

Community Infrastructure Levy Guidance for Applicants and Developers

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1. Introduction

- 1.1 Reading Borough Council's Community Infrastructure Levy (CIL) Charging Schedule comes into effect on 1st April 2015. The process of introducing CIL involved two consultations in 2013 and 2014, followed by an independent examination late in 2014. The report of the Inspector who carried out the examination was received on 17th December 2014, and he concluded that the Charging Schedule represented an appropriate basis for collecting CIL in Reading. The Charging Schedule was approved by Council on 27th January 2015, with an implementation date of 1st April.
- 1.2 This means that applications determined on 1st April or later may be liable to pay CIL. These Guidance Notes provide useful information to applicants on CIL, including what development will be liable or exempt, how payment will be calculated and when and how it will be collected.
- 1.3 If you need to discuss issues related to CIL, please contact the Planning Policy team at Reading Borough Council on 0118 9373337 or LDF@reading.gov.uk.

2. What is CIL?

- 2.1 The Community Infrastructure Levy is a new levy that local authorities can choose to charge on new developments in their area. The money received from the levy can be used to support and manage the impacts of development by funding infrastructure that the Council, local community and neighbourhoods want - for example road improvement schemes, open space improvements or new schools.
- 2.2 The document setting out the rates at which a levy will be charged and the associated arrangements is called the "Charging Schedule". In developing the Charging Schedule the Council has produced evidence of infrastructure needs across the Borough and the viability of various types and sizes of development. The Charging Schedule has been through two rounds of consultation. The first, on a Preliminary Draft Charging Schedule, took place between February and April 2013. The second, on a Draft Charging Schedule, took place between March and May 2014. The Schedule was then submitted for an independent public examination, which took place in Autumn 2014. The examination was undertaken by written representations rather than including hearings, and the Inspector's Report was received on 17th December 2014. The Schedule was approved at a meeting of Council on 27th January 2015, with an implementation date of 1st April.

Development will potentially be liable for CIL if it:

- Involves new build of at least 100 sqm gross internal area (GIA) floorspace; or
- Involves new build of less than 100 sqm GIA floorspace and the creation of one or more dwellings; or
- Involves change of use to residential where floorspace has not been in use for 6 months of the previous 3 years on the day planning permission is granted.
- This includes development permitted by a 'general consent' (including permitted development) commenced on or after 1st April 2015.

Development will potentially not be liable for CIL or not be charged if it:

- Is for a use which has a zero or nil charge (£0/sqm) set out in the Reading Borough Council CIL Charging Schedule; or
 - Involves only change of use, conversion or subdivision, or creation of mezzanine floors to non-residential use; or
 - Is for a building into which people do not normally go, or go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery; or
 - Is for social housing and a claim for social housing relief is made and accepted before development commences; or
 - Is for and occupied by a charity for charitable purposes and a claim for charitable relief is made and accepted before development commences; or
 - It is for a self-build new home, extension or residential annexe and a relief claim is submitted and accepted before development commences.
- 2.3 Please see the Reading Borough Council CIL Charging Schedule on the Council's website for details of the charges in the Borough
(<http://beta.reading.gov.uk/media/2594/Community-Infrastructure-Levy-Charging-Schedule/pdf/Community-Infrastructure-Levy-Charging-Schedule-20151.pdf>)
- 2.4 Relevant information including the Regulations and DCLG information documents are available via the below links
- [CIL Regulations 2010 \(as amended\)](#)
 - [CIL Regulations 2011](#)
 - [CIL Regulations 2012](#)
 - [CIL Regulations 2013](#)
 - [CIL Regulations 2014](#)
 - [DCLG CIL Guidance](#)
 - [CIL Forms](#) on the Planning Portal website

3. When will developments be liable to pay CIL?

Will a development be liable to pay CIL if planning permission is granted before the CIL Charging Schedule came into effect, i.e. 1st April 2015?

No. There is no CIL liability for a planning permission if that planning permission was granted before the CIL Charging Schedule came into effect, i.e. 1st April 2015.

Will a development be liable to pay CIL if there was a resolution to grant planning permission (e.g. subject to a S106 agreement or call-in) before 1st April 2015, but the formal grant of planning permission is made on or after 1st April 2015?

Yes. If a resolution to grant planning permission (e.g. subject to a S106 agreement or call-in) before 1st April 2015, but the formal grant of permission was made on or after 1st April 2015, it would be liable to pay CIL.

This is because any resolution to grant planning permission by the Committee does not

formally grant planning permission as a decision notice cannot be issued until, for example, a S106 agreement has been signed, where required.

S106 planning obligations cannot be entered into for any infrastructure which is on the Council's Regulation 123 list, which is the list of infrastructure for which CIL receipts are intended to be used. Consequently if a S106 agreement for an item on that list is not concluded before 1st April then CIL will take over. Obligations for affordable housing and other infrastructure projects not covered by the CIL list will continue to be secured through Section 106, alongside the CIL requirements. See the Section 106 Planning Obligations SPD 2015 for further details on the interaction between planning obligations and CIL.

Will a development be liable to pay CIL if there was an outline planning permission before 1st April 2015, but the approval of reserved matters/ phases is made on or after 1st April 2015?

No. If outline planning permission is granted before 1st April 2015, but the approval of reserved matters/phases is made on or after 1st April 2015, the approval of reserved matters/phases does not trigger a liability to pay CIL.

However, if the outline planning permission is granted on or after 1st April 2015, followed by the approval of reserved matters/phases at a later date, the approval of reserved matters/phases does trigger a new liability to pay CIL.

Will a development be liable to pay CIL if there was a full planning permission before 1st April 2015, but the approval of pre-commencement conditions is made on or after 1st April 2015?

No. If full planning permission is granted before 1st April 2015, but the approval of pre-commencement conditions is made on or after 1st April 2015, the approval of pre-commencement conditions does not trigger a liability to pay CIL.

Will a development be liable to pay CIL if there was a refusal of planning permission before 1st April 2015, but an approval of planning permission on appeal is made on or after 1st April 2015?

Yes. If planning permission was refused before 1st April 2015, but a grant of planning permission was made on appeal on or after 1st April 2015, the development granted planning permission on appeal is liable to pay CIL.

Will a development be liable to pay CIL if there was a planning permission before 1st April 2015, but an approval of a S73 application to vary or remove conditions of that planning permission is made on or after 1st April 2015?

Yes. If full planning permission is granted before 1st April 2015, but an approval of a S73 application to vary or remove conditions is made on or after 1st April 2015, the approval does trigger a liability to pay CIL because it results in a new planning permission.

However the CIL (Amendment) Regulations 2012 confirm that although a new CIL liability is triggered, the new additional chargeable amount is equal only to the net increase in the chargeable amount arising from the original planning permission, so as to avoid double counting of liability.

Are 'General Consents' development liable to CIL?

Yes if the development meets the basic criteria for CIL liable developments e.g. 100sqm of additional floor space. The CIL Regulations 2010 (as amended) defines 'General Consents', so as to include:

- Permitted development rights under the General Permitted Development Order (GPDO) 2013 (as amended)
- Consents granted for Nationally Significant Infrastructure Projects (NSIPs) by the Infrastructure Planning Commission (IPC) or Major Infrastructure Planning Unit (MIPU) of the Planning Inspectorate (PINS)
- Development consented through any Enterprise Zone, Simplified Planning Zone (SPZ), Local Development Order (LDO) or Neighbourhood Development Order (NDO); and
- Development consented through an Act of Parliament, for example, the Crossrail Act 2008.

For permitted development, it is the applicant's responsibility to serve a [Notice of Chargeable Development Form](#) before the commencement of the development. The form can be found on the Council's website under the section "CIL related Forms" (see link below).

4. How will CIL be charged?

- 4.1 Any new build - that is a new building or an extension - is only liable for CIL if it has 100 square metres, or more, of gross internal floor space, or involves the creation of additional dwellings, even when that is below 100 square metres.
- 4.2 Whilst any new build over this size will be subject to CIL, the gross floorspace of any existing buildings on the site that are going to be demolished or re-used will be deducted from the final liability, as long as those buildings have been in lawful use for at least six months of the previous three years. After these deductions the net additional floorspace will be chargeable (even if this totals under 100 sqm).
- 4.3 A change of use to one or more residential units development will be liable for CIL if the floorspace involved has not been in lawful use for 6 months in the previous 3 years to the development being permitted.
- 4.4 Developments which only include mezzanine floor developments (inserting a new floor in an existing building), subdivision of a dwelling into two or more dwellings and changes of use that do not involve additional new build floorspace (apart from residential) are not liable for the Levy, as clarified by Regulations 4 and 7 in the CIL (Amendment) Regulations 2011.
- 4.5 Applicants must complete the [CIL Additional Information Requirements Form](#) to provide the necessary declaration that existing buildings on the site are "in use" and therefore eligible to be deducted from their liability. Please note if we do not receive a completed form, under CIL Regulation 40(9) we will assume that any existing buildings on the site have zero floorspace deductible for CIL purposes.
- 4.6 Where there are eligible existing buildings, the Chargeable Development (A) is calculated using the CIL formula (Regulation 40). This formula apportions the floorspace that is being demolished between the different levy rates.
- 4.7 Buildings that have not been in continuous use for at least six months in the previous 3 years prior to the date the planning permission first permits the chargeable development cannot be taken into account.

5. The CIL Chargeable Area

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

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

(Source of definition: RICS Code of Measuring Practice, 6th Ed)

6. Example CIL Scenarios

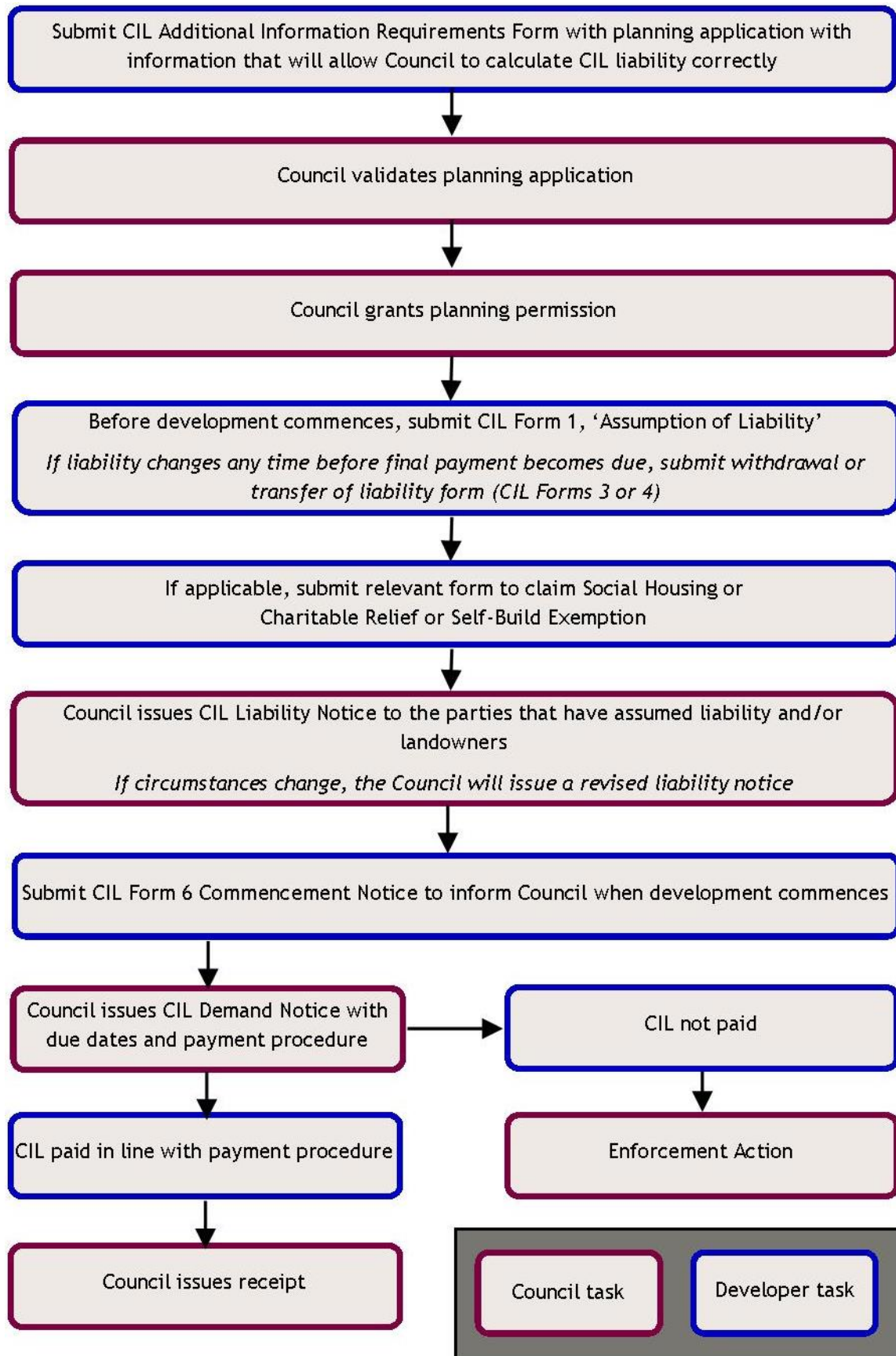
| Current site | Proposed Development | CIL Liable | Chargeable area |
|--------------------------|---|------------|--|
| Cleared building site | 90 sq m new residential dwelling | ✓ | 90 sq m |
| Single dwelling - in use | Single dwelling with a 25 sq m extension | X | Not liable as under 100 sq m new 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 | 2,000 sq m residential, including 40% affordable housing (800 sq m) | ✓ | 1,200 sq m NB: the social housing relief (800 sq m) must be applied for and meet certain criteria to be |

| | | | |
|---|---|---|---|
| | | | granted |
| Single dwelling - in use but to be demolished | 125 sq m new development 90 sq m original dwelling demolished | ✓ | 35 sq m 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 | 125 sq m new development 90 sq m original dwelling demolished | ✓ | 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 | 35 sq m new development 90 sq m original retained | 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 | 90 sq m conversion /change of use of unit to residential | ✓ | 90 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 | 90 sq m conversion /change of use of unit to residential | ✓ | 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 | 90 sq m conversion /change of use of unit to retail unit | X | Not liable as change of use to non-residential and under 100 sqm new development so minor exemption applies. The fact it has not been in use is not relevant in this scenario |
| 4,000 sq m offices - in use | 4,000 sq m conversion of offices to flats | X | Not liable as existing floorspace converted |
| 3,500 sq m business development in use but to be demolished | 15,000 sq m new residential 5,000 sq m new business 3,500 sq m original business use demolished | ✓ | 12,375 sqm residential 4,125 sqm business but as zero rate no charge N.B the demolished amount is apportioned across the whole development e.g. $\frac{3}{4}$ development residential, $\frac{1}{4}$ business; therefore, of the 3,500 sqm demolished floorspace, 2,625 sqm is deducted from residential floorspace and 875 sqm from business |

NB: The above table gives examples of whether CIL is chargeable under the regulations. However, the Council may still set a nil charge for certain types of chargeable development - please see the Charging Schedule for further information.

7. Planning Application and CIL Process

Summary of process (where development is granted planning permission)



Submission of Planning Application (Developer)

- 7.1 All planning applications involving the construction of new floor space must provide sufficient information to allow the Council to determine whether CIL is liable and - if so - the amount of the charge.
- 7.2 Therefore when submitting a planning application for a development that may be CIL liable you should submit the [CIL Additional Information Requirements Form](#), to ensure that your CIL liability is calculated accurately.
- 7.3 **Failure to submit this form alongside the planning application will mean that possible CIL liabilities will be unable to be calculated and the Council will not validate the planning application until the required information is submitted.**

Assumption of liability (Developer)

- 7.4 The responsibility to pay CIL runs with the ownership of land on which the liable land will be situated. However, the Regulations recognise that others involved in a development may wish to pay. To allow this, anyone can come forward and assume liability for the payment.
- 7.5 It is the responsibility of the person(s) who will pay CIL to serve an Assumption of Liability Notice (CIL Form 1) on the Council prior to the commencement of the development. However the Council recommends that the assumption of liability notice is submitted during the planning application process.

Consequences of not following this procedure

- 7.6 **Where no one has assumed liability to pay CIL prior to the commencement of the development, the liability will automatically default to the landowners of the relevant land.**
- 7.7 **The Council has adopted an Instalments Policy which allows payment of CIL liabilities over a longer time period to assist with development cash-flow. Failure by any parties to assume liability prior to commencement will mean the payments become due immediately upon commencement of the development and the instalments policy will not apply.**
- 7.8 **In addition a surcharge of £50 may be imposed upon each landowner found to be liable and where collecting authorities have to apportion liability between one or more owners of the land a further surcharge of £500 per owner may be imposed.**

Liability Notice (Council)

- 7.9 When planning permission is granted for a CIL liable development, the Council will issue a Liability Notice alongside the planning Decision Notice. The Liability Notice will specify how much CIL is to be paid and when it is to be paid. The Liability Notice is not a demand for payment. It will be sent to the applicant/owner or other parties that have already assumed liability and copied to planning agents working on applicants/owners behalf.

Commencement Notice (Developer)

- 7.10 Prior to the development commencing, the Council must be served with a Commencement Notice (CIL Form 6) stating the date when the development will commence.

Consequences of not following this procedure

- 7.11 Failure to submit a valid Commencement Notice before development commences may result in the collecting authority imposing a surcharge of 20% of the CIL amount due, up to a maximum of £2,500. In addition payments will not be permitted to be made in line with the Instalments Policy and full payment will be payable immediately.

Demand Notice (Council)

- 7.12 The Council will serve a Demand Notice following receipt of a Commencement Notice, or a decision by the collecting authority to deem that the development has commenced. The Demand Notice will set out precise details of payment arrangements including instalment options, which will be payable from the date upon which development commences.
- 7.13 However if a valid Commencement Notice has not been submitted before development commences, payment will be due in full on the day that the Council believes the development to have commenced.
- 7.14 If a development takes place in phases, each phase is a separate chargeable development and the payments can be made in line with the Reading CIL Instalments Policy.

8. Enforcement

Late payment interest

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

Late payment surcharge

- 8.2 Continued failure to pay CIL may result in the CIL Collecting Authority imposing one or more late payment surcharge. Such surcharges will be imposed in the following manner:
- Five per cent of the outstanding amount where payment is still overdue after 30 days, subject to a £200 minimum
 - Further five per cent of the outstanding amount where payment is still overdue after six months, subject to a £200 minimum
 - Further five per cent of the outstanding amount where payment is still overdue after 12 months, subject to a £200 minimum

The CIL stop notice

- 8.3 If the Council considers that interest and late payment surcharges will be ineffective in securing payment of the overdue CIL, it may decide to serve a CIL stop notice on the development in question. A CIL stop notice prohibits development from continuing until payment is made. Continuing to develop in the presence of such a notice is a criminal offence, punishable by potentially unlimited fines.
- 8.4 Before serving a CIL stop notice however, the Council will first issue a warning to the person liable to pay the amount, the land's owners, occupiers and all those who the Council consider will be affected by the notice. It will also post a warning on the site

itself. This warning will state that continued non-payment may result in a CIL stop notice being issued. It will also set out the amount overdue and the number of days after which a CIL stop notice may be served if payment continues not to be made. If payment is not made by the end of this period, the Council may serve a stop notice which will prohibit development with immediate effect immediately until payment of the outstanding amount is made.

Distrain on goods (asset seizure)

- 8.5 The Council may seek a court's consent to seize and sell your assets to recover the money due. These assets may include any land you hold. The Council must send you notice of its intention to do so beforehand.

Committal to prison

- 8.6 Where a liable party continues to evade paying CIL, the Council can ask a magistrates' court to commit the relevant person(s) to prison for no more than three months. To do this, the Council must be able to demonstrate to the court that it has been unable to recover the CIL amount due by seizing and selling your assets and land.

9. Applications for Charitable Relief, Social Housing Relief or a Self-Build Exemption

- 9.1 Mandatory relief from CIL is available in a number of specific instances

- A charity landowner will benefit from full relief from their portion of the liability where the chargeable development will be used wholly, or mainly for charitable purposes;
- The development is a self-build new home, extension or residential annexe;
- If the chargeable development comprises or is to comprise qualifying social housing (in whole or in part), the social housing element is eligible for relief from liability to pay CIL subject to conditions.

- 9.2 Claims for relief cannot be made after the development has commenced and are void if the development commences and no Commencement Notice has been provided.

- 9.3 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. Claims can be made at any time up to the point where development commences. If no claim has been made, the Council will issue the Liability and Demand Notices showing the full CIL liability in the usual way.

- 9.4 As soon as possible after receiving the claim, the Council will assess it and notify the claimant of its decision and reasons and the amount of relief they qualify for. DCLG has published guidance *CIL Relief Information Document* to assist. Both the application for relief and the Council's decision and reasons need to be registered/recorded. When the Demand Notice is issued, the amount of relief is shown on the notice.

- 9.5 If relief is granted and a reduced CIL paid, 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.

10. Reviews and Appeals

- 10.1 Once a Charging Schedule is adopted, the rate of the levy is non-negotiable and the Council is not required to justify its application on a case-by-case basis. Appeals under the CIL Regulations are overwhelmingly about matters of fact (e.g. did the Council make a mistake in calculating the liability? Did the development actually commence on such and such a date?).
- 10.2 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 (that outlines the chargeable amount) has been issued. The collecting authority is required to review the calculation and it must be carried out by someone who is senior to the person who made the original calculation, and who had no involvement in that original calculation. A decision must be issued within 14 days, and this decision cannot be reviewed again.
- 10.3 All appeals must be made using the forms that are published by the Secretary of State available on the Planning Portal.
- 10.4 The relevant appeals are:
- 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 set out above. It can be appealed on the basis that it was calculated incorrectly, that a liability notice was not served or if the breach simply did not occur. The appeal must be made within 28 days.
 - 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 of, or an attempt to levy, distress can appeal to the Magistrates Court. The Court must consider the case and can order the authority to pay compensation.

Appendix 1: Calculating the Chargeable Amount

Introduction

The initial Liability Notice will include a calculation of the exact CIL liability at that time. This is done by multiplying the rate of the charge by the net increase in gross internal floor area after allowing for any demolition and adjusting for inflation.

The formula from CIL Regulation 40 is as follows:

$$\text{CIL liability} = \frac{R \times A \times I_p}{I_c}$$

Where:

R = CIL rate for that area/use

A = the net increase in gross internal floor area

I_p = index figure for the year in which planning permission was granted

I_c = index figure for the year in which the Charging Schedule containing rate *R* took effect

Where any floorspace will be demolished or change of uses will occur *A* in the above formula for each type of proposed developed is calculated by:

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

Where:

G = the gross internal area of the chargeable development

G_R = the gross internal area of the part of the chargeable development chargeable at rate *R*

K_R = the aggregate of the gross internal areas of the following—

- (i) retained parts of in-use buildings, and
- (ii) for other relevant buildings, retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;

E = the aggregate of the following—

- (i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development, and
- (ii) for the second and subsequent phases of a phased planning permission, the value *E_x*, unless *E_x* is negative,

For phased planning permissions, *E_x* is calculated by:

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

Where:

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 the planning permission; and

K_{pR} = the total of the values of *K_R* for the previously commenced phase of the planning permission.

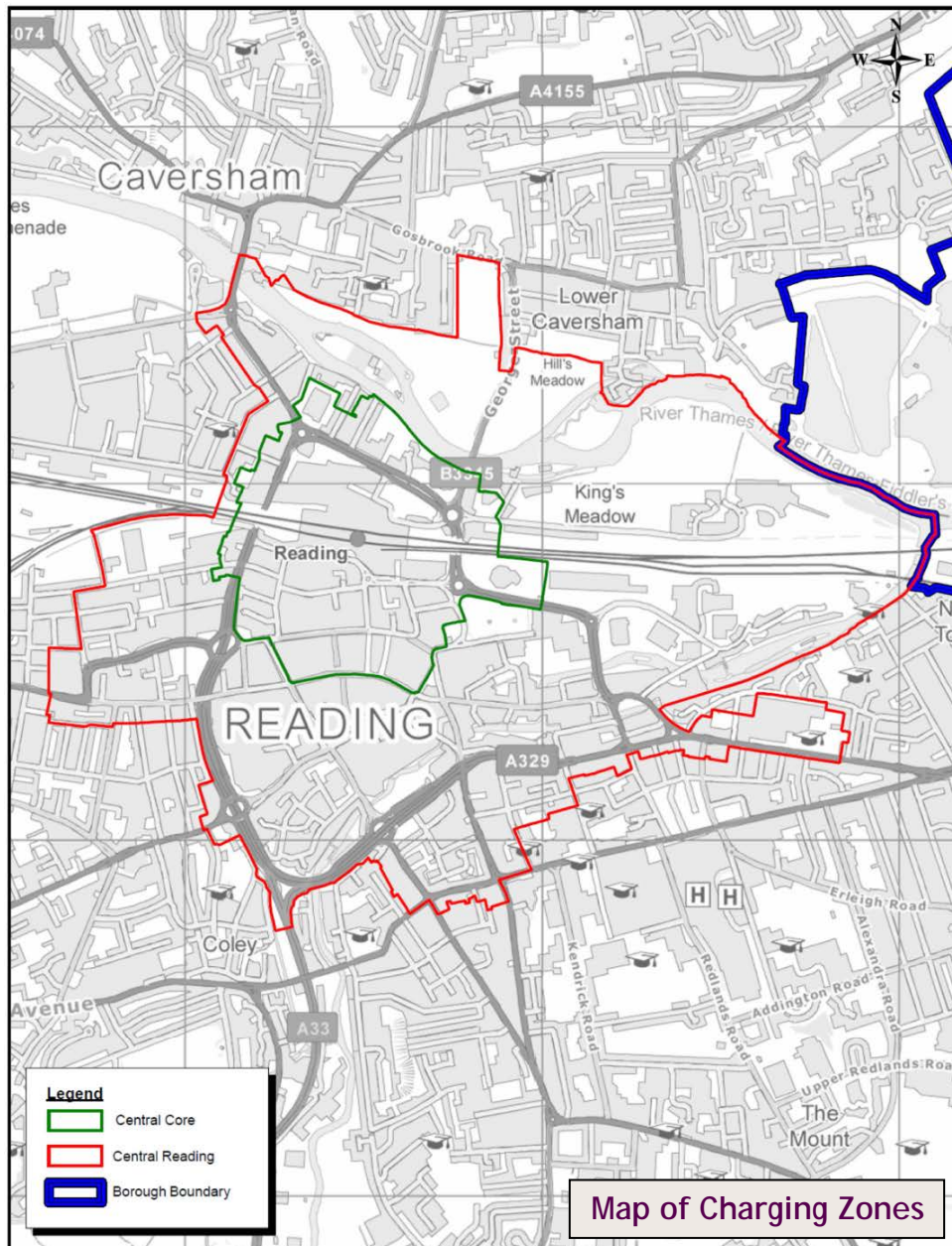
The index (*I*) is the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors; and the figure for a given year is the figure for 1st November for the preceding year.

A building is in use if a part of that building has 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.

Worked Examples

These examples use the rates in the 2015 Reading Charging Schedule, which are as follows:

| Use | Charging Zone Location | Charge £/m ² |
|---|-------------------------|-------------------------|
| Residential / Hotels / Sheltered Housing/ Private Rented Hostel Accommodation (including student accommodation) | Boroughwide | £120 |
| Care homes (those providing nursing care and fully catered) | Boroughwide | £0 |
| A1 Retail | Central Reading | £0 |
| A1 Retail of 2000m ² and over (including foodstores) | Remainder of Borough | £150 |
| A1 Retail of under 2000m ² (including foodstores) | Remainder of Borough | £0 |
| Offices | Central Core | £30 |
| All other chargeable developments | Boroughwide | £0 |



For these examples it is assumed the RICS 'All-in Tender Price Index' is 219 at the time the Council Charging Schedule Starts operating and rises to 220 throughout the next year. By 2018 it has risen to 232.

Example 1

Planning permission is granted for 2015 for 3 new flats with a total GIA of 210 sqm. An existing dwelling which is in lawful use of 120 sq m will be demolished.

After allowing for the demolition, the net increase in floor area is only 90sqm, but as this development is creating new residential dwellings the 100sqm threshold does not apply. Therefore the CIL liability is £10,800 (90sqm x £120)

The applicants have been unable to implement their permission within the time period and in 2018 a new application is submitted and a new permission is granted. An application for extension of time of the permission is lodged.

The floorspace calculation is the same as previously as the plans have not changed. However as several years have passed the rate of CIL will need to be updated to take account of inflation by applying the RICS "all in tender price index".

$$\text{CIL liability} = \frac{R \times A \times I_p}{I_c}$$

I_p is 232

I_c is 219

$$((120 \times 90 \times 232)/219) = \text{£}11,441.10$$

The new Liability Notice thus shows a liability of £11,441.10

Example 2

A planning application is submitted for change of use of a small B2 industrial unit to a B1 office within the town centre. No new floorspace is proposed.

In this case there is no CIL liability because only applications which create new floor area may be liable; on its own a change of use does not create a liability, unless a new residential unit is proposed and the floorspace has not been in use for a period of over 6 months within the previous 12.

Example 3

Planning application is submitting proposing a development of 3,540 sq m of residential use in zone A and 2,700 sq m of A1 retail outside the town centre in the year after the charging Schedule is adopted.

1,800 sqm of existing in use business development will be demolished.

$$\text{CIL liability} = \frac{R \times A \times I_p}{I_c}$$

Where:

R = CIL rate for that area / use

A = the net increase in gross internal floor area

I_p = index figure for the year in which planning permission was granted

I_c = index figure for the year in which the Charging Schedule containing rate R took effect.

CIL rate for residential is £120/sqm and for major retail outside the central area £150/sqm

The floorspace that is lost must be proportioned equally between the two proposed uses.

A is calculated by $G_R - K_R - \frac{(G_R \times E)}{G}$

Where:

G = the gross internal area of the chargeable development

G_R = the gross internal area of the part of the chargeable development chargeable at rate R

E = an amount equal to the aggregate of the gross internal areas of all buildings which:

- (a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and
- (b) are to be demolished before completion of the chargeable development

K_R = an amount equal to the aggregate of the gross internal area of all buildings (excluding any new build) on completion of the chargeable development which:

- (a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use;
- (b) will be part of the chargeable development upon completion; and
- (c) will be chargeable at rate R .

So the residential charge is calculated as follows:

$$\begin{aligned} & 3,540 - 0 - ((3,540 \times 1,800) / 6,240) \\ & = 3,540 - 1,021.15 \\ & = 2,518.85 \text{ sqm} \end{aligned}$$

Therefore the CIL liability for the residential element of the proposed development is as follows:

$$\begin{aligned} & (120 \times 2,518.85 \times 220) / 219 \\ & = £303,642.19 \end{aligned}$$

The retail charge is calculated as follows:

$$\begin{aligned} & 2,700 - 0 - ((2,700 \times 1,800) / 6,240) \\ & = 2,700 - 778.85 \\ & = 1,921.15 \text{ sqm} \end{aligned}$$

Therefore the CIL liability for the retail element of the proposed development is as follows:

$$\begin{aligned} & (150 \times 1,921.15 \times 220) / 219 \\ & = £289,488.84 \end{aligned}$$

The total CIL liability is therefore calculated as follows:

$$\begin{aligned} & £303,642.19 + £289,488.84 \\ & = £593,131.03 \end{aligned}$$

Example 4

A planning application is submitted for demolition of a warehouse totalling 1,200 sqm and the erection of an office development totalling 4,250 sqm, located outside the central core.

In this case, the CIL liability is nil, because the CIL charge per sqm for office outside the central core is £0.

Example 5 - (Applying Social Housing Relief)

In order to demonstrate the application of Social Housing Relief, we can take Example 3 and assume that 1,190 sq m of the residential floorspace will be provided as affordable housing. The applicant has applied for social housing relief. Their application is assessed and relief is approved for all the social housing units.

Note that even though 1,190 sqm will be used for social housing the full amount of CIL will be shown on the initial Liability Notice when planning permission is granted. Relief can only be granted in response to an application for relief made on the appropriate form.

The qualifying amount at a given relevant rate (R) must be calculated by applying the following formula

$$\frac{R \times A \times I_p}{I_c}$$

where

A = the deemed net area chargeable at rate *R*;

I_p = the index figure for the year in which planning permission was granted; and

I_c = the index figure for the year in which the charging schedule containing rate *R* took effect.

Where demolition of existing floorspace occurs, this produces a pro rata reduction in the amount of social housing relief. Therefore it is not the case that we simply multiply the floor area of the social housing units (1,190 sqm) by the rate of CIL charge (£120/sqm) to determine the amount of relief and then deduct this from the total liability calculated before relief was considered to obtain the final liability.

When calculating the amount of relief the net GIA of the social housing units after allowing for demolition is used, just as you can only calculate the total potential liability based on net GIA after allowing for demolition.

The Formula in Regulation 50 is used:

$$Q_R - K_{QR} - \frac{(Q_R \times E)}{G}$$

Where:

Q_R = the gross internal area of the part of the chargeable development which will comprise the qualifying dwellings, and in respect of which, but for social housing relief, CIL would be chargeable at rate *R*;

K_{QR} = the aggregate of the gross internal areas of the following—

- (i) relevant retained parts of in-use buildings; and
- (ii) for other relevant buildings, relevant retained parts where the intended use following completion of the chargeable development is a use that is able to be

carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development.

E = an amount equal to the aggregate of the gross internal area of all buildings which—
(a) on the day planning permission first permits the chargeable development, are situated on the relevant land and in lawful use; and
(b) are to be demolished before completion of the chargeable development; and
G = the gross internal area of the chargeable development.

The calculation of the social housing chargeable area is therefore as follows:

$$\begin{aligned} & 1,190 - 0 - ((1,190 \times 1,800) / 6,240) \\ & = 1,190 - 0 - 343.27 \\ & = 846.73 \end{aligned}$$

The calculation of the relief amount is as follows:

$$\begin{aligned} & (120 \times 846.73 \times 220) / 219 \\ & = \text{£}102,071.56 \end{aligned}$$

Subtracting that from the total (pre-relief) amount calculated of **£593,131.03** gives a final liability of **£491,059.47**

Appendix 2: Instalments Policy

The Council operates the following policy for those who wish to pay in instalments.

| CIL Liability | Number of Instalments | Due dates related to commencement ¹ |
|----------------------|-----------------------|--|
| Up to £25,000 | 1 | 100% within 60 days |
| £25,000 to £250,000 | 2 | 50% within 60 days 50% within 120 days |
| £250,000 to £500,000 | 3 | 25% within 90 days 25% within 180 days 50% within 360 days |
| Over £500,000 | 3 | 25% within 90 days 25% within 360 days 50% within 480 days |

Please note that the ability to pay in instalments is subject to the comments in paragraph 7.11 of this note.

¹ The commencement date will be the Commencement Notice Date as advised by the developer under CIL Regulation 67

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