developments do not require planning permission and can be carried out under 'permitted development'. However, these developments may be of a sufficient size to make them CIL liable. You must therefore complete and return a [Notice of Chargeable Development](#) to determine whether the development is liable. Failure to complete this form can incur a penalty surcharge.

When is a development exempt from CIL?

- 5.1 A development will be exempt from paying CIL if:
- The development is less than 100 square metres, unless it is new dwelling. In this case, the levy would be payable.

- It is for a structure or building into which people do not usually go or go into only intermittently for maintenance, such as plant rooms.
- There is just a change of use with no additional floorspace and the former use must have been lawful and in continuous use for at least six months of the three years prior to the planning permission.
- Mezzanine floors of less than 200 square metres inserted into an existing building are not liable unless they form part of a wider planning permission.
- A change of use from a single dwelling to two or more separate dwellings.

5.2 If the proposed development is for any of the uses below, it may be exempt from CIL charges, however you must complete the relevant 'Claiming Exemption or Relief' form prior to the commencement of development in order to apply for relief from paying the charges:

- Social Housing
- A development for charitable purposes
- A self-build new home,
- A residential extension or residential annexe

5.3 More details about exemptions from the CIL are provided in sections 10-12.

How is CIL calculated?

6.1 The calculation for CIL payments involves multiplying the CIL charging rate by the chargeable floorspace, and factoring in an index figure to allow for changes in building costs over time. The calculation is therefore as below:

$$\frac{\text{CIL Rate (R) x Chargeable Floorspace (A) x BCIS Tender Price Index(Ip)}}{\text{BCIS Tender Price Index (Ic)}}$$

Where:

R = CIL rate per square metre

A = the deemed net floorspace chargeable at rate R

Ip = The BCIS All-in Tender Price Index for the year in which planning permission was granted (published on 1st November of the preceding year)

Ic = The BCIS All-in Tender Price Index for the year in which the charging schedule containing rate R took effect

6.2 The calculation is slightly different for any floorspace that is to be demolished or where a change of use will occur. In this case, A in the above formula calculated as follows:

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

Where:

G = the gross internal area of the chargeable development

G_R = the gross internal area of the part of the development chargeable at the relevant CIL rate.

K_R = the gross internal area of all buildings on completion of the chargeable development which are in-use on the day planning permission is granted and will be part of the chargeable development and chargeable at the relevant CIL rate. K_R also includes any building which is not in-use and part of the chargeable development, where the intended use following the completion of the development, is a use that would not require further planning permission on the day before planning permission first permits the chargeable development.

E = the gross internal area of all buildings, which on the day the planning permission is granted are situated on the land (within the red line or the phase to which the development relates) and are in-use and are to be demolished before the completion of the chargeable development. Or for phased developments, the value of the above plus Ex. Ex allows for any credit from demolitions on previous phases to be applied to the new phase. Ex is calculated from the following equation:

$$E_p - (G_p - K_{p_r})$$

E_p = the value of E for the previously commenced phase of the planning permission.

G_p = the value of G for the previously commenced phase of planning permission.

K_{p_r} = the total of the values of K_r for the previously commenced phase of the planning permission.

6.3 The amended 2019 regulations proposed the following changes;

- From 1 January 2020, the index is the RICS CIL Index published by the Royal Institution of Chartered Surveyors
- If the liability is calculated before 2020, the figure for 1st November for the preceding calendar year in the national All-in Tender Price Index published by the Royal Institution of Chartered Surveyors (RICS) will be applied
- If the liability is calculated after 2020 and any subsequent calendar year, the RICS CIL Index published in November of the preceding calendar year by the Royal Institution of Chartered Surveyors will be applied.

GIA Includes:

- Areas occupied by internal walls and partitions (e.g. a roof plus three walls)
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts etc.
- Atria and entrance halls, with clear height above, measured at base-level only
Internal, open-sided balconies, walkways etc.
- 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, toilets etc.)
- Mezzanine floor areas with permanent access
- 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 etc.
- Loading bays
- Pavement vaults
- Garages and conservatories

GIA excludes:

- Perimeter wall thickness and external projections
- External, open-sided balconies, covered walkways and fire escapes
- Canopies and voids over or under structural, raked or stepped floors
- Greenhouses, garden stores, fuel stores etc. (when they are in relation to residential development).

6.4 Communal areas within social housing developments, for example corridors and entrance halls, qualify for relief from CIL. The definition of Social Housing is set out in the [CIL Regulations 2010 \(As Amended\) Regulation 49](#) and it covers most types of affordable housing including social rented, affordable rent and shared ownership tenures.

6.5 Floorspace subject to demolition or resulting from change of use can only be deducted where it has been in continuous lawful use for at least six months over the past three years ending on the day the planning permission first permits the chargeable development. It will be for the applicant to demonstrate lawful use by providing appropriate evidence such as Council Tax records or Business Rates documentation.

6.6 CIL payments are not subject to VAT.

6.7 Where the levy liability is calculated to be less than £50, the chargeable amount is deemed to be zero valued so no levy is due.

6.8 Example scenarios for CIL:

| Site Description | Proposed Development | CIL Liable? | Chargeable Area |
|---|--|--------------------|--|
| Cleared building site | 90 sq. m new residential dwelling | Yes | 90 sq. m The development is liable because even though the floorspace is less than 100 sq.m, a new dwelling created |
| Single dwelling – in use | 25 sq. m extension to existing dwelling | No | The development will not be liable as it is less than 100 sq. m and does not create a new dwelling. |
| Single dwelling – in use | 125 sq. m extension to existing dwelling | Yes | 125 sq. m This development is larger than 100 sq. m. |
| Cleared building site | 2000 sq. m residential (including 40% affordable housing) | Yes | 1200 sq. m The part of the development that is for market housing will be liable. However, the affordable housing relief can be applied for and certain criteria must be met to qualify for that relief. |
| Single dwelling – in use and to be demolished | 125 sq. m new development, original 90 sq. m dwelling demolished | Yes | 35 sq. m This development will be liable as it comprises of a new dwelling, but the chargeable area is reduced as the floor space of the original building is 'in use'. |

| | | | |
|--|---|------------|---|
| Single dwelling –to be retained and extended | 35 sq. m new development extension 90 sq. m original retained | No | Not liable as under as under 100 sq. m new build and does not create a new dwelling. The original building is not included in the calculation as there is no a change of use or demolition so does not need permission. |
| Shop unit – not in use | 90 sq. m conversion/change to use of unit to residential | Yes | 90 sq. m There is no exemption even though the development is less than 100 sq. m as a new dwelling is being created. As the floorspace has not been in use, the development is chargeable. |
| Shop unit – in use | 90 sq. m conversion/change of use of unit to residential | Yes | 0 sq. m There is no exemption even though the development is less than 100 sq. m as it is creating a 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 | 90 sq. m conversion/change of use to retail unit | No | Not liable as this is a change of use to non-residential and it is under 100 sq. m of new development. The fact that it has not been in use is not relevant in this scenario. |
| 4000 sq. m offices – in use | 4000 sq. m of conversion from offices to flats | Yes | 0 sq. m Liable but no charge as the existing floorspace which is currently in use is being converted. |
| 4000 sq. m of offices – not in use | 4000 sq. m conversion of offices to flats | Yes | 4000 sq. m Liable as the existing floorspace is being converted to residential and has not been in lawful use. |

6.9 Wokingham Borough Council will publish an annual CIL rate summary setting out the rates of CIL in its areas adjusted for inflation.

6.10 Wokingham Borough Council has adopted a [CIL Instalments Policy](#). This is as follows:

- Where the chargeable amount is *less than* £250,000, the chargeable amount will be required as per the following two instalments:

| 1 st Instalment | 2 nd Instalment |
|---|--|
| 50% within 60 days of commencement | 50% within 120 days of commencement |

- Where the chargeable amount is *equal to or more than* £250,000, the chargeable amount will be required as per the following instalments:

| 1 st Instalment | 2 nd Instalment | 3 rd Instalment | 4 th Instalment |
|---|--|--|--|
| 25% within 60 days of commencement | 25% within 150 days of commencement | 25% within 240 days of commencement | 25% within 360 days of commencement |

Notes

N1: When the council grants an outline planning permission which permits development to be implemented in phases, each phase of the development is a separate chargeable development and the instalment policy will apply to each separate phase.

N2: In calculating individual charges for the levy, the council will be required by the Regulations to apply an index of inflation to keep the levy responsive to market conditions. From 1 January 2020, the index is the RICS CIL Index published by the Royal Institution of Chartered Surveyors.

N3: “Days” should be interpreted as calendar days, as opposed to working days.

N4: Commencement will be taken to be the date advised by the developer in the commencement notice under the [CIL Regulations 2010 \(As Amended\) Regulation 67](#).

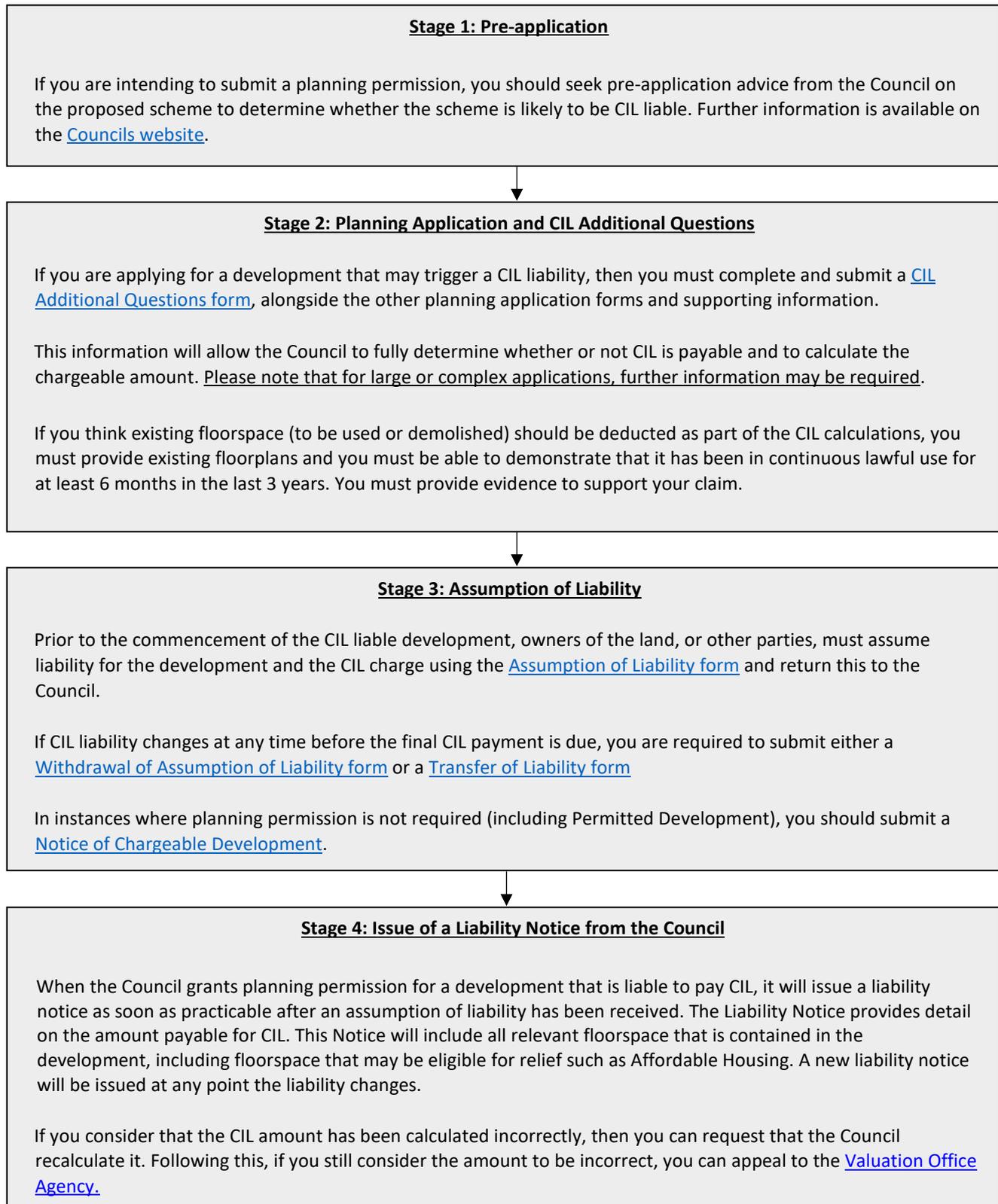
When is the CIL calculated?

- 7.1 In the case of full planning permission, the CIL charge is calculated at the date of approval of planning permission.
- 7.2 In the case of outline planning permission, the CIL charge is calculated on final approval of the last reserved matter associated with the permission, or alternatively, if the outline permission permits development in phases, when the last reserved matters associated with that phase is approved.

Planning applications and the CIL process

8.1 CIL is payable on the commencement of development. The process operates through the formal exchange of application documents and notices between the Council and the applicant.

8.2 This process is displayed in the following diagram:



Stage 5: Applying for Relief and Exemption

Some developments may be eligible for exemption or relief from CIL. This is not automatically applied by the Council and you must make an application using the relevant forms and by submitting supporting information/evidence.

To apply for relief or exemption, you must have assumed liability to pay CIL and you must apply for relief before development commences. You can use the following forms:

- [Claiming Exemption or relief for self-build exemption - Form 7 Part 1](#)
- [Claiming Exemption or relief for self-build residential annex - Form 8](#)
- [Claiming Exemption or relief for self-build residential extension - Form 9](#)
- [Claiming Exemption or relief for affordable housing developments - Form 10](#)
- [Claiming Exemption or relief for charitable developments - Form 12](#)

If relief or exemption is approved, a revised CIL Liability Notice will be issued. If a relief is granted, the Council will record details of the relief on the Land Changes Register. If a disqualifying event occurs within set periods, for example if social housing is sold as a market house within 7 years, CIL will be due.

Where a relief has been granted and a disqualifying event occurs, the Council must be informed in writing, giving 14 days advance notice. Failure to do so will incur a penalty surcharge.



Stage 6: Commencement Notice

At least 1 day before commencement of the development, you must submit a [Commencement Notice \(form 6\)](#). This forms the basis of when CIL payments will be due and must be returned to the Council.

For Liability Notices issued pre-September 2019

If you have received an exemption or relief from the levy, failure to submit this form, and for it to be received by the collecting authority, prior to commencing your development will nullify that exemption or relief and make you liable for the full levy.

If you have not claimed exemption or relief, you will be liable for a surcharge and lose the ability to pay in

For liability notices issued post September 2019

If you have successfully claimed exemption or relief, failure to submit this form prior to commencement or providing an incorrect commencement date will result in the Council issuing a mandatory penalty of whichever is lower of a surcharge of 20% of the chargeable amount or £2,500.

If you have not claimed exemption or relief, you can also lose the ability to pay in instalments and a surcharge will be payable.

Commencement is classed as any material operation that is carried out on the relevant land.

You can appeal against a deemed commencement date. This must be made to PINS within 28 days of the date the demand notice was issued.



Stage 7: Demand Notice

The Council will record and acknowledge receipt in writing of your commencement notice and issue a Demand Notice to the person who has assumed liability to pay CIL.

The Notice will set out the date CIL must be paid by. In most cases, you will have 60 days to pay from the date of commencement. Where instalments apply, the Demand Notice will set out the amount due in each instalment and the date it must be paid by.

If the payment is not made by the due date, surcharges will apply. Payment of CIL is enforceable through the planning process and the courts.

Stage 8: Payment

The Council will acknowledge all payments. Providing there are no relief period conditions, the CIL charge will be removed from the Land Charges Register. If relief has been granted, then the CIL charge will remain on the Land Charges Register for 3 or 7 years depending on whether relief or exemption has been granted.

If the permission is not built, the CIL charge will be removed from the Land Charges Register once the planning permission has expired.

If CIL is not paid, a range of enforcement actions can be taken. These can be found in the [CIL Regulations 2010 \(As Amended\)](#).

Mandatory Charitable relief and Mandatory Social Housing relief

- 10.1 A charity landowner will benefit from full relief from their CIL liability where the chargeable development will be used wholly, or mainly for charitable purposes.
- 10.2 If the chargeable development comprises or is to comprise of qualifying social housing (wholly or in part), the social housing element is eligible for relief from CIL liability, subject to conditions. Social housing relief will benefit most social rented, affordable rented and intermediate rented dwellings provided by the Council or Private Registered Provider, as well as shared ownership dwellings. To qualify for social housing relief, the claimant must:
 - Own a material interest in the relevant land
 - Have assumed liability to pay the levy for the whole chargeable development.
- 10.3 More information about what types of development qualifies for social housing relief can be found in [Regulation 49 of the CIL Regulations \(2010\)](#).
- 10.4 Claims for charitable and social housing relief cannot be made after the development has commenced and are void if the development commences and no Commencement Notice has been provided. Claims can be made at any time up to the point at which development commences.
- 10.5 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 must be the owner of the land. If no claim has been made, the Council will issue the Liability and Demand Notices showing the full CIL liability in the usual way.
- 10.6 After receiving the claim, the Council will assess it and notify the claimant of its decision and the amount of relief they qualify for. The [NPPG CIL Guidance](#) provides further information which may be of use.
- 10.7 If relief is granted, but within 7 years the development ceases to be used for affordable housing or charitable purposes, the relief is disqualified and the outstanding CIL must be paid. This is known as 'clawback'.

- 10.8 A claim for relief will lapse if works are commenced on the chargeable development before the Council has notified the claimant of its decision.

Self-build relief for new homes, extensions and annexes

- 11.1 Self-build exemption is available for all homes built or commissioned by individuals for their own use.
- 11.2 Within six months of issue of a completion certificate, the claimant must provide the requested supporting evidence and the property must remain as your principal residence for a minimum of three years. If personal circumstances change and you want to move out of the property before the three year occupancy limit expires, you must notify the Council and the levy then becomes payable in full.
- 11.3 Failure to notify the Council will result in enforcement action and surcharges will become payable. More information about the qualifying criteria for self-build exemption can be found in [Regulation 54A of the CIL Regulations 2010 \(As amended\)](#).
- 11.4 Community self-build projects also qualify for the exemption where they meet the required criteria, as outlined in [Regulation 54A of the CIL Regulations 2010 \(as amended\)](#).
- 11.5 Applicants can apply for a self-build exemption at any time, as long as their development has not commenced. To apply for self-build exemption for a new home you must complete [form 7 part 1](#), followed by [form 7 part 2](#) within six months of issue of a completion certificate for the dwelling.
- 11.6 If you have received self-build exemption from CIL for a new home, within six months of completion you must submit additional supporting evidence to confirm that the project is self-build and complete this [form](#) (CIL Form 7 part 2).
If this evidence is not submitted to the Council within the six month period, the full levy charge becomes payable.
- 11.7 This evidence must comprise of:
- Proof of the date of completion - a copy of the building completion or compliance certificate for the home issued by the Council's Building Control department.
 - Proof of ownership – a copy of the title deeds (freehold or leasehold).
 - Proof of occupation of the dwelling as the applicant's principal residence – a Council Tax certificate and two further proofs e.g. a bank statement or confirmation that the applicant is on the local electoral roll.

- A copy of one of the following:
 - An approved claim from HM Revenue and Customs under 'VAT431C: VAT refunds for DIY house builders'; or
 - A Specialist Self-Build Warranty; or
 - An approved Self-Build Mortgage from a bank or building society.

Exemption for Residential Annexes and Extensions

- 11.8 There is also exemption for self-builders who extend their homes or erect residential annexes within the grounds of their home provided that:
- The main dwelling is the self-builders principal residence and they have a material interest in it (owns or has a leasehold of seven or more years).
 - The residential annexe is built within the curtilage of the principal and comprises of one new dwelling.
 - The residential extension enlarges the principal residence and does not comprise an additional dwelling.
- 11.9 There is no requirement for the occupier of the annexe to be related to the occupier of the main dwelling, or to commit to staying there for a specified period.
- 11.10 To apply for self-build exemption for an extension or annex, you must complete either [form 8 \(residential annex\)](#) or [form 9 \(extension\)](#).
- 11.11 If applying for self-build exemption for an annex, you must complete and submit CIL form 6 (commencement notice) when you know the intended start date for the development. Failure to submit this form will result in the following;
- If your CIL Liability Notice, or revised CIL Liability Notice (if issued), was issued prior to 1 September 2019 - An exemption for a residential annex must be granted by the council prior to the date of commencement of the development, and a Commencement (of development) Notice (form 6) must also be received by the council prior to the date of commencement of the development, **otherwise the full levy charge will be payable and a surcharge may be applied.**
 - If your CIL Liability Notice, or revised CIL Liability Notice (if issued), was issued on or after 1 September 2019 - An exemption for a residential annex must be granted by the council prior to the date of commencement of the development otherwise the full levy charge will be payable. Also, a commencement (of development) Notice (form 6) must be received by the council prior to the date of commencement of the development, **otherwise a surcharge equal to 20% of the notional chargeable amount or £2,500, whichever is the lower amount, will be applied.**

- 11.12 If applying for self-build exemption for an extension, you are not required to submit a commencement notice (form 6) prior to commencement. However, exemption must be granted by the council prior to the development commencing, otherwise you will be liable for the full levy.
- 11.13 A self-build annex will stop being exempt from CIL and the full CIL amount will be payable if within three years from the date the compliance certificate is issued:
- The main house is used for any purpose other than as a single dwelling, or
 - The annex is let, or,
 - Either the main residence, or the annex, is sold separately from the other.

Minor development exemption

- 12.1 Minor developments, with a gross internal area of less than 100 sq. m, are generally exempt from the levy.
- 12.2 However, where the minor development will result in the creation of a whole new dwelling, the development will be liable for the CIL.

Section 73 permissions

- 13.1 Developers can amend a condition attached to a planning consent, under [section 73 of the Town and Country Planning Act 1990](#).
- 13.2 If the section 73 permission **does not change** the total proposed floorspace for the application, then the chargeable amount that is shown on the most recent liability notice still applies and any previous approved relief can be carried over.
- 13.3 If the section 73 permission **does change (increase or decrease)** the total proposed floorspace for the application, then the development will require a new liability notice to be generated and any previously approved relief cannot be carried over. The applicant will have to reapply for relief again following the steps in this guidance.
- 13.4 Please note, if the section 73 permission **does change** the total proposed floorspace for the application and development has already commenced prior to the submission of the section 73 permission, there is no opportunity to apply for relief and the development will be liable for the full chargeable amount.

Reviews and appeals

- 14.1 The CIL charge itself is non-negotiable. Appeals can only be made against procedural aspects relating to the calculation, collection and enforcement of CIL.
- 14.2 The CIL appeals 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 outlining the chargeable amount has been issued. The Council is then required to review the calculation and this must be carried out by a staff member senior to the person who carried out the original calculation and who had no involvement with this calculation.
- 14.3 A decision must be issued within 14 days and it cannot be reviewed again.
- 14.4 If the liable person is still of the belief that the CIL charge has been calculated incorrectly, appeals must be made using the appropriate form published by the Valuation Office Agency available [here](#).
- 14.5 The circumstances relevant for an appeal are as follows:
- An appeal of the calculation of the chargeable amount following a review.
 - If an owner of a material interest in land disagrees with an authority who has apportioned liability to pay the charge, then that person may appeal. The appeal must be made within 28 days.

- A relevant person can appeal any of the surcharges covered. It can be appealed on the basis that it was calculated incorrectly, that a liability notice was not served or if the breach did not occur.
- A relevant person can appeal a deemed commencement date if that person considers that the date has been determined incorrectly. An appeal must be made within 28 days.
- A relevant person can appeal against a stop notice. They can do so if a warning notice was not issued or the development has not yet commenced. An appeal must be made within 60 days.
- A person aggrieved by the levy, or an attempt to levy, can appeal to the Magistrates Court. The court must consider the case and can order the authority to pay compensation.

Enforcement

- 15.1 Failure to submit a commencement notice if you have obtained, or intend to obtain, self-build exemption or relief from the levy for a new dwelling and/or a residential annex;

If your CIL liability notice, or revised CIL liability notice, was issued prior to 1 September 2019:

- If you have received an exemption or relief from the levy, failure to submit this form, and for it to be received by the collecting authority, prior to commencing your development will nullify that exemption or relief and make you liable for the levy.

If your CIL liability notice, or revised CIL liability notice, was issued on or after 1 September 2019:

- If you have received an exemption or relief from the levy, failure to submit this form, and for it to be received by the council, prior to commencing your development will result in a surcharge being applied by the council equal to 20% of the notional chargeable amount or £2,500, whichever is the lower amount (or, if you received exceptional circumstances relief from the levy, may result in the surcharge being applied).

- 15.2 Failure to submit a commencement notice if you have not obtained, or do not intend to obtain, an exemption or relief from the levy;

- failure to submit this form, and for it to be received by the council, prior to commencing your development will result in a surcharge being applied by the council equal to 20% of the notional chargeable amount or £2,500, whichever is the lower amount

- 15.3 Failure to complete CIL Form 7 part 2 if claiming self-build exemption alongside the submission of the requested supporting information within six months of the

Compliance Certificate being issued will result in the liable party being liable for the full CIL charge.

- 15.1 Late payment interest - failure to pay CIL within 60 days of commencement, or in line with the appropriate instalment policy, will result in the imposition of late payment interest by the Council at 2.5% above the Bank of England base rate.
- 15.2 Late payment surcharge – continued failure to pay CIL may result in the Council imposing a late payment surcharge. These are 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)

The CIL Stop Notice

- 15.3 If the Council considers that interest and late payment surcharges will be ineffective in securing the payment of CIL, the Council has the ability to serve a Stop Notice on the development. A CIL Stop Notice prohibits the development from continuing until a payment is made.
- 15.4 Continuing with the development in such a circumstance is a criminal offence and is punishable by potentially unlimited fines.
- 15.5 Before serving a Stop Notice, the Council will first issue a warning to those liable for the payment, the land owners/occupiers and all those considered to be affected by the notice. The Council will also post a warning on the site itself. This will set out the amount overdue and the number of days after which a CIL Stop Notice will be served if payment has not been made.
- 15.6 Asset seizure - the Council are also able to seek a court's consent to seize and sell assets to the recover the money from overdue CIL payments. The Council will send you a notice of this beforehand.
- 15.7 Committal to prison - where a liable party continues to have overdue payments for CIL, the Council can ask a magistrates court to commit the person(s) to prison (for a maximum of 3 months). The Council will be required to demonstrate that it has been unable to recover the CIL amount by seizing assets and/or land.

How will I know what CIL monies have been spent on?

- 16.1 Following the update to the CIL regulations in September 2019, the Council is required to publish an annual infrastructure funding statement detailing the total amount of CIL collected, how much was spent and what it was spent on. The first

issue of this report will be published by 31st December 2020 with any future reports being due within the same timeframe in the corresponding year. Prior to this statement being published in December 2020, the council will publish an annual report which will summarise the CIL spending/income for the previous financial year (2018/19).

Appendix 1 – Worked examples of the CIL using Wokingham Borough Council’s Charging Schedule

| Table 1: CIL Rates | | |
|---|--|---------------------------|
| Development Type | Charging Zone | £ per square metre |
| Residential Development (excluding Sheltered Housing, Extra Care Housing and Residential Institutions) | South of M4 SDL | £300 |
| | South Wokingham SDL | £320 |
| | North Wokingham SDL | £340 |
| | Arborfield SDL | £365 |
| | Rest of Borough | £365 |
| Sheltered Housing | South of M4 SDL, South Wokingham SDL, North Wokingham SDL and Arborfield SDL | £365 |
| | Rest of Borough | £150 |
| Residential Institutions and Extra Care Housing | South of M4 SDL, South Wokingham SDL, North Wokingham SDL and Arborfield SDL | £100 |
| | Rest of Borough | £60 |
| Retail | Existing town/small town/district centres | £0 |
| | Arborfield SDL | £0 |
| | Rest of Borough | £50 |
| All Other Development Types | Borough-Wide | £0 |

Example 1

Planning permission is granted for 2 new-build dwellings with a total GIA of 270 square metres. An existing dwelling, which has been in lawful use for six months of the previous three years, with a floorspace of 180 square metres will be demolished. The development is located within the Arborfield SDL, therefore the rate of CIL is £365 per square metre.

Firstly, to work out the chargeable floorspace it is necessary to use the formula below:

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

Where:

G = 270 sq. m (the gross internal area of the development)

G_R = 270 sq. m (the gross internal area of the development charged at the residential rate. This figure is the same as the above as there is only one chargeable use on the site)

E = 180 sq. m (the gross internal area of the house to be demolished)

K_R = 0 sq. m (no existing buildings are to be re-used so this figure is 0)

$$\frac{270\text{sq. m} - 0 - (270\text{sq. m} \times 180\text{sq. m})}{270\text{sq. m}}$$

Chargeable floorspace = 90 sq. m

After allowing for demolition, the net increase in floor area is 90 sq. m, however the development will still be liable for CIL as it is creating a new residential dwelling, therefore the 100 sq. m threshold does not apply.

The following formula can then be used:

CIL Rate (R) x Chargeable Floorspace (A)

R = £365/sq. m (the CIL rate for the Arborfield SDL)

A = 90 sq. m (the chargeable floorspace)

$$\underline{365 \times 90}$$

Total CIL liability = £32,850.00

Example 2

Planning permission is granted for the demolition of an existing dwelling not in lawful use for at least six months over the past three years in South Wokingham SDL and the construction of two new dwellings in its place. The existing dwelling has a floorspace of 250 square metres and the new dwellings have a floorspace of 150 square metres each.

The development results in the creation of new dwellings, therefore CIL applies. Because the existing dwelling has not been in lawful use, the existing floorspace is not deducted.

The CIL charge for residential development in South Wokingham SDL is £320 square metre. Therefore the calculation is as follows:

CIL Rate (R) x Chargeable Floorspace (A)

£320 sq. m x 300 sq. m

Total CIL Liability: £96,000.00

Example 3

Planning permission is granted for a sheltered housing development with a total floorspace of 1000 square metres. The development is to be built in an area outside of the SDL locations, so is therefore the 'Rest of the Borough' charging zone and the rate of CIL is £150 per square metre. Two existing dwellings with a total floorspace of 250 square metres are to be demolished. The dwellings were in lawful use for at least six months over the past three years.

Firstly, to work out the chargeable floorspace it is necessary to use the formula below:

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

Where:

G = 1000 sq. m (the gross internal area of the development)

G_R = 1000 sq. m (the gross internal area of the development charged at the residential rate. This figure is the same as the above as there is only one chargeable use on the site)

E = 250 sq. m (the gross internal area of the development to be demolished)

K_R = 0 sq. m (no existing buildings are to be re-used so this figure is 0)

$$1000\text{sq. m} - 0 - \frac{(1000\text{sq. m} \times 250\text{sq. m})}{1000\text{sq. m}}$$

Chargeable floorspace = 750 sq. m After

allowing for demolition, the net increase in floor area is 750 sq. m.

The following formula can then be used:

CIL Rate (R) x Chargeable Floorspace (A)

R = £150/sq. m (the CIL rate for sheltered housing outside of the SDLs) A
= 750 sq. m (the chargeable floorspace)

$$150 \times 750$$

Total CIL liability = £112,500.00

Example 4

Planning permission has been granted for the development of 200 new build homes on the South of the M4 SDL site. The CIL charge is therefore £300 per square metre and there are no buildings on the site to be demolished. The new build homes are all 110 square metres and 50 of these new dwellings are applicable for social housing relief.

Total GIA = 200 X 110sq. m = 22,000sq. m

Total chargeable floorspace (Total GIA – GIA for the social housing units eligible for relief)=
22,000sq. m – 5500sq. m = 16,500sq. m

The following formula can then be used:

CIL Rate (R) x Chargeable Floorspace (A)

R = £300/sq. m (the CIL rate for the South of the M4 SDL)
A = 16,500 sq. m (the chargeable area)

$$300 \times 16,500$$

Total CIL liability = £4,950,000.00

Example 5

Planning permission is granted for 90 new-build homes split across two equal phases of 45 units. The new build homes are all have a floorspace of 100 square metres and are to be built on the North Wokingham SDL, which has a CIL rate of £340sq. m. As part of Phase One, there is a large warehouse building of 6000 square metres that is to be demolished. The warehouse has been in use for at least six months over the previous three years.

To work out the chargeable area for phase one, it is necessary to use the following formula:

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

$$G = 4500\text{sq. m}$$

$$G_R = 4500\text{sq. m}$$

$$E = 6000\text{sq. m}$$

$$K_R = 0\text{sq. m}$$

$$4500\text{sq. m} - 0\text{sq. m} - \frac{(4500\text{sq. m} \times 6000\text{sq. m})}{4500\text{sq. m}} = -1500\text{sq. m}$$

CIL liability for Phase 1: It is not possible to have a negative rate of CIL, so the liability for Phase One is £0.

For Phase 2, the same equation is used as it is a separate chargeable development. However, the figure for E will be different.

$$G = 4500\text{sq. m}$$

$$G_R = 4500\text{sq. m}$$

$$K_R = 0\text{sq. m}$$

E = for the second and subsequent phases of a phased planning permission, the value Ex

There are no buildings to be demolished on Phase 2. However, there were buildings demolished on Phase One. Therefore the value Ex becomes relevant:

$$Ex = Ep - (Gp - Kpr)$$

Ep = 6000sq. m (this is the area of the factory demolished in Phase One)

Gp = 4500sq. m (this is the GIA of the development from Phase One)

Kpr = 0sq. m (this would be the GIA of any buildings re-used as part of the development that meet the definition of Kr in the regulations)

$$Ex = 6000\text{sq. m} - (4500\text{sq. m} - 0)$$

Therefore Ex = 1500sq. m

Therefore the chargeable area for Phase Two is:

$$4500\text{sq. m} - 0\text{sq. m} - \frac{(4500\text{sq. m} \times 1500\text{sq. m})}{4500\text{sq. m}} = 3000\text{sq. m}$$

Using a CIL rate of £340sq. m can then be multiplied by the chargeable floor area of 3000sq.m.

$$\underline{\pounds 340\text{sq. m} \times 3000\text{sq. m}}$$

CIL liability for Phase 2 = £1,020,000

Total CIL Liability = £1,020,000
