

# CIL Guidance Note 2

## Is my development CIL liable?

### Planning Service

#### Introduction

This guidance note sets out to explain what type of development is liable for CIL charges and who is liable to pay.

#### What type of development is CIL liable?

This guidance summarises the main aspects of the Charging Schedule, but only the Charging Schedule provides definitive information on CIL charges. You can download a copy of this document from our [CIL webpage](#).

New development, including extensions to buildings, are liable and CIL is charged per square metre of additional floor space. This applies to:

- The creation of a new dwelling, regardless of size, including change of use to residential, regardless of whether or not it includes additional floor space
- Other development of 100 square metres or more
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However, in Sheffield, CIL charges only apply to the following uses:

- Residential
- Retail (large-scale and in primary areas only)
- Hotels
- Student accommodation

All other uses and development in some residential zones are not charged CIL.

The rates vary in different residential and retail zones. You can download a copy of the CIL charging zones from our [CIL webpage](#).

#### How the CIL charge is determined

Applications that are CIL liable must be accompanied by the [CIL Additional Information Requirement form](#). This information enables us to calculate the correct CIL charge and inform known interested parties of it when planning permission is granted. This applies even if the development would be able to benefit from the Relief available for social housing, charitable



development, self-build dwelling or exceptional circumstances. (Sheffield does not require the additional questions form for house extensions unless the applicant either doesn't have an ownership interest or doesn't occupy the house as the main residence.)

If the Assumption of Liability form has not been submitted, identifying who is going to pay the CIL charge, we will issue a Draft Liability Notice on granting planning permission.

The final CIL charge, including any instalments, will be set out in the Demand Notice, issued, on commencement.

The CIL charge can change throughout the process, due to various reasons, such as:

- If a delay between the granting of permission and implementation leads to the CIL charge changing in line with the designated index
- If any relief is granted
- If successfully appealed
- If it proves necessary to apply any penalties or surcharges

## **Permitted development (General Consent)**

In some cases permitted development (development that does not require planning permission) for non-residential property may be large enough to be CIL liable. If you intend to commence development under General Consent you must submit a CIL Form - Notice of Chargeable development to the Council before the development is commenced. The CIL charge will then be calculated and applied as though planning permission had been granted.

## **What type of development is not CIL liable?**

The following types of planning applications are not liable for CIL:

- Development containing less than 100 square metres of new build, provided that it does not result in the creation of a new open market dwelling.
- Most house extensions (see above)

These types of applications, unless specifically requested by us, will not require the CIL Additional Information Requirement form.

Reserved matters applications resulting from an outline planning permission that has been granted before CIL was introduced (on 15 July 2015) would also not be liable for CIL.

## **Relief from CIL**

Separate guidance notes explain the various forms of relief possible in Sheffield:-

- Social Housing Relief
- Charitable Development Relief
- Self-build Dwellings Relief
- Residential Annex or Extension Relief

- Exceptional Circumstances Relief

CIL is only intended to generate infrastructure payments from new floor space developed, so there is a credit for demolished buildings that were in use

## How is CIL calculated, taking into account existing buildings?

Please see the Charging Schedule on the Council’s webpage and use the [CIL Calculator provided](#).

CIL is calculated by multiplying the net increase in the floor space of a development by the CIL rate set out in the charging schedule (plus indexation) with a credit given for existing buildings so as to reduce the overall liability. The credit applies to the areas of ‘in-use buildings’ that are to be demolished or retained. An ‘In use building’ is defined as a building which contains a part of an existing building that has been in lawful use for a continuous period of 6 months within the past three years before the grant of the planning permission. This means the area of development chargeable to CIL may be reduced by the gross internal area of the existing building.

The chargeable amount will be calculated in accordance with the [CIL Regulations](#). This is most simply stated as the chargeable amount based on the floor space (in square metres) multiplied by the levy rate (£xx per sq m):

$$\text{Levy} = \text{Chargeable Development (A)} \times \text{Levy rate (R)} \times \text{inflation index measure (I)}$$

A = the gross internal area of floor space chargeable in square metres after deducting any existing floor space and any demolitions, where appropriate.

R = the levy rate as set in the Charging Schedule.

I = inflation measure calculated at the November rate proceeding the issue of the Liability Notice (using BCIS All-in Tender Price Index).

## Examples of development types, showing whether or not they are CIL liable

Current Site	Completed Development	CIL Liable?	Chargeable Area
Cleared building site	92 sq m new residential dwelling	√	92 sq m (no minimum when creating new dwelling)
Single dwelling – in use	25 sq m extension	X	Not liable as under 100 sq m new build and does not create a new dwelling

Single dwelling – in use	125 sq m extension	X	n most cases this will be considered 'self-build'
Cleared building site	2,000 sq m residential, including 40% affordable housing (800 sq m)	√	1,200 sq m  NB: the social housing relief (800 sq m) must be applied for and meet certain criteria to be granted
Single dwelling – in use but to be demolished	125 sq m new development  90 sq m original dwelling demolished	√	35 sq m  NB: not exempt as development comprises of one or more dwellings but charge reduced due to original building to be demolished being in use
Single dwelling – not in use and to be demolished	125 sq m new development  90 sq m original dwelling demolished	√	125 sq m  NB: not exempt as development comprises of one or more dwellings and no reduction in charge as original building not in use
Single dwelling – not in use but to be retained	35 sq m new development  90 sq m original retained	X	Not liable as under 100 sq m new build and does not create a new dwelling (but extends an existing one).
3,500 sq m residential development not in use to be demolished.	15,000 sq m new residential  5,000 sq m new offices	√	15,000 sq m residential is CIL liable.  5,000 sq m offices is zero rated.  No credit for demolition of existing buildings as not in use.
3,500 sq m office development in use and to be demolished	15,000 sq m new residential  5,000 sq m new offices  3,500 sq m original offices demolished.	√	12,375 sq m residential Is CIL liable.  4,125 sq m offices but as zero rate no charge.  NB: The demolished amount is apportioned across the whole development e.g. ¾ development residential; ¼ business; therefore, of the 3,500 sq m demolished floor space, 2,625 sq m is deducted from residential floor space and 875 sq m

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## Appealing against payment of the CIL charge

Appeals can be made against all aspects of the CIL collection and enforcement system, from the levy collection authority's calculation of the amount due to any enforcement actions it may take. Please see Guidance Note 4 for further details. There are three exceptions where an appeal system does not exist: social housing relief; exceptional circumstance relief and self-build exemption.

## Surcharges and penalties

If payment is not made by the due date then penalties and surcharges will apply. The Council does not have the flexibility to defer payment of CIL, other than through the Instalments Policy.

## Who is liable to pay the CIL?

Responsibility to pay the levy runs with the ownership of the land and the levy is registered as a local land charge. Liability to pay the levy may be assumed by the land owner or another party or parties. This is done by completing and submitting a CIL Assumption of Liability Notice form. Liability must be assumed by submission of a completed form before the development commences.

Failure to submit the form prior to commencement of the development will result in the liable party/land owner losing any right to pay the levy in instalments, as set out in the Council's Instalment Policy, and may incur a surcharge.

Liability may be transferred at any time before commencement of the development, unless an application for social housing relief has been made, by submitting the appropriate CIL form:-

- Assumption of Liability Notice
- Withdrawal of Assumption or Relief
- Transfer of Assumed Liability

If the Council is unable to recover CIL from a party that has assumed liability, the liability defaults to the owner/s of the land.

