



**Tamworth Borough  
Council -  
Community  
Infrastructure Levy  
Applicant Guidance**

## Tamworth Borough Council

### Community Infrastructure Levy (CIL) Applicant Guidance

#### 1. Introduction

- 1.1. Tamworth Borough Council adopted Community Infrastructure Levy (CIL) at full council on 17<sup>th</sup> July 2018 and it came into effect in the borough on 1<sup>st</sup> August 2018.
- 1.2. This guidance aims to advise applicants about the Levy, when and what information needs to be submitted with a planning application and the process involved. It also highlights where additional information can be found. The guidance is not intended to be a definitive interpretation of the legislation or CIL Regulations therefore applicants may wish to seek professional advice about any issue in this document.
- 1.3. The latest Government advice and guidance on CIL can be found here: <https://www.gov.uk/guidance/community-infrastructure-levy>
- 1.4. Background information on the evidence to support the Council's CIL rate and the examination process can be found here: <https://www.tamworth.gov.uk/cil>

#### 2. What is the Community Infrastructure Levy?

- 2.1. CIL is a tariff that local authorities can charge on types of development in their area in order to help fund infrastructure. The principle of 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 the charges are based on the size and type of new development. The Council will collect the Levy, co-ordinate the spending of the funds and report this to the community.

#### 3. Will CIL replace Section 106 agreements?

- 3.1. The Council will continue to use planning obligations (s106 of the Town and Country Planning Act 1990) to secure essential site specific mitigation to enable developments to take place and for the delivery of affordable housing.
- 3.2. The current CIL regulations restrict the use of pooled contributions towards items that may be funded via CIL. The restrictions mean that no more contributions may be collected in respect of a specific infrastructure project or a type of infrastructure through a S106 agreement, if five or more obligations for that project or type of infrastructure have already been entered into since

6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy.

- 3.3. Further information is set out in the revised “Planning Obligations Supplementary Planning Document” on the Council’s website: <http://www.tamworth.gov.uk/supplementary-planning-documents>

#### **4. When did CIL come into effect in Tamworth?**

- 4.1. CIL came into effect in Tamworth on 1<sup>st</sup> August 2018.
- 4.2. Planning permissions issued on or after the 1<sup>st</sup> August 2018 (or another date as published by Tamworth Borough Council) may be subject to CIL. Any planning permission issued before 1<sup>st</sup> August 2018 but which is implemented pursuant to that planning permission after August 2018 will be unaffected. Planning permission deemed to be granted by way of permitted development rights but not implemented until after 30<sup>th</sup> July could also be liable to CIL.
- 4.3. If a scheme was granted outline planning permission before 1<sup>st</sup> August 2018, the subsequent approval for reserved matters does not trigger liability to pay CIL. If a scheme was granted full planning permission before 1<sup>st</sup> August 2018, 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 1<sup>st</sup> August 2018, but an approval of permission granted on appeal on or after 1<sup>st</sup> August 2018, 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 1<sup>st</sup> August 2018 to vary a planning permission that was granted before the CIL implementation date, CIL is only due in relation to the increase in floor space over the original planning permission i.e. additional liability.

#### **5. 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 of 3 units and over, subject to qualifying exemptions that apply to self-build housing, residential extensions and annexes. CIL does not apply to affordable housing and specialist residential housing (retirement dwellings, extra care and care homes).
- 5.2. Subject to the above, developments of 3 or more new dwellings of any size through conversion/change of use or new build together with any buildings ancillary to the dwelling and other residential floor space of 100sqm and above may therefore be liable to pay CIL.

- 5.3. Residential floor space includes all floors of a building including habitable attics and basements and all buildings ancillary to dwellings such as garages and other outbuildings.
- 5.4. A full breakdown of the charges can be found in the Tamworth Borough Council Community Infrastructure Levy Charging Schedule ([www.tamworth.gov.uk/CIL](http://www.tamworth.gov.uk/CIL)).

## Retail Development

- 5.5. Retail development in out of town areas above 100sqm is likely to be liable for CIL. Retail mezzanine floors inserted into an existing building are not liable for the levy unless they form part of a wider planning permission that seeks to provide other works as well. Retail development inside the Town Centre, Local Centres and Neighbourhood Centres, as defined in the CIL maps in Appendix A of the Charging Schedule are not CIL liable.

## **6. 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 Additional Information Requirements Form with their planning application for the following types of development:
- Residential development of 3 or more dwellings
  - The establishment of other residential floor space such as extensions, and other ancillary buildings such as stores, garages of over 100sqm.
  - Retail development (includes comparison retail, supermarkets, superstores and retail warehouses)
- 6.2. For these types of applications, applicants **MUST** submit a CIL Additional Information Requirements 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 Additional Information Requirements Form has been submitted.**
- 6.3. The form is available at: [https://www.planningportal.co.uk/info/200126/applications/70/community\\_infrastructure\\_levy/5](https://www.planningportal.co.uk/info/200126/applications/70/community_infrastructure_levy/5)
- 6.4. The 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 floor space.

- 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 payment of 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 of 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. What type of development is not liable?**

- 7.1. Part 6 of the CIL Regulations sets out a number of types of development which are eligible for exemption or relief from CIL. Further details can be found within the Regulations however the main types of relief are:
- Minor development – where the gross internal floor space of a new build would be less than 100 sqm
  - Charitable relief – where a charity has a material interest in the land and the development
  - Will be used wholly or mainly for charitable purposes
  - Social Housing relief
  - Residential extensions and annexes
  - Self-build properties including self-build communal development
- 7.2. To apply for charitable or social housing relief [Form 2: Claiming Exemption or Relief](#) must be filled in and submitted to the Council before commencement of the development. For self-build relief [Form 7: Self Build Exemption Claim Form Part 1](#) must be submitted before commencement of the development.

## **8. Calculation of chargeable amount**

- 8.1. CIL liability is calculated in £s per square metre applied to the gross internal floor space created by the development. Where more than one chargeable rate applies to the development, each of the appropriate rates will be applied to the relevant floor space in accordance with Regulation 40 of the Regulations.

- 8.2. The chargeable rate is also subject to an annually updated index of inflation using the national All-In Tender Price Index of Construction Costs published by the Royal Institute of Chartered Surveyors (RICS).
- 8.3. Payment is due when development commences for which permission was granted after adoption of the Charging Schedule. Full payment is normally due within 60 days unless the instalments policy set out in section 13 applies.

## **9. What if CIL Liability is unclear?**

- 9.1. If it is not clear that a development will be liable for CIL, it is recommended that the CIL additional information requirements 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.
- 9.2. For example, applications under S73 of the Planning Act 1990 (minor material amendments) 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 floor space). 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.

## **10. What happens if my scheme does not require planning permission?**

- 10.1. 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.
- 10.2. The form is available at:  
[https://ecab.planningportal.co.uk/uploads/1app/forms/form\\_5\\_notice\\_of\\_chargeable\\_development.pdf](https://ecab.planningportal.co.uk/uploads/1app/forms/form_5_notice_of_chargeable_development.pdf)

## 11. How much will CIL cost?

11.1. The CIL rates in the table below apply to eligible development within the charging area shown in Appendix A of the Charging Schedule ([http://www.tamworth.gov.uk/sites/default/files/planning\\_docs/TBC-Charging-Schedule.pdf](http://www.tamworth.gov.uk/sites/default/files/planning_docs/TBC-Charging-Schedule.pdf)).

<b>Land Use</b>	<b>Criteria</b>	<b>CIL Rate per square metre</b>
Residential	One or two unit residential schemes exempt from CIL charge	£0
Residential	Residential schemes between 3 and 10 units	£68
Residential	Residential schemes of 11 or more units	£35
Specialist Residential – retirement dwellings and Extra Care*	None	£0
Care homes*	None	£0
Out of Centre Retail	Out of centre is defined as comparison and convenience retail development located outside of Tamworth Town Centre, local centres and neighbourhood centres as defined in the policies map and town centre inset map of the Tamworth Borough Council Local Plan 2006-2031	£200
All other development	None	£0

\*Definitions:

Retirement dwelling – Also known as sheltered housing, these are usually groups of dwellings, often flats and bungalows, which provide independent, self-contained homes often with some element of communal facilities, such as a lounge or warden.

Extra care – Also known as assisted living, this is housing with care whereby people live independently in the own flats but have access to 24-hour care and support. These are usually defined as schemes designed for an elderly population that may require assistance with certain aspects of day to day life.

Care homes – Residential or nursing homes where 24-hour care is provided together with all meals. Residents usually occupy under a licence agreement.

## 12. How is CIL calculated?

12.1. 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 (Indexation). Garages and other ancillary buildings that form part of the proposals for which planning permission is sought will also be liable for CIL.

12.2. 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.

12.3. The full formula for calculating the amount of CIL is set out in the Regulations. The charges in the Council's Charging Schedule feed into the calculation.

12.4. 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;

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

R is the Council's CIL rate for that use (e.g. £68 per sqm for residential schemes between 3 and 10 units)

A is the net increase in gross internal floor area

I<sub>p</sub> is the index figure for the year in which planning permission was granted

I<sub>c</sub> is the index figure for the year in which the charging schedule containing rate R took effect (in the case of Tamworth this was 2018)



- 12.5. The All-in Tender Price Index is an inflation index updated annually (in November) using the national All-In Tender Price Index of Construction Costs published by the Royal Institute of Chartered Surveyors (RICS).
- 12.6. CIL liable amounts of less than £50 are treated as zero rated and are not payable.
- 12.7. CIL payments are not subject to VAT.

### 13. Instalments

- 13.1. The Regulations allow councils to set an instalments policy to assist with development cash flow, reducing up-front costs to ensure economic viability. The table below sets out the instalments policy that will be applied:

<b>Total CIL Liability</b>	<b>Number of Instalments</b>	<b>Payment period and amount</b>
Amount less than £25,000	Single payment	100% payable within 60 days of commencement date
Amounts between £25,001 and £100,000	2 instalments	1st instalment – 25% payable within 60 days of commencement date 2nd instalment – 75% payable within 240 days of commencement date
Amounts between £100,001 and £500,000	3 instalments	1st instalment – 25% payable within 60 days of commencement date 2nd instalment – 25% payable within 240 days of commencement date 3rd instalment – 50% payable within 540 days of commencement date But the full balance is payable on completion of the development if this occurs before any of the due instalment dates
Amounts between £500,001 and £1,000,000	4 instalments	1st instalment – 20% payable within 60 days of commencement date 2nd instalment – 20% payable within 240 days of commencement date 3rd instalment – 30% payable within 540 days of commencement date 4th instalment – 30% payable within 730 days

		of commencement date The full balance is payable on completion of the development if this occurs before any of the due instalment dates
Amounts over £1,000,000	4 instalments	Negotiated on a case by case basis

#### **14. Exceptional circumstances**

- 14.1. In exceptional circumstances, such as where payment of CIL would make a particular development proposal cannot afford to pay, the Council offers a process for giving relief from CIL. This will avoid making sites which have very significant abnormal additional development costs unviable. Claims for relief will be considered on a case by case basis providing the following conditions are met:
- 14.2. A S106 agreement relating to the permitted chargeable development must exist.
- 14.3. Evidence must be submitted to the Council to show that paying the full CIL charge would make the development unviable. Any viability evidence must be prepared by a suitably qualified independent professional.
- 14.4. Relief from CIL must not constitute notifiable state aid.

#### **15. Payment in kind**

- 15.1. There may be circumstances where it would be appropriate for the Council to receive land or items of infrastructure provided by the developer in lieu of CIL monies. The Regulations allow the Council to accept land transfers and/or construction of infrastructure as payment for the whole or part of the CIL liability, subject to appropriate valuation procedures. This will be considered on a site by site basis in accordance with the Regulations.
- 15.2. The types of infrastructure that the Council will consider accepting as payment will be the same as those set out in the Regulation 123 list and a land or infrastructure agreement must be entered into.

#### **16. Availability of Social Housing relief, charitable relief, self-build and residential annex/extension exemptions from CIL**

- 16.1. Mandatory relief from CIL is available in the circumstances described below. In all cases claims for relief cannot be made after the development

has commenced and are void if development commences and no '[Form 6: Commencement Notice](#)' has been provided. In these circumstances the Council will issue the Liability and Demand Notices specifying the full CIL liability.

- 16.2. In each case the claim for relief must be made on the appropriate form and the person making the claim must have assumed liability to pay CIL and be an owner of the land.
- 16.3. Social Housing Relief – This is available where a private registered provider of social housing, a registered social landlord or a local housing authority is building qualifying dwellings to rent or for shared ownership. In 2015, this relief was extended to non-registered providers where they let dwellings at no more than 80% of market rent to households whose needs are not adequately met by the commercial housing market. More details on what are qualifying dwellings are contained in the guidance notes produced by the [Planning Portal](#). Planning Portal [Form 2: Claiming Exemption or Relief](#) needs to be completed. If dwellings cease to be qualifying dwellings within 7 years, the relief is disqualified and the outstanding CIL must be paid.
- 16.4. Exemption for Charities – This applies where chargeable development is to be carried out by a charitable institution and will be used wholly or mainly for charitable purposes. The appropriate form is also [Form 2: Claiming Exemption or Relief](#). Again if the development ceases to be used for charitable purposes within 7 years, the relief is disqualified and the outstanding CIL must be paid.
- 16.5. Self-build exemption – This applies where a dwelling is built by a person or on behalf of a person to be occupied as that person's sole or main residence. A claim for the exemption must be made to the Council before commencement of the development using the [Form 7: Self Build Exemption Claim form Part 1](#) followed by [Form 7 Self Build Exemption Claim Form Part 2](#) within 6 months of completion. The property must be occupied by the claimant as their sole or main residence for a period of 3 years from the completion otherwise CIL will become payable.
- 16.6. Residential Annexes or Extension Exemptions – This applies where an annex comprising a new dwelling (regardless of floor space) or an extension (in excess of 100sqm of new floor space) to an existing main dwelling (occupied as a single dwelling as a sole or main residence by the owner of the dwelling) is proposed. A claim for exemption for a residential annex must be made to the Council before commencement of the development using [Form 8: Self Build Residential Annex Exemption Claim Form](#). A claim for exemption for a residential extension must be made to the Council before commencement of the development using [Form 9: Self Build Residential](#)

[Extension Exemption Claim Form.](#) The main dwelling must remain in use as a single dwelling; the annex must not be let; and the sale of the main dwelling and annex must be undertaken at the same time to the same person otherwise CIL will become payable (within the clawback period of 3 years from completion).