



Rutland
County Council

Rutland County Council
COMMUNITY INFRASTRUCTURE LEVY
CIL Implementation Guidance Note

2016

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Rutland County Council CIL Guidance Note

1.0 Introduction

- 1.1 Rutland County Council intends brought the Community Infrastructure Levy (CIL) into effect on 1st March 2016.
- 1.2 This advice note aims to advise applicants about the Levy, when information needs to be submitted with a planning application and the process involved. It also highlights where additional information can be found. It is not intended to be a definitive interpretation of the legislation or CIL Regulations and applicants may wish to seek professional advice about any issue in this note.
- 1.3 The government issued updated Community Infrastructure Levy Guidance in February 2014 which is available at <http://planningguidance.planningportal.gov.uk/blog/guidance/community-infrastructure-levy/>
- 1.4 Further background information on the evidence to support the Council's CIL rate can be viewed at [Rutland County Council Draft Charging Schedule - Background Paper](#)

2.0 What is the Community Infrastructure Levy?

- 2.1 CIL is a tariff in the form of a standard charge on new development, to help the funding of infrastructure. The principle behind CIL is that most development has some impact on infrastructure and should contribute to the cost of providing or improving infrastructure.
- 2.2 CIL applies to new floor space and charges are based on the size and type of the new development. The Council will collect the Levy, co-ordinate the spending of the funds and report this to the community.

3.0 Will CIL replace Section 106 agreements?

- 3.1 For residential developments CIL will largely replace off- site Section 106 (S106) contributions, e.g. towards off-site sports provision or school places. The Council will continue to use S106 agreements to secure affordable housing from residential developments and essential site specific mitigation from residential and other types of development that are needed to enable developments to proceed.
- 3.2 In some instances, S106 agreements may also be used for larger development sites that have their own specific infrastructure needs that may be more suitably dealt with

through S106 agreements. The Council will also utilise Section 278 Highways agreements to address the highway needs/impacts of a development.

- 3.3 Further information is set out in the revised draft “Planning Obligations Supplementary Planning Document” (September 2015) on the Council’s website. This can be viewed at: [Revised Draft Planning Obligations SPD](#)

4.0 When did CIL come into effect in Rutland?

- 4.1 The Community Infrastructure Levy came into effect in Rutland on 1st March 2016.
- 4.2 Planning permissions issued on or after 1st March 2016 may be subject to CIL. Any planning permission issued before 1st March 2016 but which is implemented pursuant to that planning permission after March 2016 will be unaffected. Planning permission deemed to be granted by way of permitted development rights but not implemented until after 29th February 2016 may also be liable to CIL.
- 4.3 If a scheme was granted outline planning permission before 1st March 2016, the subsequent approval of reserved matters does not trigger a liability to pay CIL. If a scheme was granted full planning permission before 1st March 2016, the subsequent approval of pre-commencement conditions does not trigger a liability to pay CIL. However, if there was a refusal of planning permission before 1st March 2016, but an approval of planning permission is granted on appeal on or after 1st March 2016, the development may be liable to pay CIL.
- 4.4 Where planning permission is granted under Section 73 of the Town and Country Planning Act on or after 1st March 2016 to vary a planning permission that was granted before 1st March 2016, CIL is only due in relation to the increase in floor space over the original planning permission i.e. additional liability.

5.0 What type of development is liable for the Levy?

Residential Development

- 5.1 It is proposed that CIL will apply to most forms of residential development subject to qualifying exemptions that apply to self-build housing, residential extensions and annexes. It does not apply to Affordable Homes and specialist housing such as residential care homes, Extra Care housing and other residential institutions. It also does not apply to hotels, hostels, holiday lodges, cabins and other forms of holiday accommodation.
- 5.2 Subject to the above, new dwellings/flats of any size through conversion/change of use or new build together with any buildings ancillary to the dwelling and other residential floorspace of 100 sq. m and above may therefore be liable to pay CIL.

- 5.3 Residential floorspace includes all floors of a building including habitable attics and basements and all buildings ancillary to dwellings such as garages and other outbuildings. Elements of development that are open to the weather (for example, canopies, lean to car ports, covered walkways, external balconies) are excluded. This reflects the definitions of Gross Internal Area in the RICS Code of Measuring Practice.

Non Residential

- 5.4 Food/convenience based supermarkets and superstores with adequate parking catering for mainly car borne customers that are shopping destinations in their own right and where weekly food shopping needs are met are likely to be liable for CIL along with extensions of over 100 sq. m to them.
- 5.5 Retail warehouses specialising in the sale of household goods (such as carpets, furniture and electrical goods) DIY items and other ranges of goods catering for mainly car borne customers are also liable for CIL along with extensions of over 100 sq. m to them.
- 5.6 Uses of building for Distribution purposes as set out in Class B8 of the Use Classes Order are also likely to be liable for CIL along with extensions of over 100 sq. m to them.
- 5.7 Other permissions for uses such as offices, small retail and public services, whether granted on application or deemed to have been granted by way of permitted development rights, will have a zero charge.

6.0 Additional Guidance on CIL Liability

- 6.1 In order to assess whether development is liable to contribute to CIL, applicants are required to submit a CIL Questions form with their planning application for the following types of development:-

All applications for full planning permission, Section 73 variations to relevant applications granted pre or post 1st March 2016 and reserved matters if the outline planning permission was granted on or after 1st March 2016 if planning permission is sought for;

- Residential development of one or more dwellings through new build or conversions even if less than 100 sq. m.
 - The establishment of other residential floorspace such as extensions, and other ancillary buildings such as stores, garages if over 100 sq. m (or less than 100 sq. m if it contributes to the creation of new dwelling);
 - Convenience based supermarkets and superstores and retail warehouses.
 - Distribution uses relating to B8 use as set out in the Use Classes Order.
- 6.2 For these types of applications, applicants **MUST** submit a CIL Questions Form with their applications for planning permission to enable the Council to assess their liability for the Levy. **A planning application will not be validated until the CIL Questions Form has been submitted.**

- 6.3 This form is available at;
<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

This form will soon be available to download from the Council's own CIL web page (along with all other forms, notices etc related to processing development proposals liable for CIL).

This form must be submitted even if the development is likely to be subject to a £0 rate of CIL, as a result of being able to benefit from the mandatory relief available for charitable development, social housing or other reliefs. If the information provided within the form is insufficient, or the plans submitted are not clear, the Council will request additional information. If this is not provided, the CIL liability will be calculated based on the information provided within the Planning Application with no deductions for any existing floorspace.

- 6.4 If the CIL applies to more than one new building a schedule listing the GIA floorspace of each building should be supplied with the CIL Questions form if not provided as part of the planning application. If the amount of CIL is to be reduced due to the demolition of buildings in lawful use or re-use of part of an existing building, each building must be listed separately on the CIL form Q7 and a plan must be supplied to show the location of the floorspace/buildings referred to in Q7.
- 6.5 Applicants are also asked to submit CIL Form 1: Assumption of Liability to the Council with the planning application to ensure that the CIL liability notice is issued to the correct party. Liability for CIL rests with the landowner, unless another party completes a CIL 'Form 1: Assumption of Liability.' This form must be submitted by the landowner. In the absence of an Assumption of Liability form being submitted the Council will serve the Liability Notice on the applicant and landowners identified on the planning application documentation. The person accepting liability must legally serve 'Form 1: Assumption of Liability' on the Council prior to commencement of the development.
- 6.6 If you are submitting an application for a major development, the CIL Regulations permit each phase of the development to be a separate chargeable development if the permission granted provides for the development to be implemented in phases. If you wish for your application to be considered in phases, this must be requested and discussed with the Council, before submission.

7.0 What type of development is not liable?

- 7.1 A minimum threshold applies to non-residential development. If the gross internal area (GIA) of new build is less than 100m² it does not pay CIL. The threshold does not apply however to new dwellings. If a new dwelling is being created, it will pay CIL for any net increase in GIA. CIL will not be charged when the calculated amount of CIL is less than £50.

7.2 Subject to various criteria being met the following types of planning applications will not have to pay CIL but applicants are required to submit the CIL Questions Form so that the Council can confirm that there is no liability.

- The conversion of a building that is in lawful use (see below) provided that no extension is proposed as part of the conversion works.
- Charitable development that meets the relief criteria
- “Self build” houses, flats, residential annexes and extensions subject to criteria being met
- Affordable housing that meets the relief criteria
- Vacant buildings brought back into the same use.

Note that in some instances CIL will become payable if the reasons for the exemption cease to apply within a specified time.

7.4 A wide range of other developments such as employment and leisure uses are currently zero rated and will not have to pay CIL.

8.0 What if CIL liability is unclear?

8.1 If it is not clear as to whether a development will be liable for CIL, it is recommended that the CIL Questions Form is submitted, and we can decide whether the development is CIL liable. Misleading or inaccurate answers may result in a CIL charge that is higher than it needs to be and in some cases additional surcharges may be imposed.

8.2 For example, applications under S73 of the Planning Act 1990 are a special case. In transitional cases, where the original planning permission was granted prior to a CIL charge being brought in but the S73 application is granted following introduction of CIL, the S73 consent will only trigger CIL for any additional liability it introduces to the development (such as increased floorspace). Post introduction of CIL, the regulations provide for CIL payments made in relation to a previous consent that has been commenced to be offset against any further liability which arises pursuant to a S73 consent, and also in relation to a different planning permission that covers the same land so that the Levy already paid is credited against the revised scheme. This can be assessed when forms are submitted.

9.0 What happens if my scheme does not require planning permission?

9.1 If a scheme is liable to pay CIL then a CIL payment will be required whether or not the development requires planning permission. Persons who intend to carry out development authorised by ‘general consent’ (including permitted development)

should serve the Council with a CIL Form 5: Notice of Chargeable Development before the development authorised is commenced so that any liability can be determined.

This form is available at;

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

A Notice of Chargeable Development form will soon be available to download from the Council's own CIL web page (along with all other forms, notices etc related to processing development proposals liable for CIL).

10.0 How much will CIL cost?

10.1 The council has set the following CIL rate(s) to apply throughout Rutland:

SCHEDULE OF PROPOSED CIL RATES	
Use Type	Proposed CIL Rate (per sq m)
Residential	£100
Sheltered Housing and Extra Care Housing	£NIL
Distribution	£10
Food Retail (Supermarkets)*	£150
Retail Warehouses	£75

The following definitions of uses are considered appropriate for the purposes of this charging schedule:

Retail – Food Retail (Supermarkets) are shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit.

Retail warehouses are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods) DIY items and other ranges of goods catering for mainly car-borne customers.

Distribution relates to B8 use as per the Use Classes Order.

Residential means new dwellings/flats. It does not include any other developments within Class C1, C2 or C3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) such as residential care homes, Extra Care housing and other residential institutions.

Uses not included in the above schedule are not proposed for a CIL levy charge.

11.0 How does Indexation apply?

- 11.1 Under the CIL Regulations CIL payments must be increased or decreased (index linked) to reflect changes in the costs of delivering infrastructure between the year that CIL was introduced to the year that planning permissions is granted. The prescribed index is the national All-in Tender Price Index published by the Building Cost Information Service (BCIS).

12.0 What is included in CIL chargeable floor space?

- 12.1 The amount of CIL payable is based on the Gross Internal Area (GIA) of the development. GIA will be measured in accordance with the Royal Institute of Chartered Surveyors (RICS) Code of Measuring Practice.
- 12.2 GIA includes all new build floor space within the external walls of a building, including circulation and service space such as corridors, storage, toilets, lifts etc. It includes attic rooms that are useable as rooms, but excludes loft space accessed by a pull-down loft ladder. It also includes garages and conservatories contained within a Planning Application. Generally, any structure with three or more walls and a roof that is considered to create 'internal' floor space is chargeable.
- 12.3 If the CIL applies to more than one new building a schedule listing the GIA floorspace of each building should be supplied with the CIL Questions form if not provided as part of the planning application.

13.0 What if existing buildings are being demolished or converted?

- 13.1 The GIA of any existing buildings on the land to which the planning permission relates that are going to be demolished or re-used may be deducted from the calculation of CIL liability provided that they are permanent and substantial buildings. However, deductions are only applied where those buildings have been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development. In this context, "in use" means that at least part of the building has been in use. A 'lawful use' is a use, operation or activity for which a building is used that is lawful for planning control purposes and the term 'in use' for CIL purposes includes use of all or part of the building for any purpose associated with the lawful use, including, for example, storage of agricultural equipment, retail stores, or household goods.
- 13.2 Where part of an existing building does not meet the six month lawful use requirement its demolition is not taken into account. However parts of that building that are to be retained as part of the chargeable development can be taken into

account if the intended use matches a use that could lawfully be carried out without requiring a new planning permission and that use has not been abandoned.

- 13.3 If demolition is involved it is important that the CIL Questions Form clearly sets out the lawful use, location and floorspace of each of the buildings to be demolished and that the scaled plans submitted with your application clearly show the buildings that will be demolished as well as the new buildings proposed.
- 13.4 It is the applicant's responsibility to provide evidence to the effect that building(s) are a permanent and substantial structure; in 'lawful use'; and all or part of the building have been 'in use' for a continuous period of at least six months within the period of 36 months ending on the day planning permission first permits the chargeable development.
- 13.5 The Council checks plans when applications are initially assessed. Misleading or inaccurate answers may result in a CIL charge that is higher than it needs to be and in some cases additional surcharges may be imposed. Applicants should also be aware that the CIL Regulations allow an authority to deem the gross internal area of a building to be zero for the purposes of a deduction if it does not have sufficient information or if the information is of insufficient quality to establish the areas or the lawful use.
- 13.6 Definitions of an "in-use building" and "the day that planning permission first permits development" that may assist.

The day planning permission "first permits the chargeable development" is;

- for full applications; the date on which planning permission is granted unless the development is phased, in which case it may be the date of the final approval of pre-commencement conditions for that phase.
- for outline planning permissions; the date of the final approval of the last reserved matter, or, if phased, either the date of the approval of the last reserved matter for a phase or, if earlier and by agreement in writing by the collecting authority, the date of final approval of pre-commencement conditions associated with that phase.
- in the case of permitted development under a general consent; the day on which the collecting authority receives a notice of the chargeable development submitted to it in accordance with Regulation 64, or if no notice of chargeable development is submitted in accordance with Regulation 64, the day on which the last person is served with a notice of chargeable development in accordance with Regulation 64A(3).

An "in-use building" means a building which—

- (i) is a relevant building, and
- (ii) contains a part that has been in lawful use for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development;"

A “relevant building” is a building which is situated on the relevant land (i.e. normally the site to which the planning permission relates) on the day planning permission first permits the chargeable development.

14.0 How is CIL calculated?

- 14.1 In summary the amount of CIL payable will be the net chargeable floor area of the building multiplied by the CIL rate, adjusted for inflation – see para 9.1 “Indexation”. Garages and other ancillary buildings that form part of the proposals for which planning permission is sought are also liable for CIL.
- 14.2 The net chargeable floor area amounts to the gross internal area of the chargeable development less the gross internal area of any existing buildings within the application site that meet the criteria.
- 14.3 The full formula for calculating the amount of CIL is set out in the Council’s CIL Charging Schedule. It is a complex formulae defined nationally in the CIL Regulations. The charges in the Council’s Charging Schedule feed into the calculation.

The calculation involves multiplying the Council’s CIL charging rate by the net increase in GIA and adjusting for inflation. The key elements of the calculation are as follows;

$$\frac{R \times A \times Ip}{Ic}$$

R is the Council’s CIL rate for that use (e.g. £100 per m² for dwelling houses)

A is the net increase in gross internal floor area.

Ip is the All-in Tender Price Index for the year in which planning permission was granted.

Ic is the All-in Tender Price Index for the year in which the charging schedule started operation.

- 14.4 The All-in Tender Price Index is an inflation index published by the RICS Building Cost Information Service and the figure for any given year is the figure for November of the previous year.
- 14.5 CIL liable amounts of less than £50 are treated as zero rated and are not payable.

Examples of how CIL will be applied to Residential Developments

Site description	Proposed development	Is it liable to pay CIL?	If yes, what is the area of floor space on which CIL will be charged?
Cleared site	Construction of a new dwelling of 90 sq. m	YES	90 sq.m CIL charged on whole new floorspace.
Cleared site	Construction of a 90 sq. m qualifying affordable dwelling	NO	Qualifying affordable housing is not chargeable provided the social housing relief is applied for and granted.
Single dwelling in use	Freestanding extension or associated buildings such as garages of 100 sq. m not physically attached to original dwelling.	YES	100 sq. m. as it is not an enlargement to the main dwelling.
Adjacent to single dwelling in use	Extension as enlargement to main dwelling or residential annex within curtilage of main dwelling.	YES potentially chargeable	But exemptions may apply if the extension is for the applicant's sole or main residence and it is to be used in association with main dwelling. Claw back provisions would apply to annexes.
Single dwelling in use	Sub-division of existing dwelling into two or more flats with no extensions.	NO	Not liable because conversions from a single dwelling into two or more flats/dwellings are exempt.
Single dwellings and outbuildings in use	Subdivision of a dwelling and its outbuildings into 2 dwellings.	YES potentially chargeable	Existing floorspace can be deducted from floorspace of new dwelling, any additional floorspace will be chargeable.
Single dwelling in use.	Construction of a new dwelling of 150 sq. m Original dwelling of 90 sq. m demolished.	YES	60 sq. m. Additional floorspace only.
Single dwelling of 90 sq. m not in use or demolished.	Construction of a new dwelling of 150 sq. m.	YES	If dwelling demolished or use abandoned CIL payable on 150 sq. m. If vacant premises still in residential use CIL payable on difference of 60 sq. m.
Cleared building site.	3,000 sq. m new residential, including 30% affordable by floorspace.	YES	2,100 sq. m (70% of 3,000) provided the social housing relief is applied for and granted.

15.0 Can I claim relief from CIL?

- 15.1 The CIL regulations provide for certain types of development to be exempt from CIL. They also provide for councils to offer discretionary relief in some circumstances. More information about relief can be found in the Communities and Local Government Community Infrastructure Levy Guidance
http://www.planningportal.gov.uk/uploads/cil/cil_guidance_main.pdf

- 15.2 The forms to apply for relief from CIL, Form 2, Claiming Exemption or Relief and forms SB1 and SB2 for self-build homes, annexes and extensions are available at <http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>.

Can I claim charitable relief?

- 15.3 The Regulations provide for mandatory charitable relief where the chargeable development will be used wholly, or mainly, for charitable purposes. Therefore a charitable institution will benefit from full relief from its portion of CIL liability where the chargeable development will be used wholly, or mainly, for charitable purposes. To qualify for charitable relief, the following criteria must be fulfilled:
- The claimant must be a charitable institution;
 - The claimant must own a material interest in the relevant land;
 - The claimant must not own this interest jointly with a person who is not a charitable institution.
 - The exemption must not constitute state aid
- 15.4 An application for relief must be made to the Council and accepted before commencement of the development to which it relates.

The Council is not offering discretionary charitable relief to charities, for example where the chargeable development will be held as a charitable investment.

Can I claim social housing relief?

- 15.5 Full relief from CIL can be given to those parts of a development which are to be used as social housing. Any person wishing to benefit from social housing relief must be an owner of the relevant land, assume liability to pay CIL, submit a claim in accordance with regulations to the Council and receive approval of the claim, all before commencing development.
- 15.6 When applying for this relief a claimant must provide evidence that the chargeable development qualifies for social housing relief. To ensure that relief is not used to avoid proper liability for CIL, the regulations provide that any relief must be repaid if the development no longer qualifies for the relief granted within a period of seven years from the commencement of the development.
- 15.7 In 2015 further amendments were made to the mandatory exemptions and reliefs for social housing whereby a dwelling let by a person who is not a local housing authority, a private registered provider of social housing or a registered social landlord on one of the following—
- (i) an assured tenancy (including an assured shorthold tenancy);
 - (ii) an assured agricultural occupancy;

- (iii) an arrangement that would be an assured tenancy or an assured agricultural occupancy but for paragraph 12(1)(h) of Schedule 1 to the Housing Act 1988(1); and
- (b) the following criteria are both met—
 - (i) the dwelling is let to a person whose needs are not adequately served by the commercial housing market; and
 - (ii) the rent is no more than 80 per cent of market rent (including service charges); and
- (c) a planning obligation under section 106 TCPA 1990 designed to ensure compliance with both criteria at sub-paragraph (b) has been entered into in respect of the planning permission which permits the chargeable development.”

The Council is not offering discretionary relief for social housing under 49A of the CIL Regulations.

Can I claim relief for self-build, extensions and residential annexes?

- 15.8 Relief is available for self-build projects, residential annexes and residential extensions subject to meeting the legal requirements.
- 15.9 **Self Build.** The self-build exemption is available to homes built or commissioned by individuals for their own use. Community built projects may also qualify.
- 15.10 Applicants can apply for a self-build exemption at any time after they have assumed liability for CIL by submitting an Assumption of Liability Form (see form SB1-1 Self-Build Exemption Claim Form part 1) as long as the development has not commenced. In other words, claims must be made and a decision received before commencement of development. On completion they must provide the requested supporting information and required proof that it is a self-build project within 6 months otherwise CIL will be payable (see form SB1-1 Self Build Exemption Claim Form part 2). Self-build projects must be for occupation as a sole or main residence for a period of 3 years. CIL is payable if the building is let or sold during a three year claw-back period from the serving of the compliance certificate. The chargeable amount will be registered as a local land charge for three years from completion. The required evidence includes proof of the date of completion, proof of ownership and occupation and an approved claim for HMRC “VAT refunds for DIY house-builders”, or a specialist self-build warranty or self-build mortgage. Applicants are recommended to read the government guidance and regulations.
- 15.11 **Residential Extensions and Annexes.** For residential extensions and annexes relief is available as long as;
- The main dwelling must be the self-builder’s principal residence and they must have a material interest in it.
 - Residential annexes are wholly within the curtilage of the main dwelling and comprise one new dwelling
 - Residential extensions over 100 sq. m are exempt from the Levy if they are an enlargement to the principal residence and do not comprise an additional dwelling.

Freestanding buildings do not benefit from this exemption where they are more than 100 sq m GIA or part of a scheme that is over 100 sq. m GIA.

- 15.12 The applicant must submit a claim form before development commences (see Self Build Annex or Extension Claim Form) to the Council and must submit a commencement notice before works start on site. Otherwise CIL will be payable.
- 15.13 CIL becomes payable for a Residential Annex if the annex is let, is sold separately from the main dwelling or the main building is used other than as a single dwelling during a three year clawback period from the serving of the compliance certificate.

Can I claim Exceptional Circumstances Relief?

- 15.14 In very limited circumstances, Exceptional Circumstances Relief may be available from CIL at the Council's discretion. Exceptional Circumstances may only be granted if a planning obligation has been entered into in respect of the planning permission which permits the chargeable development and the Council considers that payment of the full Levy would have an unacceptable impact on the economic viability of the development, as required by the Community Infrastructure Levy Regulations 2010 (as amended). Any relief granted must be based on an objective assessment of economic viability.
- 15.15 It should be noted that the Council has undertaken viability assessments of different types of development to consider the level at which the proposed CIL charges have been set, taking into account the provision of affordable housing and possible development specific S106 obligations. In view of this, it is important to note that the circumstances under which Exceptional Circumstances Relief is made available are expected to be genuinely exceptional and any relief given must be in accordance with the procedures in the Regulations and State Aid rules.
- 15.16 The applicant has to follow various steps to claim relief after planning permission is granted but before development is commenced. These steps include submitting a claim in writing on the appropriate form, funding the appointment of an independent person with appropriate qualifications and experience to undertake a viability study who, before appointment, must be agreed as an appropriate person by the Council. The exemption is discretionary and the Council considers that to be able to assess whether the payment of the Levy would clearly have an unacceptable impact on the economic viability of the development that the person carrying out the study will need to meet certain experience criteria, to demonstrate that they are "independent" and that any viability study will need to be in an agreed format clearly setting out evidenced assumptions.
- 15.17 Eligibility ceases in the event of disposal of the land, if at the end of 12 months from Relief being granted the development is not commenced or if subsequent to the Exceptional Circumstance Relief being granted social housing or charitable relief is granted in which case the full amount of CIL becomes payable.
- 15.18 If relief is granted it relates to the chargeable development which may be the whole development or a phase where a development proceeds in phases as separate chargeable developments.

16.0 What happens after planning permission is granted?

- 16.1 When planning permission is granted for a CIL liable development, the Council will issue a Liability Notice with the decision notice or as soon after as practical. This will set out how much CIL is to be paid and when it is to be paid.
- 16.2 However, CIL will only become payable upon commencement of development. CIL will need to be paid, at least in part, within 60 days of development commencing, and thereafter in accordance with the Council's instalment schedule set out at Appendix 1 to this Guidance (see section 16 below).
- 16.3 Following the issuing of the Liability Notice, CIL will be registered as a local land charge against the property until the outstanding amount is fully paid. However, any individual or organisation (e.g. the developer) may assume liability for the payment. It is the responsibility of the person(s) who assume(s) liability to inform the Council of this. CIL Form 1: Assumption of Liability and CIL Form 4: Transfer of Assumed Liability are available at;
<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>.

If no party assumes liability the charge will be immediately payable by the landowner upon commencement.

- 16.4 Before development starts, that is either the works for the change of use or the change of use, whichever comes first (see S56(1) (c) Planning Act 1990), the developer must inform the Council and all owners of the relevant land of the intended commencement date of the development by sending a CIL Form 6: Commencement Notice. This can be downloaded from the Planning Portal website, at
<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

Please note that failure to submit a Commencement Notice may result in a surcharge of up to £2,500 and immediate payment of the CIL liability may be required.

After receipt of the Commencement Notice, the Council will serve a Demand Notice setting out precise details of payment arrangements.

The timing of payments will normally be in accordance with the Council's CIL Instalment Policy (see Appendix 2) which will be available on our website, and will in any event be identified on the Demand Notice.

17.0 Can I pay by instalments?

- 17.1 The Council has approved an instalments policy for developments where the CIL liability would be above a certain amount. This has been agreed to ease the cash flow of developers on large schemes. The instalments policy is set out at Appendix 2.
- 17.2 The Instalment Policy only applies in cases where the persons liable for paying CIL have complied with all the relevant regulations and requirements. Failure to comply

with the Instalment Policy at any stage will result in the total unpaid balance becoming payable immediately. In summary, to benefit from the CIL Instalment Policy, the relevant forms must be submitted to the Council prior to the commencement of the chargeable development, and all payments must be paid in accordance with the CIL Instalment Policy. Otherwise the full amount becomes payable immediately.

- 17.3 Large scale development schemes may also be able to further phase payments as CIL can potentially be linked to the commencement of separate phases with each phase a separate chargeable development to which the instalment policies apply.

18.0 Can I pay CIL in other forms?

- 18.1 The regulations permit CIL to be paid in monetary forms or land. If you are interested in paying CIL in the form of land, and have not commenced development on the site in question, you should discuss this possibility with the Council at the earliest opportunity. In order for the request to go ahead, the following conditions must be met:

- The charging authority must agree to the transfer;
- The charging authority must have the intention of using the land to help provide infrastructure to support the development of its area;
- It may not form part of a planning obligation entered into under S106 of the Town and Country Planning Act 190

- 18.2 The Council may at its discretion consider proposals for payment in kind by land, but the Council will expect land required for infrastructure to serve the development proposed to be provided in the normal way through S106 agreements. It is only where the land required would serve much wider infrastructure needs to support the development of the area that potentially the Council may be prepared to consider this approach.

- 18.3 The 2014 CIL Regulations introduce the possibility of allowing infrastructure provision in kind where the infrastructure is to be used to support the development of the wider area. This is provided that it is not necessary to make the development granted permission acceptable in planning terms. The Council has not given notice or issued a policy statement saying that they are willing to accept provision of infrastructure in lieu of CIL funding.

19.0 What are the possible consequences of failing to follow the CIL payment procedure?

- 19.1 The possible consequence of non-payment, such as surcharges, stop notices and court action are set out in the Regulations and the Communities and Local

Government Community Infrastructure Levy Guidance

http://www.planningportal.gov.uk/uploads/cil/cil_guidance_main.pdf.

A guidance note of Penalties is to be drawn up and made available on the Council's CIL web page.

20.0 Can I Appeal?

20.1 Appeal procedures are set out in the Regulations. A note explaining when it is possible to appeal will be made available on the Council's CIL web page.

Appendix 1 - Process Diagram

Development Progress	Developer Actions	County Council Actions
1. Submission of Planning application	Submission of: <ol style="list-style-type: none"> 1. Planning Application and supporting material 2. CIL Questions Form and CIL Form 1: Assumption of CIL liability (where development is CIL liable) and where appropriate for example where affordable housing is being provided submission of CIL Form 2 Exemption and Relief, this form cannot be submitted after commencement 	
		Determine if application is suitable for validation. Please note submission of CIL Questions Form is validation requirement where development is CIL liable
2. Determination of Planning application	Discharges pre-commencement conditions	Determine Planning application Determine the CIL liability. Issue Planning Permission and a CIL liability notice to the liable person(s) stating the CIL charge CIL registered as a local land charge
3. Prior to commencement of development	Developer completes CIL Form 6 Commencement Notice informing the Council of anticipated start date (complete as soon as start date known) and forwards to the Council	Acknowledges receipt of Commencement Notice Issues Demand Notice stating CIL charge and payment instructions
4. After Commencement of development	Pay CIL at specified instalments	Acknowledge receipt of payment after funds clear.

Appendix 2

CIL Instalment Policy

Number of dwellings 1000m2 non- residential development	Number of Instalments	Total Timescale for Instalments	Payment Amounts (%)	Payment Periods (Days from Commencement)
1	2	270 days (9 months)	10	60
			90	270
2 to 5	3	365 days (1 year)	10	60
			45	270
			45	365
6 to 25	3	548 days (18 months)	10	60
			45	365
			45	548
26 to 50	4	730 days (2 years)	10	60.
			30	365
			30	548
			30	730
51 to 100	5	1095 days (3 years)	10	60
			23	365
			23	548
			23	730
			23	1095
101 to 200	6	1460 days (4 years)	10	60
			18	365
			18	548
			18	730
			18	1095
201 to 300	7	1825 days (5 years)	10	60
			15	365
			15	548
			15	730
			15	1095
			15	1460
300+	8	2190 days (5 years)	10	60
			13	365
			13	548
			13	730
			13	1095
			13	1460
			13	1825
			12	1826

Appendix 3

CIL Frequently Asked Questions

- Q1 Will a development be liable to pay CIL if there was a resolution to grant planning permission (e.g. subject to a S106 agreement) before the CIL Charging Schedule is brought into effect on 1st March 2016 but the formal grant of planning permission is made after the 1st March 2016?**

Yes. If the formal grant of permission is made after the CIL Charging Schedule comes into effect on 1st March 2016, 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. The decision notice is usually issued very shortly after the resolution to grant but note that, if the grant of permission is subject to the completion of a section 106 agreement, a decision notice cannot be issued until a S106 agreement has been completed. This will apply also to section 73 applications (see also below). In the situation where the Committee has made a resolution to grant planning permission subject to a section 106 that provided infrastructure, it is likely the application may have to go back to Committee as the section 106 may no longer be justified following the introduction of CIL.

- Q2 Will a development be liable to pay CIL if there was a refusal of planning permission before the CIL Charging Schedule came into effect on 1st March 2016, but an approval of planning permission on appeal is made after 1st March?**

Yes. If planning permission was refused before 1st March 2016, but a grant of planning permission was made on appeal after 1st March, the development granted planning permission on appeal may be liable to pay CIL.

- Q3 Are outline applications liable for CIL?**

Outline planning permissions granted after 1st March 2016 will be liable to pay CIL when the development is built, but as the liability is calculated at Reserved Matters stage there is no need to submit any CIL forms with the outline application. If an outline application includes phasing of development, each phase is treated as a separate development for the purpose of paying CIL. As above, the CIL liability for each phase is calculated at reserved matters stage for that phase.

- Q4 Will a development be liable to pay CIL if there was a planning permission before the CIL Charging Schedule came into effect on 1st March 2016, but an approval of a Section 73 application to vary or remove conditions of that planning permission is made after 1st March 2016?**

Yes. If full planning permission is granted before 1st March 2016, but, after 1st March 2016, the authority issues a decision notice on a S73 application to vary or remove conditions, whenever the application is made or the resolution is passed, the approval does trigger a liability to pay CIL because it results in a new planning permission. However, 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. In effect, if the application to vary a condition does not result in an increase in floorspace then there will be no charge.

Q5 Will a development be liable to pay CIL if there was a planning permission before the CIL Charging Schedule came into effect on 1st March 2016, but a different planning permission is granted on the same site after 1st March 2016?

YES. Whilst a planning permission granted prior to 1st March 2016 can be implemented in its current form without incurring CIL, if a fresh application is submitted then any residential development it comprises, granted planning permission after 1st March 2016, would be liable for CIL even if it was within the application site of the development that had been granted planning permission previously. Residential floorspace previously granted planning permission cannot be set against CIL liability on the new development. The exception to this is S73 applications mentioned above where there is only a minor amendment to the original scheme.

Q6 Is CIL chargeable for subdividing a house into two or more homes?

No, unless additional new build floorspace is provided as part of the scheme in which case the additional floorspace may be liable.

Q7 Is CIL chargeable on second homes?

Yes, providing they are not temporary buildings. Second homes are still dwellings that come under Use Class C3.

Q8 Is CIL chargeable on mobile homes?

No. CIL can only be charged on buildings. Mobile homes are not normally buildings as defined by law therefore no CIL will be charged on them unless the proposal is considered to be a building.