



# COMMUNITY INFRASTRUCTURE LEVY (CIL)

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# What is CIL?

- To be adopted 19 January 2017
- Comes into effect 15 February 2017

## What is CIL?

The Community Infrastructure Levy (also known as the CIL or 'the Levy') is the Government's chosen approach to set a mandatory tariff on development and came into force on 6 April 2010 through the Community Infrastructure Levy Regulations 2010. Our charging schedule will be ratified by Cabinet on 6 December and then we, the Borough Council will be formally adopted the Community Infrastructure Levy Charging Schedule at the full Council meeting on **19 January 2017**.

The Charging Schedule will come into effect on **15 February 2017** and applies to planning decisions made from that date. This will include the live cases already in the system.

CIL will allow the Council (also known as CIL Charging Authority 'CA') to raise funds from new development in its area. Step by step processes will be on our CIL web pages prior to the adoption.

CIL receipts will contribute towards funding improvement to infrastructure (facilities and services) that are required to support the development and growth planned for this Borough.



### CIL applies to:

- development where there is an increase in floorspace
- charged in £ per square metre of gross internal floorspace
- based on type and location of the development.

### CIL applies to:

Increase in floor space apart from:

Minor Development Exemption (Reg 42) – where gross internal area of the new build is less than 100 square metres. However, this does not apply to new residential dwellings.

Where a CIL fee would be less than £50 it is deemed as zero (Reg 40 – calculation of charges).

Our charging schedule outlines the location and type of developments which will be liable in the Borough.

<b>Residential Development</b>	<b>CIL rate</b>
<b>North East and East areas of the Borough</b> (East of the Great Ouse and north of A1122/A134)	£60/m <sup>2</sup>
<b>South and West of the Borough</b> (West of the Great Ouse and south of A1122/A134, including Downham Market)	£40/m <sup>2</sup>
<b>King's Lynn unparished area</b>	£0/m <sup>2</sup>
<b>Sheltered / Retirement Housing (C3) - All areas</b>	£0/m <sup>2</sup>
Strategic sites <sup>(1)</sup> at:	£0/m <sup>2</sup>
<ul style="list-style-type: none"> <li>o Boal Quay, King's Lynn (<i>Links too pdf maps</i>)</li> <li>o South of Parkway, King's Lynn</li> <li>o Bankside – West Lynn,</li> <li>o West Winch, strategic growth area</li> <li>o East of Lynn Rd, Downham Market</li> <li>o Wisbech Fringe, Walsoken</li> </ul> <p>(all others should have the rate that applies to the area in which they lie)</p>	
<b>Retail Development</b>	<b>CIL rate</b>
Supermarkets (including discount supermarkets) and Retail warehouses	£100/m <sup>2</sup>
<b>All other Development</b>	<b>CIL rate</b>
All other Development	£0/m <sup>2</sup>
<i>(1) Strategic sites are considered to be those of 150+ units</i>	

The main split is residential developments North and East of the Borough charged at £60 square metre and South West of the Borough £40 square metre. Strategic sites over 150 units, where viability cannot be shown, will be 0 rated.

The only retail developments we are charging is supermarkets and warehouses at £100 square metre all other development will not be liable for CIL.

# CIL Processes

## Applicant/Owner

- Additional Information – Form 0
- Submit Assumption of Liability – Form 1
- Submit Application to claim Exemption and Relief (Forms 2, 7, 8 or 9)
- Notice of Chargeable Development – Form 5
- Commencement Notice – Form 6

CIL Statutory Forms are published by the Secretary of State and are available to download on our CIL webpages and on the planning portal.

Prior to commencement the applicant/owner must submit:

**Form 0 Additional Information** – If we receive a Form 0 and the site is not liable for CIL we will issue a letter confirming nil CIL.

**Form 1 Assumption of Liability (Reg 31)** - must be submitted prior to commencement and is valid from the day we receive the form.

**Form 3 - Withdrawal of Assumption (Reg 31 (6))** – can be submitted up to day of commencement – If a withdrawal is received the land/property owner will then be liable but will involve surcharges for apportionment of liability.

**Form 4 - Transfer of Liability (Reg 32)** – can be transferred up to date of last CIL payment. However, any relief applied will be withdrawn and the person who then assumes liability will have to reapply for relief.

**Exemptions and Reliefs** are not automatically assigned and must be applied for.

- **Form 2** – Claiming Exemption or Relief not including self builds – for charitable relief and social housing relief
- **Form 7** – Self Build Exemption (House) 2 parts
  - **Form 7a** prior to commencement
  - **Form 7b** up to 6 months following commencement of development. If Form 7b is not submitted it is deemed a disqualifying event and the exemption is withdrawn.
- **Form 8** – Self Build Residential Annex
- **Form 9** – Self Build Residential Extension

**Form 5 Notice of Chargeable Development** – This form is used for Permitted Development under general consent which may not require a planning application but may still be liable to pay CIL. This form also includes assumption of liability so the owner will not need to submit Form 1. Where CIL is not liable we will confirm in writing.

**Form 6 - Commencement Notice** - Commencement is classed as any material operation that is carried out on the relevant land, which includes:

- demolition of a building
- digging of a trench
- laying of underground pipes or mains
- any change in the use of land that is classed as material development.

If form 6 is not submitted prior to commencement it is deemed a disqualifying event and CIL exemptions and reliefs will be withdrawn.

**All disqualifying events may incur a surcharge.**

Surcharge for	Amount	CIL Regulation
Failure to assume liability, where no-one has assumed liability and chargeable development has commenced	£50 on each person liable to pay CIL	80
Apportionment of liability, where the Council is required to apportion liability for CIL between those with a material interest in the land	£500 on each person liable to pay CIL	81
Failure to submit Notice of Chargeable Development	20% of the chargeable amount or £2500, whichever is lower	82
Failure to submit a Commencement Notice	20% of the chargeable amount or £2500, whichever is lower	83
Failure to notify the Council of a disqualifying events	20% of the chargeable amount or £2500, whichever is lower	84
Late payment	5% of the outstanding chargeable amount or £200, whichever is greater	85
Failure to comply with an Information Notice	20% of the relevant amount or £1000, whichever is lower	86

There are surcharges for failure to follow each step of the CIL process

**Assumption and apportionment of liability** – The responsibility to pay CIL will ultimately fall to anyone with a material interest in the land. To avoid these surcharges ensure that the applicant/owner completes Form 1

**Notice of Chargeable Development** – If we are notified of a development under general consent we will serve a Form 5. If the development has commenced they will not be able to apply for exemption or relief.

**Commencement Notice** – as well as a surcharge for failure to submit a Form 6 the development will lose the right to pay in instalments, payment will be due in full and any exemption or relief will be withdrawn.

Failure to comply with the CIL requirements may also trigger enforcement action by the Council.

**This can include:**

- the use of warning notices (warn development will need to stop) - stop notices (to force development to stop) - or even court action.

## What we will do

- **Determine if development deemed liable**
- **Acknowledge Assumption of Liability**
- **Issue Liability Notice**
- **Confirm if relief and exemptions are granted**
- **Acknowledge Commencement Notice**
- **Issue Demand Notice**

**Determine if development deemed liable** – when we receive Form 0. If we do not receive Form 0 (Reg 40 (10)) we will deem the existing gross internal area to be zero.

**Acknowledge assumption of liability** – this will also include acknowledging transfers and withdrawals.

We will issue a **Liability Notice** on the day that planning permission is granted. The liability notice will inform the owner of the CIL charges for the development and our instalment policy. This is advance notice of CIL liability.

**Confirm if relief and exemptions are granted** – as well as making sure the application meets the legislation requirements, we must ensure that the granting of relief or exemption will not constitute state aid, which could give an advantage that could potentially distort competition and trade.

**Acknowledge commencement notice** – on receipt of the commencement notice we will issue a **demand notice**, which will provide details of the CIL payments including the relief or exemptions which have been applied. We can issue revised demand and liability notices throughout the life of the CIL including when surcharges are incurred. Our accountancy department will also send an invoice for payment.



Payment will be due 60 days from the day work commences on site. We have an instalment policy for larger development payments.

# Clawback

- Self Build House – 3 Years
- Residential Annex - 3 years
- Social Housing Relief/Charitable Relief – 7 years

## **All CIL liabilities are recorded as Land Charges.**

Once all payments are received CIL is removed from the Land Registry, except if an exemption or relief has been granted. If a relief or exemption has been granted it will remain on the land registry and if a disqualifying event occurs we are able to withdraw the relief/exemption and this amount is due in full immediately. This is a 'Clawback' period.

## **Disqualifying events include:**

- self-build house is sold or let within 3 years
- residential annex is sold or let separately to the main residential property
- social/affordable housing dwelling (having received relief) is sold within 7 years as a market house
- development is no longer eligible for charitable relief

Owners/applicants must notify us within 14 days of a disqualifying event otherwise a surcharge will be incurred.

## Recommendations

- Applicant/Owners name on Planning Application Forms
- Submit CIL Additional Information Form at planning application stage (Form 0)
- Do not assume liability to pay CIL
- Ensure applicant/owner follows defined process

**Applicant/Owner details** – this information is required to identify the person who will be responsible for paying CIL.

**Form 0** – Used to identify if development is CIL liable. Will also speed up the CIL process. Local planning checklist will include requirement to submit CIL Form 0.

**Do not recommend agents assuming liability** to pay the CIL. CIL payments are due 60 days after commencement. Also, remember the clawback periods of 3 years for self-build exemptions and 7 years for charitable and social housing relief.

I have provided you with a simple process flow chart and a copy of our charging schedule.

Our website will have a clear step by step guide of the CIL processes and will be available in January prior to adoption.

I would advise that in the first instance you contact me if you have any questions or disagree with any aspect of the CIL prior to making an appeal.



# Questions?

