Tandridge Local Plan

TDC CIL guidance note – 2

CIL Process for Applicants

Version 4
October 2019
Community Infrastructure Levy (CIL)

CIL Process

Background

This Guidance Note sets out the processes involved in respect of the charging and collection of CIL. Tandridge CIL Charging Schedule took effect on 1 December 2014, and all relevant planning applications validated after that date are liable to pay CIL. Guidance Note 1 will assist in working out if a proposed development will need to pay CIL.

This informal guidance note is part of a series which together have been prepared to assist applicants in understanding how CIL may impact their development and the process which is likely to be followed in charging and payment of the levy. The contents of this note do not override the provisions of – or any powers available to the Council – through the Community Infrastructure Levy Regulations 2010 (as amended).

CIL Process

Step 1

Applicants for a development that will be, or may be, liable for CIL must submit a CIL Additional Information Form 1, and an Assumption of Liability Form 2 prior to a planning application being validated. In most cases the CIL Additional Information Form 1 will contain sufficient information for the Council to calculate the CIL liability. However, further information may be required for large or complex applications.

NOTE:

• The Council will not validate planning applications until it has received the above forms.

• Continuous Lawful Use: Regulation 40 allows for existing floor space that has been in continuous lawful use for at least 6 months in the past 3 years on the day that planning permission is granted to be used as deductible floor space against the CIL charge for the development. Evidence is required from the applicant to demonstrate continuous lawful use. See link to Demonstrating that buildings are in continuous lawful use for details.

Step 2

When the Council grants a planning consent, it will issue a CIL Liability Notice along with the Decision Notice. In situations where consent is granted on appeal, the CIL Liability Notice will be issued as soon as possible after the appeal decision is issued. At this stage CIL Case officers will check if any relief is going to be claimed see step 3. Applicants may submit claims with their applications or prior to commencement.
This Notice sets out the total amount of CIL due for the development. If applicants consider that the amount has been incorrectly calculated, they can request that the Council recalculates it. If, on recalculation, applicants still consider the amount is incorrect, they can appeal the decision. Further information relating to CIL appeals can be found on the Planning Portal – CIL Appeals webpage.

The CIL Liability Notice will include all relevant floor space contained in the development, including floor space that may be eligible for affordable housing or charitable relief.

**Step 3**

Where developments are eligible for affordable housing, or charitable relief, the developer must forward CIL Form 10 – Claiming Exemption or Relief, to the Council. This relief can only be claimed after the Assumption of Liability form 2 has been forwarded to the Council, and only by the person who has assumed liability for paying the CIL.

Self-build claims are made on Forms 7-9 and the same process applies.

If the development commences before the Council has determined the amount of relief and issued a revised CIL Liability Notice, the claim for relief will lapse, and relief will not be given.

**Step 4**

Prior to commencing development, two forms must be forwarded to the Council. These are as follows:
- CIL Form 6 – Commencement Notice (This is the form that lets the Council know when development is going to commence, and will form the basis of the dates that CIL payments become due)

If this form as well as the Assumption of Liability Form 2 are not submitted to the Council prior to commencement of development, penalty surcharges apply, and the person liable to pay the CIL relating to the development loses the right to pay by instalments if it were otherwise applicable. The Assumption of Liability form may be submitted along with the planning application, (or at any time between submission of the application and commencement of the development) once it is known who will be assuming liability to pay CIL.
Step 5

Once the Council has received CIL Form 6 – Commencement Notice, it will issue a CIL Demand Notice to the person(s) that have assumed liability to pay the CIL. This notice sets out the date that the CIL must be paid by. The notice also sets out the amount due in each instalment and the date it must be paid by.

The CIL Instalment Policy sets out the circumstances where payment by instalments is allowable.

If payment is not made by the due date, penalty surcharges apply. The Council does not have the flexibility to defer CIL in the same way that it can in respect of planning obligations, and payment of CIL is enforceable through both the courts and the planning process. The CIL Penalties and Surcharges Guidance Note provides more information about when surcharges apply and the level at which they are set.

In cases where payment is allowed in instalments, and an instalment is missed, the instalments policy ceases to apply and the total CIL liability is due for payment forthwith.

Step 6

Once the Council has received the CIL payment it will acknowledge receipt of the payment. Upon receipt of the final payment due in respect of a development, the CIL Charge will be removed from the Land Charges Register.

This process will apply in the vast majority of cases. However there are a few situations where the process may be different. For example:

• Where CIL is payable on permitted development, or development granted under a general consent such as a Local Development Order or a Prior Notification Consent.
• Where someone withdraws or transfers their liability to pay CIL.

In such cases there are different forms that must be completed. Advice on these cases is available on the webpage.