

# Community Infrastructure Levy (CIL) Advice for Planning Applicants



## 1. What is the Community Infrastructure Levy?

- 1.1 The Community Infrastructure Levy (CIL) is a charge on some forms of development, which is collected in order to help deliver infrastructure improvements in areas such as transport, education, health and leisure, as development comes forward. CIL is charged on a pounds per square metre (£/sq m) basis.
- 1.2 CIL is not an additional charge on development. It replaces the previous tariff-based approach to collecting infrastructure contributions from planning approvals using Section 106 agreements. From 1 July 2014, Section 106 agreements will therefore only cover contributions in respect of affordable housing and site-specific improvements needed to make a development proposal acceptable in planning terms.

## 2. What are the charges in Epsom & Ewell?

- 2.1 The charging rates for development are set out as follows:

Use	CIL Rate (per square metre)
Residential dwellings (C3)	£125
Convenience <sup>1</sup> Retail (A1)	£150
Student Accommodation (C2)	£30
Care Home Accommodation (C2)	£20
All other uses	Nil

## 3. When did CIL come into force?

- 3.1 The levy was introduced on **1 July 2014** in Epsom & Ewell.
- 3.2 Any development where a planning decision notice is issued from 1 July is liable to pay CIL. The CIL Regulations specify that the relevant date is the date of the issuing of the planning permission notice, not when the planning application was submitted.
- 3.3 If a scheme was granted outline permission before the CIL implementation date, the subsequent approval of reserved matters does not trigger a liability to pay CIL.
- 3.4 If a scheme was granted full planning permission before the CIL implementation date, the subsequent approval of pre-commencement conditions does not trigger a liability to pay CIL.
- 3.5 The renewal of a planning permission, which was approved prior to the CIL implementation date, does not trigger a liability to pay CIL.

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<sup>1</sup> A convenience unit is a shop or store where the planning permission allows selling wholly or mainly everyday essential items, including food, drinks, newspapers/magazines and confectionary.

- 3.6 If there was a refusal of planning permission before the CIL implementation date, but an approval of planning permission on appeal is made after the CIL implementation date, the development will be liable to pay CIL.
- 3.7 Where an application is made under Section 73 of the Town and Country Planning Act to vary a planning permission that was granted pre the CIL implementation date, CIL is only due in relation to the uplift in floorspace over the original consent (i.e. a charge will be due on the additional floorspace only, so as to avoid double counting).

#### 4. Will my development be liable to pay CIL?

- 4.1 CIL is only liable if a new development has 100 sq m, or more, of gross internal area, or involves the construction of additional dwellings (even when these are below 100 sq m of floorspace).
- 4.2 While any new build over this size will be subject to CIL, the gross internal area of any existing building(s) on the site to be demolished will be deducted from the final liability provided it has been in lawful use for a continuous six month period within the previous three years.
- 4.3 Conversions of existing buildings, 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<sup>2</sup>) are not liable for the Levy.
- 4.4 CIL will not be charged on affordable housing and development by a charity for charitable purposes. There is also relief available where the development is being undertaken by a “self builder”<sup>3</sup>.

#### 5. Example CIL Scenarios

Site Description	Proposed Development	CIL Liable?	Chargeable Area
Cleared building site	90 sq m new residential dwelling	Yes	90 sq m – liable because even though the floorspace is under 100 sq m a new dwelling is being created
Single dwelling – in use	25 sq m extension to existing dwelling	No	Not liable as under 100 sq m new build and does not create a new dwelling

<sup>2</sup> Changes of use to residential may be CIL liable, subject to the consideration of whether existing floorspace has been in lawful use – see Section 6

<sup>3</sup> Further guidance on the definition of a self-builder is contained in the Community Infrastructure Levy section of the [National Planning Practice Guidance](#)

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Single dwelling – in use	125 sq m extension to existing dwelling	Yes	125 sq m
Cleared building site	2000 sq m residential, including 40% affordable housing (800 sq m)	Yes	1200 sq m NB: the affordable housing relief must be applied for and meet certain criteria to be granted
Single dwelling – in use and to be demolished	125 sq m new development, original 90 sq m dwelling demolished	Yes	35 sq m NB: not exempt as development comprises of one or more dwellings but charge reduced as original building to be demolished is in use
Single dwelling – not in use but to be retained	35 sq m new development extension 90 sq m original retained	No	Not liable as under 100 sq m new build and does not create a new dwelling 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	Yes	90 sq m NB: No exemption even though under 100sqm 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	Yes	0 sq m NB: No exemption even though under 100sqm 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 to retail unit	No	Not liable as change of use to non-residential and under 100 sq m new development. The fact that it has not been in use is not relevant in this scenario

4000 sq m offices – in use	4000 sq m conversion of offices to flats	Yes	0 sq m Liable but no charge as the existing floorspace which is currently in use is being converted
4000 sq m offices – not in use	4000 sq m conversion of offices to flats	Yes	4000 sq m Liable as the existing floorspace is being converted to residential and has not been in lawful use

## 6. What is continuous lawful use?

- 6.1 Floorspace subject to demolition or resulting from change of use can only be deducted where it has been in continuous lawful use for at least six months in the three years prior to a development being permitted. It will be for the applicant or their agent to demonstrate lawful use by providing appropriate evidence such as Council Tax records or Business rate documentation.
- 6.2 Where only a small part of the building to be demolished has been in use in six of the previous three years, all the floorspace in the building will be deductible from the floorspace of the new building(s).

## 7. What is included as CIL chargeable floorspace?

- 7.1 All new build floorspace within the external walls of the 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.
- 7.2 CIL is chargeable on the “gross internal area” (GIA)<sup>4</sup> of the development for which planning permission is granted (CIL Regulations 40 and 9). Generally, any structure with 3 or more walls and a roof is considered to be ‘internal’ floorspace and therefore chargeable.
- 7.3 Buildings “into which people do not normally go” are exempt from CIL. These include buildings into which people go intermittently for the purpose of inspecting or maintaining fixed plant machinery.

## 8. How is the CIL amount calculated?

- 8.1 The calculation involves multiplying the CIL charging rate by the additional (new build) floorspace, and factoring in an index figure to allow for changes in building costs over time.

<sup>4</sup> GIA is the area of a building measured to the internal face of the perimeter walls at each floor level, Code of Measuring Practice 6<sup>th</sup> edition by RICS, 2007

8.2 The following formula is used:

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

Where:

R = the Levy rate as set in the Epsom & Ewell Borough Council Charging Schedule.

A = the chargeable area (new build floorspace minus any existing floorspace or demolitions, where appropriate).

$I_p$  = the All-In Tender Price Index<sup>5</sup> for the year in which planning permission is granted.

$I_c$  = the All-In Tender Price Index for the year in which the charging schedule took effect.

8.3 CIL payments are not subject to VAT. Payments of amounts of less than £50 are treated as zero rated and not payable.

## 9. How do I pay CIL?

- 9.1 CIL is legally payable on the commencement of development. The process operates through the formal exchange of notices between the planning applicant and the planning authority.
- 9.2 In the first instance, the onus is on the applicant to provide sufficient information to allow the Council to determine whether CIL is liable and, if so, the chargeable amount.
- 9.3 The responsibility to pay CIL relates to the ownership of the land. 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. It is the responsibility of the person(s) who assume liability to inform the Council of this.
- 9.4 When planning permission is granted for a CIL liable development and any pre-commencement conditions discharged the Council will issue a Liability Notice, which will set out how much CIL is to be paid and when

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<sup>5</sup> The All-In Tender Price Index is an inflation index published by the Building Cost Information Service of the Royal Institute of Chartered Surveyors and the figure for any given year is the figure for November of the preceding year. Further details of the specific calculations and how they are made can be found in the CIL Regulations.

it is to be paid. Prior to commencing development, the Council must be served with a Commencement Notice stating the date when construction work will begin. The Council will then serve a Demand Notice setting out precise details of payment arrangements.

- 9.5 All of the required forms listed below are available on the [Planning Portal](#) and via the Council's website.

**CIL Additional Information Form** – required for all planning applications in order to determine whether or not developments are CIL liable. Your application will not be valid without the submission of this form.

**Assumption of Liability Form** – used to inform the Council that a party wishes to assume liability to pay the Levy.  
NB: one or more parties must assume liability to pay the levy prior to development commencing, even where relief is being sought on part or whole of the amount due. Failure to assume liability may result in additional charges being levied or enforcement actions being undertaken.

**Claiming Exemption or Relief Form** – used to claim social housing relief or charitable purposes relief prior to the commencement of development.

**Withdrawal of Assumption of Liability Form** – used to withdraw liability to pay CIL that was previously assumed.

**Self Build Exemption Claim Form: Part 1** – used to claim exemption where the development is to be completed by a “self builder”. This form should be submitted prior to the commencement of development.

**Self Build Exemption Claim Form: Part 2** – should be submitted within six months of the completion of the development.

**Self Build Annex or Extension Claim Form** – used to claim exemption on annexes or extensions to existing dwellings, where they are completed by a “self builder”. This form should be submitted prior to development commencing.

**Transfer of Liability Form** – used to transfer the liability to pay the whole or part of the Levy amount due from one party to another, where liability has previously been assumed.

**Notice of Chargeable Development** – used to inform the Council of a development that is liable for CIL that does not require planning permission, i.e. permission is granted by general consent, including permitted development rights.

**Commencement Notice** – used to inform the Council of the intended commencement date of the development.

NB: this form must be submitted immediately prior to the commencement of development. Failure to do so may result in additional charges being levied or enforcement actions being undertaken.

- 9.6 To support developers bringing forward new schemes, the Council has introduced an instalments policy for the payment of CIL, which is set out as follows:

<b>Epsom &amp; Ewell Borough Council Instalment Policy</b>	
<b>Total CIL Liability</b>	<b>Instalment Policy</b>
Under £12,500	One payment at 90 days after commencement
£12,500 to £50,000	Two equal instalments at 90 and 180 days after commencement
Greater than £50,000	Three equal instalments at 90, 180 and 270 days after commencement

## **10. Can I appeal against paying CIL?**

- 10.1 The CIL charge itself is non-negotiable. Appeals can only be made against procedural aspects relating to the calculation, collection and enforcement of CIL. Further guidance on appeals can be found in the Community Infrastructure Levy section of the [National Planning Practice Guidance](#).