Bath & North East Somerset Council

# Bath and North East Somerset Community Infrastructure Levy Developers' Guide

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## Introduction

This document contains details of the Bath and North East Somerset Council (B&NES) Community Infrastructure Levy (commonly known as CIL) including all the processes involved in calculating and collecting the charge, making claims for relief, enforcement measures and the process for appeals.

The Planning Act 2008 made provision for the introduction of the Community Infrastructure Levy; and regulations governing the operation of CIL were first introduced in April 2010, and were subsequently amended in 2011, 2012, 2013 and 2014. Part 6, Chapter 2 of the Localism Act 2011 has the effect of amending parts of the Planning Act 2008 as it relates to CIL. The CIL Regulations 2010 (as amended) will henceforth be known as the CIL Regulations.

The information relating to CIL contained within this guide is intended to assist developers and landowners to understand the CIL charge and the administration of the CIL process. It is not intended to replace the CIL Regulations and Government advice on CIL.

The guide addressed the following questions:-

## What is the Community Infrastructure Levy (CIL)?

CIL enables local planning authorities to raise funds from developments taking place in their area, to provide key infrastructure needed as a result of development. CIL is intended to supplement other funds to provide new infrastructure in the District – it is not intended to provide the full costs associated with the total infrastructure required within the District.

The charge is an amount that must be paid in pounds sterling (£) per square metre of qualifying development. CIL rates are set by the charging authority, in this case B&NES Council, in a charging schedule.

Refer to the Council's dedicated CIL page for planning applicants www.bathnes.gov.uk/CIL and the Council's planning policy page for information on the preparation of the Charging Schedule; Central Government Guidance on CIL in the Planning Practice Guidance and the Planning Portal.

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## When did the B&NES CIL Charging Schedule come into effect?

The B&NES Council CIL Charging Schedule came into effect on 6th April 2015. This means that any planning applications or appeals for new development approved after this date, or permitted development which triggers a CIL liability, may be liable for a CIL charge.

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## What are the CIL charges in Bath and North East Somerset Council area?

The CIL charges are set out below. Refer to the detailed B&NES CIL Charging Schedule approved by Full Council on 17th February 2015 for plans showing the designated locations referred to within the charging schedule.

**B&NES CIL Charging Schedule**

| DEVELOPMENT TYPE | LOCATION / CRITERIA | CIL CHARGE £/M² |
|---|---|---|
| **RESIDENTIAL** (Class C3, C4) including Specialised, Extra Care and Retirement Accommodation [1] | District wide | £ 100 |
| | Strategic Sites/ Urban Extensions | £ 50 |
| | Bath Western Riverside | £Nil |
| **HOTEL** (Class C1) | In Bath | £ 100 |
| | Bath Western Riverside | £ Nil |
| | Rest of District | £ Nil |
| **RETAIL** In-centre / High Street Retail | Bath city centre | £ 150 |
| | Other centres | £ Nil |
| | Bath Western Riverside | £ Nil |
| **SUPERMARKETS, SUPERSTORES AND RETAIL WAREHOUSE** (over 280m$^2$) | District wide | £ 150 |
| | Bath Western Riverside | £ Nil |
| **OFFICES** (Class B1) | District wide | £ Nil |
| **INDUSTRIAL AND WAREHOUSING** | District wide | £ Nil |
| **STUDENT ACCOMMODATION** | Schemes with market rents | £ 200 |
| | Schemes with submarket rents[2] to be set in Section 106 planning agreement | £ Nil |
| | Bath Western Riverside | £Nil |
| **ANY OTHER DEVELOPMENT** | District wide | £Nil |

[1] Excludes Specialist, Extra Care and Retirement accommodation that provides non-saleable floorspace in excess of 30% of Gross Internal Area.

[2] Sub-market rent means student accommodation units which are to be let at a rent which is no more than 80% of the local market rent (including any service charges).

- Strategic sites/urban extensions:
  As defined within the Core Strategy (PoliciesB3A, B3C, KE3A, KE4 and RA5)
- Retail (Class A1/A2/A3/A4/A5)
  - In-centre / High Street Retail as defined within the Core Strategy

- Supermarket - large format convenience-led stores. The area used for the sale of goods will be above that applied for the purposes of the Sunday Trading Act of 280sq. m sales area.
- Student Accommodation (purpose built accommodation for students). (Planning Use Classes under Town and Country Planning (Use Classes) Order 1987 (as amended))

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**Will my development be liable for CIL?**

The following main development types will be liable for CIL:

• New build floorspace (including extensions and replacement) of 100sq m or more

• Proposals for one or more new dwellings either through conversion, replacement, or new build, irrespective of size of dwelling.

Note This includes development permitted by a 'general consent' (including permitted development) eg the conversion of an agricultural building to a dwelling under prior approval.

Development will not be liable for CIL if it involves:

• the subdivision of a single dwelling house into two or more separate dwellings (however where there is an extension, the net additional area will be chargeable).

• a building into which people do not normally go;

• a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery

• buildings permitted for a temporary period

Development proposals that already had planning permission when the CIL Charging Schedule came into force are not liable for CIL. This includes any subsequent Reserved Matters applications pursuant to an Outline Planning Permission granted before the Charging Schedule took effect. However, if proposed developments with planning permission are not started within the time limit set out within the planning permission decision notice, any subsequent renewal or amendment applications may be liable for CIL.

Where an original planning permission was granted before the Charging Schedule took effect on 6th April 2015, and a section 73 permission is granted after the 6th April 2015, the section 73 permission will only trigger a CIL liability for any additional floorspace granted in a revised scheme.

Please note that whether you believe your development is liable or not, all applicants will be required to complete the **CIL additional questions form** as part of the planning application process, in order for the Council to determine whether the proposed development is liable for CIL. This applies even if the development would be subject to a £nil rate of CIL, or if it would be eligible for mandatory relief or exemptions – see downloadable forms on the Planning Portal website: https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5.

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**How is the CIL charge calculated?**

The CIL liability is calculated by the Council in accordance with CIL Regulation 40 as amended. A CIL calculator can be found on the Council's website at http://cilcalc.bathnes.gov.uk/

The chargeable amount will relate to the chargeable area and the CIL rate as set out in the Charging Schedule, index linked using the Royal Institution of Chartered Surveyors' All-in Tender Price Index figures for the year in which the planning permission is granted and the year in which this charging schedule takes effect.

$$\frac{\text{CIL Rate (R) x Chargeable Area (A) x BCIS Tender Price Index(permission year) (Ip)}}{\text{BCIS Tender Price Index (charging schedule year) (Ic)}}$$

where

R= CIL Rate as set out in the Charging Schedule for relevant use/ area

A = Chargeable Gross Internal Area – (Refer to question below –"What is chargeable area?")

Ip = The BCIS All-in Tender Price Index for the year in which planning permission was granted

Ic = The BCIS All-in Tender Price Index for the year in which the charging schedule containing rate R took effect

(the figure for a given year is the figure for 1st November of the preceding year )

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**What is chargeable area?**

The Council will assess the chargeable floorspace based on information provided by the applicant provided as part of the planning application submission in the **Additional questions form** - see downloadable forms on the Planning Portal website: https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5

The amount of chargeable floorspace is calculated based on the "Gross Internal Area" (GIA) of the "development for which planning permission is granted".

The Royal Institute of Chartered Surveyors (RICS) has produced guidance on how to calculate Gross Internal Area. For measuring Gross Internal Area please refer to the RICS Code for Measuring Practice (6th Edition) which is incorporated in (electronic page 81 in the document) RICS Property Measurement 1st Edition pdf on the website http://www.rics.org/uk/knowledge/professional-guidance/professional-statements/rics-property-measurement-1st-edition/

The Valuation Office Agency has for many years generally adopted the RICS Code as its basis for measuring property both for rating and council tax. This is subject to the following exceptions:

Gross Internal Area – areas with a headroom of less than 1.5m are excluded rather than included.

The Code states:

The Gross Internal Area (GIA) of a building is the floorspace of a building measured to the internal face of the perimeter walls at each floor level. This includes (not limited to):

2.1 Areas occupied by internal walls and partitions

2.2 Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and the like

2.3 Atria and entrance halls, with clear height above, measured at base level only

2.4 Internal open-sided balconies, walkways, and the like

2.5 Structural, raked or stepped floors are to be treated as a level floor measured

horizontally

2.6 Horizontal floors, with permanent access, below structural, raked or stepped floors

2.7 Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies)

2.8 Mezzanine floor areas with permanent access

2.9 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

2.10 Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaners' rooms, and the like

2.11 Projection rooms

2.12 Voids over stairwells and lift shafts on upper floors

2.13 Loading bays

2.15 Pavement vaults

2.16 Garages [ including basement parking ]

2.17 Conservatories

**GIA Excludes**

2.18 Perimeter wall thicknesses and external projections

…. Areas with a headroom of less than 1.5m (see point above)

2.19 External open-sided balconies, covered ways and fire escapes

2.20 Canopies

2.22 Greenhouses, garden stores, fuel stores, and the like in residential property

2.21 Voids over or under structural, raked or stepped floors

In certain circumstances, the floorspace of buildings to be demolished or converted as part of a development may be eligible to be deducted from the chargeable area.

The formula for assessing the chargeable area is below. See CIL Regulation 40 as amended for full regulation.

$$G_R - K_R - ((G_R \times E) / G)$$

The elements are as follows:

| Formula | Where the formula element equals | Clarifications/meanings |
|---|---|---|
| $G_R$ | the GIA of the part of the chargeable development chargeable at CIL rate R | (eg area of total residential floorspace) |
| $K_R$ | (Retained Floorspace)<br><br>the sum of the GIA of the following—<br><br>(i) retained parts of in-use buildings, and<br><br>(ii) for other buildings on site (not "in use"), retained parts where the intended use following completion is a use that is able to be carried on lawfully without further planning permission (ie permitted development) | "(in-use building" means a building which is part of the application proposal and 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 (refer to paragraphs below for information on when planning permission first permits the chargeable development) |
| E | (Demolished buildings)<br><br>the GIA of parts of in-use buildings that are to be demolished before completion of the chargeable development<br><br>For phased developments there is a further formula to calculate E. | In use buildings on site which 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 |
| G | the GIA of the chargeable development | (for all uses for example residential and office and basement car park) |

In essence, where an existing building has been in lawful use for a continuous period of six months within the past three years (up to the date planning permission first permits the chargeable development), parts of that building that are to be demolished or retained can be deducted from the chargeable area. This can be termed the "in-use building" test. Where an existing building does not meet the "in-use building", its demolition (or partial demolition) is not taken into account. However, parts of that building that are to be retained as part of the chargeable development can still be taken into account if the intended use matches a use that could have lawfully been carried out without requiring a new planning permission.

Where an applicant intends to rely on the "in-use building" deduction to offset a CIL liability the applicant must provide evidence that the building has been in lawful use for the requisite six-month period. The evidence must clearly show that the use was occurring for the whole of the six-month period – the CIL regulations make clear that if the collecting authority is not provided with sufficient evidence (or evidence of sufficient quality) to establish the six months of lawful use then it may be deemed to fail the "in-use building" test. Evidence could include date-stamped photographic records, sworn statements or statutory declarations or evidence of Business Rates or Council Tax payments (although evidence of exemptions from paying these would not be sufficient).

Where an applicant intends to rely on demolished floorspace to off-set a CIL liability, the buildings must still be standing on the day that planning permission first permits the chargeable development.

The phrase "first permits the chargeable development" is usually the date Planning Permission is granted – it is for full planning permissions, however, it is later in relation to outline permissions and phased permissions.

For outline permissions, which are not phased, planning permission first permits development on the day of the final approval of the last reserved matters associated with that outline permission.

For outline planning permissions which are phased planning permission first permits development on the date of the final approval of the last reserved matter associated with that phase; or if earlier, and if agreed in writing, the date final approval is given under any pre-commencement condition associated with that phase; and

For full planning permissions which are phased planning permission first permits development when final approval is given to any pre-commencement condition associated with that phase; or where there are no pre-commencement conditions, the date planning permission is granted.

The principle of phased delivery must be agreed in advance of planning permission being granted.

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**Are there any exemptions or relief from CIL?**

There are specific exemptions and mandatory forms of relief available subject to the criteria set out in the CIL Regulations. Refer to the Planning Practice Guidance for details.

The following exemptions and mandatory forms of relief are available:

- **mandatory charitable relief**
- **mandatory social housing relief**
- **self build exemption (for a whole house)**
- **self build exemption (for a residential annexe or extension)**

These relief/exemptions are not automatically available (they must be applied for prior to commencement of development and after having assumed liability for the chargeable development). The forms for claiming relief are available to download from the Planning Portal website: https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5

Note: It will not be possible for an applicant to claim relief or exemption after the development has commenced, even where the applicant would have been eligible for relief. The Demand Notice will relate to the last Liability Notice issued.

The forms, in particular the Self Build (whole house) Exemption form 7 (part 2) require detailed evidence to be submitted to the Council to demonstrate eligibility for relief.

The CIL Regulations also permit Councils to provide exceptional circumstances relief, discretionary charitable relief, and discretionary social housing relief.

B&NES Council currently has a policy to allow exceptional circumstances relief, under the CIL Regulations 2010 (as amended). Refer to web page www.bathnes.gov.uk/cil.

B&NES Council is not currently proposing to make either discretionary charitable relief or discretionary social housing relief available. The Council is committed to keeping this decision under review.

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**What is the CIL process – how is CIL collected?**

The administration and collection of CIL involves a number of procedures, which are legal processes subject to the CIL Regulations. If these procedures are not followed, there are penalties that can or must be imposed, under the CIL Regulations.

(Refer to "**What happens if I do not follow the procedures/ pay the charge**"– below)

The process is set out below:

***Stage 1: When an application is submitted, the Council will determine if the development is CIL liable.***

All planning applications must be accompanied by the 'Planning Application Additional Information Requirement Form', to enable the Council to determine whether the development is CIL liable and calculate the CIL liability for a development. The required form and guidance note are as follows:

- **Additional questions form**
- **Associated guidance note**

See downloadable forms on the Planning Portal website for these: https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5

Note: Development commenced under General Consent eg prior approval or permitted development may be liable to pay CIL. If you intend to commence development under a General Consent you must submit a Notice of Chargeable Development to the local authority before you commence this development unless the development area is less than 100 square metres or the CIL rate for the development in the charging schedule has a £nil rate. See form below.

- **Notice of Chargeable Development**

See downloadable forms on the Planning Portal website for this: https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5

The collecting authority may impose a surcharge equal to 20 per cent of the chargeable amount payable or £2500, whichever is the lower amount for failing to complete a Notice of Chargeable Development

***Stage 2: Where a CIL eligible application is approved, the Council will issue a Liability Notice***

As soon as practicable after the time when the planning permission is granted for CIL liable development, the Council will send a CIL Liability Notice to the Applicant, any person who has assumed liability to pay CIL (see Stage 3 below for Assumption of Liability Notice), and each owner of the site.

The liability notice will include a description of the chargeable development and all relevant floor space contained in the development, and the chargeable amount.

A revised liability notice may be issued at any time before commencement of development and this will supersede the earlier liability notice.

***Stage 3 – Person responsible for paying CIL sends to the Council Assumption of Liability Notice***

Once planning permission has been granted, the CIL regulations allow any single party or joint parties to come forward and assume liability – this may, for instance, be the developer who has applied for planning permission or the landowner. This Notice must be submitted to the Council by anyone intending to assume liability for the CIL payment identified in the Council's Liability Notice up to the day before development is commenced. A person is not able to assume liability to pay CIL after development has commenced.

- **Assumption of Liability**

See downloadable forms on the Planning Portal website for this: https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5

If no Assumption of Liability Notice is received prior to commencement of development, liability falls on the owner(s) of the land or those with a material interest in the land. The Council can apply surcharges to cover the additional costs in identifying the relevant owners and apportioning liability for CIL between them. Under the CIL Regulations, collecting authorities can require any relevant information from owners with a material interest in the land in order to determine how to apportion liability. This is a formal data request process.

If there are any changes of circumstances regarding the assumption of liability of the person/party paying CIL since the form is submitted, the liable person will need to submit to the Council Withdrawal of Assumption of Liability (where a new party assumes liability via assumption of liability form) or Transfer of Assumed Liability.

- **Withdrawal of Assumption of Liability**
- **Transfer of Assumed Liability**

See downloadable forms on the Planning Portal website for these: https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5

***Stage 4: Claims for Social Housing or Charitable Relief, or Self Build Exemptions***

A person wishing to claim relief from CIL must first assume liability (Stage 3) and then submit a claim for relief (see forms below) and ensure relief is granted by the Council (a revised Liability Notice will be issued) before commencement of development. Please submit your exemption request well in advance (at least 4 weeks prior to commencement of your development) so that the exemption decision can be issued in time, prior to commencement. **PLEASE NOTE:** you will not be entitled to any exemption if you commence your development prior to having received the formal decision on your exemption request, and any exemption decision is void if it is issued after the development has commenced.

- **Claiming Exemption or Relief**
- **Self Build Exemption Claim Form Part 1**
- **Self Build Exemption Claim Form Part 2**
- **Self Build Residential Annex Exemption Claim Form**
- **Self Build Residential Extension Exemption Claim Form**

See downloadable forms on the Planning Portal website for these: https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5

The Council may at any time issue a revised liability notice in respect of a chargeable development to take account any relief or exemptions granted. Note commencement of the development without having successfully claimed an exemption (with the exception of extension exemption and social housing exemption) will lead to the exemption being withdrawn and the full amount being payable. In addition, the whole amount will be payable and the ability to pay by instalments will be withdrawn. The exemption or relief are subject to qualification requirements and registered as a land charge. Any disqualifying event, within the relevant period, will lead to relief being clawed back and surcharges being imposed. Refer to the Planning Practice Guidance for details and enforcement measures.

***Stage 5 When the development is about to commence the Developer or Liable Person Issues a Commencement Notice to the Council***

Before commencing a chargeable development (including those subject to relief / exemption), the person who has assumed liability to pay the CIL charge must submit

a completed commencement notice to B&NES Council no later than the day before the day on which the chargeable development is to be commenced. The person submitting the commencement notice must also serve a copy of it on relevant landowners of the land.

- **Commencement Notice**

See downloadable forms on the Planning Portal website for this: https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/community_infrastructure_levy/5

If no commencement notice is received by the Council, or the Council has reason to believe that the development was commenced earlier than the intended commencement date, the Council will determine a "deemed commencement" date. There are penalties for failure to serve a commencement notice – in particular the withdrawal of the ability to pay in instalments. Refer to **What happens if I do not follow the procedures /pay the CIL charge?** below and the Planning Practice Guidance for details and enforcement measures.

***Stage 6 Council Issues Demand Notice***

On the receipt of a valid Form 6: Commencement Notice the Council will issue a Demand Notice to the person that has assumed liability to pay CIL. The Demand Notice will set out the details of the amount of CIL payable, any relief granted, payment methods and due dates. It will also show any surcharges if relevant.

If instalment terms are broken (see instalment policy below), under the CIL Regulations the Council must issue a demand notice requiring the full amount of money immediately.

If no-one has assumed liability to pay CIL before the Demand Notice is issued the liability defaults to the owner(s) of the land. Surcharges will be added to take account of the additional administration.

The demand notice is registered as a land charge.

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**Can I pay in Instalments?**

Under the CIL Regulations the Council can adopt and publish an instalments policy and offer the option of paying by instalments. The Council has approved an instalment policy which is a separate document. The instalments are as follows:

| CIL Liability | Number of instalments | Periods and Amounts |
|---|---|---|
| Any amount less than £25,000 | No instalments | Total amount payable within 60 days of commencement of development |
| Amounts equal to or more than £25,000 | Three instalments | 33% within 60 days of commencement of development<br><br>33% within 12 months of commencement of development<br><br>34% within 18 months of commencement of development |

**If no party assumes liability to pay the CIL charge before development commences, or fails to serve a valid Commencement Notice, under the CIL Regulations (as amended) the owners of land will be liable to pay the CIL charge in full and will not be able to pay in instalments in line with the instalment policy.**

For phased permission, each phase would be a separate chargeable development and therefore liable for payment in line with the instalment policy. The principle of phased delivery must be agreed in advance of planning permission being granted.

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**What happens if I do not follow the procedures /pay the CIL charge?**

Unlike Section 106 obligations, CIL is non-negotiable. The Government recognises it is important that collecting authorities are able to penalise late payment and discourage future non-compliance. Therefore the regulations provide for a range of proportionate enforcement measures, such as surcharges and interest on late payments.

A summary of the provisions for surcharges and late payments interest is below. Note B&NES Council is the relevant collecting authority in this case.

Please note that while surcharges etc will be imposed, the loss of exemptions and relief, and the ability to pay in instalments are significant penalties which also arise for failure to comply with the relevant notices.

| Surcharge | Details based on CIL Regulations |
|---|---|
| Surcharge for failing to assume liability before commencement of development | The collecting authority may impose a surcharge of £50 on each person liable to pay CIL in respect of a chargeable development if:-<br>(a) nobody has assumed liability to pay CIL in respect of the chargeable development; and<br>(b) the chargeable development has been commenced.<br>Reg 80 |
| Surcharge for apportionment of liability (where no party has assumed liability prior to commencement of development) | Where the collecting authority is required to apportion liability to pay CIL between each material interest in the land, it may impose a surcharge of £500 in respect of each of those interests.<br>Reg 81 |
| Surcharge for failing to complete a Notice of Chargeable Development *CIL Form 5: Notice of Chargeable Development* | The collecting authority may impose a surcharge equal to 20 per cent of the chargeable amount payable or £2500, whichever is the lower amount for failing to complete a Notice of Chargeable Development<br>Reg 82 |
| Surcharge for failure to submit a commencement notice | Where a chargeable development is commenced before the collecting authority has received a valid commencement notice, the authority may impose a surcharge equal to 20 per cent of the chargeable amount payable or £2500, whichever is the lower amount<br>Reg 83 |
| Surcharge where a disqualifying event occurs | This regulation applies where a person who is required to notify the authority of a disqualifying event fails to do so before the end of the period of 14 days beginning with the day on which the disqualifying event occurs.<br><br>The collecting authority may impose a surcharge equal to 20 per cent of the chargeable amount payable in respect of the chargeable development to which the disqualifying event relates, or £2500, whichever is the lower amount.<br><br>Where the disqualifying event occurs before commencement of the chargeable development, the surcharge is payable on commencement of that chargeable development.<br><br>Further information is available for specific<br>Reg 84 |
| Late payment surcharge | Where the CIL amount is not received in full after the end of the period of 30 days beginning with the day on which payment is due, the collecting |

| | |
|---|---|
| | authority may impose a surcharge equal to<br><br>Five per cent of the amount outstanding, or £200, whichever is the greater amount.(ie miniumum £200)<br><br>Five per cent of the outstanding amount where payment is still overdue after six months, subject to a £200 minimum<br><br>Five per cent of the outstanding amount where payment is still overdue after 12 months, subject to a £200 minimum<br>Reg 85 |
| Late or non-payment | Late payment interest **must** be calculated and added to the relevant amount—<br>(a) for the period starting on the day after the day payment was due and ending on the day the unpaid amount is received; and<br>(b) at an annual rate of 2.5 percentage points above the Bank of England base rate.<br>Reg 87 |
| Surcharge for failure to comply with an information notice | (2) The collecting authority may impose a surcharge equal to 20 per cent of the relevant amount or £1000, whichever is the lower amount<br>Reg 86 |

In cases of persistent non-compliance, the Collecting Authority/ Council may take more direct action to recover the amount due under the CIL Regulations. For example, the authority may issue a Community Infrastructure Levy Stop Notice, which prohibits development from continuing until payment is made and the stop notice is withdrawn.

The Council may, after issuing a reminder notice to the party liable for the levy, apply to a magistrates' court to make a liability order allowing it to seize and sell assets of the liable party. The Council may also apply for a charging order if there is at least £2,000 owing. The court can issue an order imposing a charge on a relevant interest to secure the amount due. In extreme cases of persistent non payment, the Courts have the ability to send a liable person to prison for up to three months.

Refer to Planning Guidance note "Collecting the levy " Paragraph 60

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**Can I Appeal the CIL Charge?**

Under the CIL Regulations appeals can be made against most aspects of the CIL collection and enforcement system. Appeals are made to either the Valuation Office Agency (VOA) or the Planning Inspectorate (PINS) depending on the grounds of the appeal. An appeal can be made where the applicant can demonstrate that:

1. The Council incorrectly calculated the amount of CIL. (Appeal to VOA - Before making the appeal the developer must first request an internal review by the Council)

2. The Council incorrectly apportioned liability between the owners (Appeal to VOA)

3. The Council incorrectly determined Charitable Relief (Appeal to VOA)

4. The Council incorrectly determined the Self-Build and Annex exemptions (Appeal to VOA)

5. The Council incorrectly applied surcharges (Appeal to Planning Inspectorate)

6. The collecting authority has issued a demand notice with an incorrectly determined deemed commencement date (Appeal to Planning Inspectorate)

7. That the Council incorrectly issued a Stop Notice for non-payment (Appeal to Planning Inspectorate)

Details of how to appeal can be found at the Planning Portal and the Valuation Office Agency.

Planning Inspectorate CIL Making Your Appeal

VOA CIL Guidance on Appeals

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**What is the relationship between CIL and Section 106 Planning Obligations?** Developers should be aware that, depending on the nature, scale and location of the development, the Council may seek planning obligations through the Section 106 mechanism, in addition to the payment of CIL.

Affordable Housing provision will continue to be secured through the Section 106 mechanism and Section 106 agreements will be negotiated to ensure that other site specific infrastructure requirements, such as highway works, tree replacement and on site open space are met.

The Council's revised Planning Obligations Supplementary Planning Document (SPD) was approved at Cabinet on 11th February 2015 and took effect on 6th April 2015. Refer to Council's Planning Obligations SPD web page.

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