

# Community Infrastructure Levy (CIL) - Determining whether a Development may be CIL Liable

## Planning Application Additional Information Requirement Guidance

Your development may be liable for a charge under the Community Infrastructure Levy if it involves new build floor area, including extensions or a new dwelling. If your scheme is liable, this charge is payable after development begins.

Further information on CIL can be found on the Planning Portal at:

Information on the CIL charges liable in a specific location can be found on the relevant local authority's website. In London both Mayoral and local borough CIL may be applicable.

Your answers to the questions on this form will enable the local authority to establish whether or not your development is liable for a charge, and if so to calculate it accurately from the floor areas you provide. Detailed information on non-residential floorspace will be taken from the planning application form.

The local authority will also independently check plans when applications are assessed. Misleading or inaccurate answers could delay the processing of your application, resulting in a CIL charge that is higher than it needs to be, and in some cases may lead to surcharges being imposed.

You should submit this form at the same time as your planning application.

### Notes on specific questions:

2a. New build floorspace. Answer No if either:

- l the new floorspace **only** relates to a building into which people do not normally go or only go into intermittently for the purposes of inspecting or maintaining fixed plant or machinery; or
- l the new floorspace **solely** relates to an internal/mezzanine floor and no other works or change of use are proposed.

4. Exemption or relief

a) Local authorities can provide discretionary relief from CIL where the proposed development is owned by a charity but will be used for non-charitable purposes and the buildings will be retained by the charity as an investment to fund the work of the charity.

b) See notes on Question 6 in relation to the types of affordable housing which qualify for social housing relief.

5. Reserved Matters Applications

You will need to check the relevant local authority's website to determine when CIL charges were effective. In London all relevant developments are liable to the Mayoral CIL.

The date of the award of the previous planning permission is the date on the decision notice.

6. & 7. Gross internal floorspace

Gross internal floorspace is the internal area of the building, and should include rooms, circulation and service space such as lifts and floorspace devoted to corridors, toilets, storage, ancillary floorspace (e.g. underground parking), etc.

Guidance on measuring GIA is available in the RICS Code of Measuring Practice (chargeable):

6. Proposed New Floorspace.

6a) Residential floorspace includes new dwellings, extensions, conversions, garages or any other buildings ancillary to residential use. In flatted developments, this includes communal entrances, landings, etc and any related internal parking.

"Total gross internal floorspace proposed (including change of use)(square metres)" should include any floorspace retained as part of the proposal.

In each row, the amount in the final column (Net additional gross internal floorspace following development(square metres), should equal the "Total gross internal floorspace proposed (including change of use)(square metres)" minus the "Gross internal floorspace to be lost by change of use or demolition (square metres)".

6b) If your proposal includes the gain or loss of non-residential floorspace it is essential that you also complete the information on Q18 Non-residential Floorspace on the Planning Application Form. Otherwise your application may be invalid or the processing of your application will be delayed.

6c) Residential Floorspace - definition of market and affordable housing

Enter the floorspace of the market housing and social housing if known. If the breakdown of the residential floorspace is not known at the time of completing this form, please just enter the total residential floorspace.

Market housing includes all dwellings except social housing.

Social housing includes:

Rented dwellings where the dwelling will be let by a private registered provider of social housing, a registered social landlord or a local housing authority on one of the following tenancy types:

(a) an assured tenancy (excluding an assured shorthold tenancy);

(b) an assured agricultural occupancy;

(c) an arrangement that would be an assured tenancy or an assured agricultural occupancy but for paragraph 12(1)(h) or 12ZA of Schedule 1 to the Housing Act 1988;

(d) a demoted tenancy;

(e) an introductory tenancy;

(f) a secure tenancy;

(g) an arrangement that would be a secure tenancy but for paragraph 4ZA or 12 of Schedule 1 to the Housing Act 1985;

(h) an intermediate rent basis.

For shared ownership dwellings where the dwelling will be occupied according to statutory shared ownership arrangements, the initial share in the dwelling will not exceed 75 per cent of the total value, the rent payable will be no more than 3 per cent of the unsold interest and the rise in annual rent will be limited to the rate of inflation plus 0.5 per cent.

Social housing does not include most forms of discounted market housing.

If your development includes social housing you will also need to complete the form: Community Infrastructure Levy - Claiming Exemption or Relief, see

## 7. Existing Buildings

Please provide details of all the existing buildings. If the development relates to more than four existing buildings, please provide details of the additional buildings separately.

It is the applicant's responsibility to provide evidence to the effect that buildings were in a use that is "lawful", and that the building(s), or part of the building, have been in 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. The local authority may require further evidence of proof of the continuous use if this is not evident. Clarification as to what constitutes a lawful use is given in the Town and Country Planning Act, Section 191 (2).

7 c) In this table, please provide details of any existing whole buildings which are:

- buildings which people do not normally go into;

- buildings which people only go into intermittently for the purposes of maintaining or inspecting machinery; or

- buildings for which planning permission was granted for a temporary period.

7 d) and e) Mezzanine floors of less than 200 square metres, inserted into an existing building, are not liable for CIL, unless they are to be installed as part of a planning permission which permits other works as well. Where appropriate, the floorspace created by the addition of a mezzanine floor will be deducted from the net additional gross internal floorspace when the CIL liability is calculated.

## Next Steps

Should your application be liable for CIL and be granted planning permission most local planning authorities will include an informative to this effect on the decision notice.

If your application is CIL liable, it is important that you ensure that the requirements of the CIL Regulations are met to ensure that you avoid any unnecessary surcharges and that any relevant relief or exemption is applied.

As soon as possible after receiving planning permission for a CIL liable development you or the relevant parties need to complete a Form 1: Assumption of Liability form.

If you intend to claim either social housing relief, charitable exemption or where provided by the relevant local planning authority discretionary charitable relief or exceptional circumstances relief you need to complete a Form 2: Claiming Exemption or Relief form.

To find out more about relief and download the relevant forms please refer to the Planning Portal:

If you intend to claim a self build exemption for a whole dwelling, you need to complete the Self Build Exemption form before commencing development and follow this up with supplementary information within 6 months of completion.:

If you intend to claim an exemption for a residential annex or extension, you will need to complete the Self Build Annex or Extension Claim form before commencing development:

Once the local authority has received the Assumption of Liability Form and as soon as practicable after the time when the planning permission is treated as first permitting development the local authority will issue the CIL Liability Notice(s). This will set out the CIL charge based on an assessment of the floorspace information provided. In making an assessment of CIL Liability the local authority may take account of other sources of information.

Prior to your development commencing, you are required to submit a Commencement Notice to Council stating the date when the development will commence. Development is to be treated as commencing on the earliest date on which any material operation begins to be carried out on the land within the meaning of section 56(4) of the Town and Country Planning Act 1990. Upon receipt of this the Council will then issue a Demand Notice with precise details of your payment arrangements, payable from the date development commences.

If a valid Commencement Notice is not submitted before work starts, claims for relief or exemptions are likely to be disallowed, surcharges will apply and payment will be due in full on the day the Council believes the development to have commenced. For the avoidance of doubt, site clearance and/or demolition will be considered as work having commenced.

The CIL Regulations provide opportunities to appeal against the decisions of the local authority at various stages in the process. Details of the appeals procedure will be provided in the Notices issued by the CIL Charging Authority (local authority).