

# POS Enterprises

CONFIDENTIAL

**Final Report**

**West Berkshire Council**

**The customer journey relating to the Community Infrastructure Levy**

**April 2024**

## INDEX OF CONTENTS

<b>Section</b>	<b>Title</b>	<b>Page No</b>
1	Introduction and summary of findings and recommendations	3
2	Terms of reference	5
3	Methodology	6
4	Context at West Berkshire	8
5	The Charging Schedule	10
6	The customer experience	14
7	Compliance	19
8	Liaison with development management	22
9	Use of the website	24
10	Finance and resources	25
11	Infrastructure Funding Statements	26
<b>ANNEXES</b>		<b>27 onwards</b>
Annex A	Review interviews and meetings	
Annex B	The West Berkshire Charging Schedule	
Annex C	West Berkshire CIL charges 2024	
Annex D	CIL Form 1	
Annex E	South Oxfordshire CIL FAQs sheet	
Annex F	East Suffolk CIL Advice Service	
Annex G	Swindon website planning page	
Annex H	Southend on Sea website CIL flowchart	
Annex I	Comparator survey responses	
Annex J	Stats showing comparator incomes from CIL	

## 1. Introduction and summary of findings and recommendations

- 1.1 POS Enterprises, the operational arm of the Planning Officers Society, was appointed by West Berkshire Council to undertake a review of the customer journey relating to the Community Infrastructure Levy (CIL). The Review was commissioned by the Council who acknowledged the need for change and improvement and recognised an external independent review was necessary as the catalyst to initiate the necessary action.
- 1.2 Throughout the process the staff have been helpful, open and constructive in their comments. The consultants wish to highlight this and thank all involved for their positive attitude to the entire review process.
- 1.3 The Review identified a number of areas which, in the opinion of the Review Team, should be the focus for the authority, and recommendations are included for consideration. This summary covers the main findings and recommendations. There are further recommendations in the report where there is room for improvement, but these are not considered to be of the same priority or are subsidiary to the main recommendations. In this respect it is important that the whole report is read together to understand the context, the inter-relationships and the relative importance of the recommendations. Following consideration of the report, the authority should prepare an action plan with clear priorities and timescales, in consultation with the staff.
- 1.4 During the course of the review both positive and negative factors of West Berkshire's CIL operation came to light. Both have been highlighted and recommendations are included throughout the report where there is scope for improvement. Some of the recommendations are specific, some recommend further examination by the authority, and some are dependent on actions from outside the service and outside the authority. An improvement plan that has too many priorities has no priorities, and the authority needs to be realistic in determining actions and timescales moving forward.
- 1.5 It is a characteristic of the review process that there is an emphasis on the negatives as these are where the service is not performing to the levels that could be expected. This is always the case and does not indicate a failing service, more that there is scope for improvement.
- 1.6 The Review Team found an Authority which had adopted CIL in 2015 and had secured funds of over £19.49m. Over £3.6m of this sum had been passed on to parish and town councils. The evidence showed that the CIL funds were being used expeditiously to provide much needed infrastructure to support development within the district with £13.55m spent to date.
- 1.7 CIL legislation is drafted to ensure that CIL liabilities are paid. The amount to be paid is set through a formula contained in the authority's charging schedule and is not negotiable. In this respect the process is very different from the planning system and many planning participants have struggled to appreciate this difference. This can result in unexpected CIL liabilities which cannot be negotiated retrospectively often to the dismay of those involved. West Berkshire is not alone in this respect: It is an issue in the majority of CIL charging authorities.

- 1.8 The CIL Team has sought to enforce the regulations and the Review Team found no evidence that they had gone beyond their legal powers. However, the brief was to look forward not backwards and the focus has been to put forward recommendations which would promote more constructive engagement with the customers. There are recommendations throughout the report which can be broadly grouped into 3 categories
- Provision of clear and well-signposted information and advice at an early stage, where possible before applications are submitted, explaining CIL and its implications;
  - Recommendations which should make the process more transparent and customer friendly;
  - Specific recommendations which would allow the authority to exclude more householder applications from the system.
- 1.9 Having a more customer friendly approach to CIL should not have a significant impact on the Council's CIL income. Many of the householder applications which are currently processed through the system involve a considerable workload but produce little or no income. Throughout the report the Review Team have drawn upon knowledge of how CIL is administered in other authorities throughout England.
- 1.20 The Review Team considers that the following recommendations should be the highest priorities for the Authority

**Para 5.7**

***As a matter of urgency, a prominent note should be posted on the website, clarifying that the exemptions set out in the Charging Schedule must be applied for by the applicant as per the regulations, and spelling out the repercussions of not doing so.***

**Para 5.13**

***Report to Executive on the benefits of not processing CIL liable domestic extension applications, taking account of the risks for the Authority of non-compliance with the regulations***

**Para 5.16**

***Report to Executive on taking a more lenient approach to self-build claims for genuine self-builders***

**Paras 6.5, 9.2, 9.3 and 9.4**

***Review the current website content to give CIL matters better signposting and greater prominence for residents and applicants***

**Paras 6.8, 7.5, 8.5 and 8.10**

***Introduce a training programme for officers, members, parishes and agents to improve the understanding and implications of CIL***

## 2. Terms of reference

- 2.1 In the autumn of 2023, following a tender process, West Berkshire District Council appointed a Review Team from POS Enterprises to undertake an external and independent review of the customer service journey for the Community Infrastructure Levy (CIL).
- 2.2 The review was to cover:
- Internal processes for West Berkshire CIL collection and enforcement, including published information, processes and workflows;
  - The opinions of the process from home owners (to be main focus) but also including self-builders, small and large developers;
  - The view of elected members of all parties;
  - A peer review of other similar CIL charging authorities;
  - What, if anything the authority could do to add value to the process.
- 2.3 The review was instigated by a significant number of complaints (mainly from residents) regarding the way that CIL had been processed since the CIL was adopted in 2015. The authority and its elected members had received numerous complaints that both residents and agents were often confused by the system. This had led to the submission of incomplete paperwork which, it was alleged, had led to additional charges being made.
- 2.4 The review brief was to review all existing CIL-relevant West Berkshire documents and, by drawing on responses received from consultation and engagement exercises, produce a report that includes a concise assessment of the CIL procedures and processes in West Berkshire, together with recommendations for improvement and changes. Best practice examples were required to inform and improve existing CIL procedures.
- 2.5 Throughout the review, the Team has remained mindful of the financial pressures upon local authorities, and the need for staff structure and numbers to be economical and efficient as well as the current difficulties in the recruitment of experienced and qualified planning staff, and the need for pragmatism in any recommended solutions.
- 2.6 In any review it is important to recognise that it is a snapshot taken at a particular time. Inevitably it draws heavily on past performance and historical information. Potential future changes which have been indicated to the Review Team can be acknowledged and may be indicative of the authority's direction of travel but cannot carry the same weight as evidence of past performance. The purpose of the review and the recommendations in the report are to highlight where and how improvement can be made and not to forensically examine past failings where they might exist.

### 3. Methodology

3.1 Two POS Enterprises consultants (the Review Team) conducted five days of interviews with staff and senior elected members on site, conducting further interviews as well as undertaking documentary research and reviewing performance statistics and data.

3.2 The review was undertaken using four main techniques:

#### **Interviews and workshops**

3.3 A series of interviews were held on a one-to-one basis or via video call, and further interviews were held with small groups of people with related responsibilities or similar interests in the process.

3.4 Further submissions were invited in writing from applicants and agents who were unable or unwilling to participate on a face-to-face basis.

3.5 A full list of those interviewed is contained at Annex A.

3.6 Throughout the process all interviewees were completely open and frank about their experience, on the basis that no comments or information used within the report would be attributed.

3.7 Discussions covered the following areas:

- Perceptions of the issues which have arisen around the handling of CIL since its adoption in 2015;
- Communications - both internal and external;
- Customer satisfaction;
- Identification of areas of difficulty or concern and their perceived causes;
- Exploration of ideas for possible enhancements and any practical implications they might have.

#### **Documentation and processes**

3.8 The Review Team undertook a detailed examination of documentation, reference material, systems and processes currently being used, including:

- Public information material from West Berkshire's website;
- Standard templates to communicate with applicants, agents and developers throughout the CIL process
- An examination of the Exacom CIL case handling software used by West Berkshire;

#### **Peer review of similar CIL charging authorities**

3.9 The Review Team considered the public information material available on the websites of six similar size and types of authorities to review:

- how the material was presented;
- how easy it was to find that material on websites;
- how clear the links were between the application process and the CIL material;
- similarities/differences between the adopted CIL Charging Schedules;

- any good practices that emerged which could be recommended to West Berkshire.

3.10 In addition the Review Team contacted the same six authorities with a statistical questionnaire for comparison purposes, focussing on workload, the numbers of home owner cases, and the number of complaints received. Completed results were received from four of the six authorities, sufficient to provide an indication of comparative performance.

#### **Observation**

3.11 The Review Team spent some time observing the day-to-day handling of the CIL application process alongside the CIL Team, using the Exacom system together with the current document handling system.

## 4. Context at West Berkshire

- 4.1 CIL was introduced in the 2008 Planning Act after a number of previous abortive attempts to fund the provision of infrastructure to support new development through a payment by developers. It was not until 2010 following a change in government that the first set of supporting regulations were passed with the first charging authority, Newark and Sherwood, charging from December 2011. West Berkshire was among the early adopters of CIL implementing their charges from April 2015. Adopting CIL is not compulsory and to date around 200 of the 300 potential charging authorities have a charging schedule in place and are collecting the Levy. Many authorities have delayed progressing CIL or reviewing their CIL charging schedules pending government proposals for a new Infrastructure Levy (IL) which is outlined below.
- 4.2 Since their introduction the regulations have been amended many times. Amendments were made in 2011,2012,2013,2014, 2015 and 2019 and there have also been changes in primary legislation affecting CIL. Many of the changes have been relatively minor seeking to remedy 'glitches' in the system identified through operating the regulations in practice, while others have been significant policy changes such as the duty to pass on a proportion of receipts to neighbourhoods and exemptions for self-build developments. The result of these amendments is a complex legal framework, often difficult to follow and made more difficult because the regulations have not been consolidated.

### Principles

- 4.3 CIL was intended to overcome some of the perceived problems with 'planning gain' practice as implemented through S106 legal agreements. By setting rates through the charging schedule process developers would know how much they would have to pay and it would apply on a much wider scale than previously, with a broader range and number of developments liable to pay. The intention was to spread the load so that more developments would contribute to the infrastructure needs that they were creating. There would be transparency and certainty from the outset and it would be non-negotiable with a comprehensive enforcement regime. In this respect it was to be very different from the planning process, where there is flexibility and negotiation and decisions can be reviewed and revised.
- 4.4 The difference with the planning process was intentional but was, and can still be, a shock to owners, developers and advisers. Christopher Cant, an acknowledged legal expert on CIL expresses this very well:

*'... the CIL regime is intended to be certain and non-negotiable. The time to consider its impact on development is before a development commences because if changes are needed after commencement the CIL can be high as is the case with failures to comply with the regime ..... It is not possible to negotiate a reduction in the CIL bill'*

- 4.5 He goes on:

*'The number and nature of statutory appeals against CIL liability and CIL surcharges illustrate very strongly how there has been a failure to understand the CIL regime ..... In particular it is not enough that a development qualifies as self-build in one form or another - the statutory compliance procedure must be properly gone through if the benefit of a self-build exemption is to be gained.....These appeals hammer home that without exception the onus lies on the owner/developer and those acting*

*for them to be aware that CIL applies.....It is not for the Local Authority to advise on CIL.....The duty of the local planning authority is to administer the CIL regime and to collect the CIL liabilities.'*

- 4.6 What Christopher Cant explains in stark terms is that, from a legal perspective, the local authority holds all the cards when it comes to CIL. Failure to understand the process or errors in procedure by owners or developers (or indeed by the authority) are not going to be sufficient reason legally to avoid paying CIL.

#### **The future of CIL**

- 4.7 The Government is proposing to replace CIL with an Infrastructure Levy (IL). This is intended to streamline the current CIL/S106 system by reducing S106 to basic on-site mitigation measures. All other impacts will be dealt with through a levy, set and administered locally.
- 4.8 It would include affordable housing, as well as payments for education and health requirements for example. It would be payable as a rate per square meter based on the Gross Development Value (ie the sale price) and payable on completion, rather than on commencement, as is currently the case with CIL. It would be mandatory on all local authorities. There was a Government consultation on the proposal in March 2023. The report and response to the consultation has yet to be published but it is clear that many aspects did not receive widespread support across the sectors and the Government is reviewing how best to proceed.
- 4.9 With such uncertainty around the future of the Infrastructure Levy it should not deter authorities from reviewing their charging schedules. The process is set out in the regulations and involves preparing and publishing a draft schedule for consultation based on an evidence base which involves much of the material necessary for the Local Plan. The draft schedule is then reviewed by the council in the light of representations and submitted for examination by an independent examiner. The examiner reports their findings back to authority which takes them into account before approving the Charging Schedule.
- 4.10 Much of the viability and infrastructure planning evidence prepared for the West Berkshire Local Plan review would form the basis for the review of the CIL Charging Schedule. With the Local Plan Review at an advanced stage the Council should consider a review of the Charging Schedule. While similar in some ways the CIL process is not nearly as protracted or expensive as the local plan and considering the age of the schedule and the findings of this review it would be an appropriate time to take such a review forward. It should not take longer than 12 months from start to finish once a decision is taken to go ahead and costs would be reduced as much of the information is already available although in need of updating. Some of the costs could also be paid out of CIL income.

## **SECTION 4 RECOMMENDATIONS**

### **Para 4.10**

***The Council should consider whether to review the existing CIL Charging Schedule***

## 5 The Charging Schedule

- 5.1 West Berkshire submitted its draft Charging Schedule for examination on 23<sup>rd</sup> August 2013. Charging Schedules have to be justified entirely on viability, the test being whether the proposed charges 'strike an appropriate balance' between funding the cost of infrastructure required to support the development of the area and the potential effects on the economic viability. CIL charges cannot be used to implement policy by, for example, favouring one type of development against another. Charges can be on a differential basis; by different zones, uses, size (floorspace) or number of dwelling units for residential developments. Any differential rates again have to be justified on the basis of viability.
- 5.2 West Berkshire's draft Charging Schedule proposed charging for only two uses; residential and retail. For residential two zones were identified primarily on an urban and rural basis. Retail development would be at the same rate across the authority.
- 5.3 Following a one-day examination the examiner recommended that the Charging Schedule should be approved as drafted and it was approved by Council in March 2014 and took effect from April 2015. The Charging Schedule is attached at Annex B. The CIL regulations provide for CIL charges to be index linked annually according to a national index of building costs and they have increased every year. (the current charges are set out at Annex C)
- 5.4 The Charging Schedule document at paragraph 1.7 states that CIL is not payable on a range of developments:
- Structures into which people do not normally go
  - Structures which are not buildings
  - All Affordable Housing (including the element of a mixed development which is provided as affordable housing)
  - Temporary Buildings
  - Self-Build Housing
  - Residential annexes and extensions
  - Development for charitable purposes
  - Applications for development where no buildings are proposed (eg mineral extraction)
- 5.5 It is assumed that this list has been included for information purposes. The categories of development listed are not included in the schedule of charges at paragraph 5 as attracting a zero charge and were not considered at examination. The first two items and the last one are specifically excluded from CIL liability in the regulations. Whether a building is temporary, or not, is to be decided on a case-by-case basis. All of the other categories are the subject of provisions for exemption from charging in the regulations, but in all cases an exemption must be specifically applied for on the prescribed forms and approved by the authority in accordance with the set process. Development must not be commenced until exemption has been agreed by the Authority. The fact that they are included in this section of the Charging Schedule does not override the requirements in the regulations.

- 5.6 The need to apply for exemption and the ramifications of not doing so are not explained in the Charging Schedule, and for someone not familiar with CIL they could be misled into thinking that if their proposed development fell into one of the categories they would be exempt and not have to do anything further. Customers are notified following the grant of permission of the potential CIL liability and the exemption procedures, but having read the Charging Schedule they could assume that the process did not apply to them. This is to some extent reinforced by CIL Form 1 (see Annex D), a national form which applicants are asked to submit with their planning application. This has questions at part 5c and 5d asking whether the applicant wishes to claim either self-build or annexe or extension exemption. In both cases the applicant is asked to tick a box 'yes' or 'no'. The form does go on to explain that in both instances applicants will need to complete further forms to make their claim, but again on a cursory first reading applicants could make the mistake of thinking that they had applied for an exemption by ticking the appropriate box.
- 5.7 Unfortunately changing a charging schedule involves a statutory process as outlined in Section 4 above, so amending the wording to correct this misleading content is not straightforward. A revised schedule would be subject to consultation, examination and adoption according to the procedures set out in the regulations and there is no provision for 'minor' amendments in the form of changes to wording or clarifications. However, to ensure as far as possible that the customer is aware of the legal position it is the Review Team's recommendation that there should be a prominent note posted on the website as a matter of urgency clarifying that the exemptions set out in the Charging Schedule must be applied for and spelling out the repercussions of not doing so. It should also be noted that the Council's officers have been consistently following the correct legal procedures in applying the regulations for exemptions.

### Householder Exemptions

- 5.8 Householder is not a word defined in the CIL regulations. Using it in its normal sense it would apply to developments proposed by the owners of a house and/or relating to the development of their property. In CIL terms these would include proposals for extensions, annexes and for self-build developments (which could include extensions and annexes and building a house for their own occupation). In a West Berkshire context, householder developments have been the subject of most complaints and controversy. To understand the situation and how the Council could respond in a more customer focussed way it is necessary to appreciate the different regulations that apply to these developments.
- 5.9 **Minor development:** Development less than 100 sq m is not CIL liable unless it comprises a single dwelling house. Not liable means that the Charging Authority (CA) does not need to consider it at all, except perhaps checking the floorspace calculation where there is any doubt.
- 5.10 **Residential extensions:** Extensions of less than 100sqm are not CIL liable as they would be below minor development threshold as set out above.
- 5.11 If an extension exceeds 100sqm it would be CIL liable but the applicant can apply for an exemption. According to the regulations, exemption must be applied for (on the appropriate form) and the CA will grant if it complies with the criteria. If the owner does not apply for an exemption and commences work they become liable for the appropriate CIL charge as set out for residential development in the Charging Schedule. If they do

apply for an exemption and have not had confirmation from the authority the position is confused. There are contradictory regulations which, in one place, say that there is no requirement to submit a commencement notice (reg 67), and the Government CIL guidance specifically states that 'there is no requirement for a commencement notice to be submitted in regard to a residential extension'. However, some authorities rely on regulation 42B(6) which is the general regulation requiring a commencement notice. On the basis of the regulation 67 and government guidance, the Council can be confident that a commencement notice is not required for residential extensions and therefore if an application for exemption has been properly applied for and granted there is no penalty for not submitting a commencement notice.

- 5.12 Once the Council has granted an exemption for a residential extension it cannot be lost and the absence of a requirement to submit a commencement notice means that no surcharge should be payable. NB. IT IS IMPORTANT TO UNDERSTAND THAT THIS CHANGE IN THE 2019 REGULATIONS ONLY APPLIES TO CASES WHERE AN EXEMPTION HAD BEEN APPLIED FOR AND GRANTED. It also does not apply to developments approved before 2019. Where no exemption had been applied for, or had been applied for and not granted, the development remains CIL liable.
- 5.13 There are a number of authorities which exclude all residential extensions from CIL. This is by no means a universal practice and can be considered as contrary to the regulations which do not give this option. The justification for not dealing with them at all is that going through the processing of CIL liability and applying for and granting exemptions for extensions is costly, time consuming and bureaucratic, and, in the overwhelming majority of cases, produces no income. There is considerable officer time (and applicant time) spent on a bureaucratic process which produces little or no income to the authority. It is a wasteful use of scarce resources at a time when the staff are under great pressure and could be used much more productively in responding more effectively to the applications which do produce CIL funds. However, if the authority were to consider adopting this approach it would need to recognise the legal position and the potential risks of challenge and make a formal decision taking all these factors into account.
- 5.14 **Residential annexes:** Here the position is different. As before, if an annexe is less than 100sqm it is not CIL liable (through the minor development exemption). If it is more than 100 sqm exemption is possible, if it complies with the criteria but, as with extensions, the regulations require that exemption must be claimed by the applicant and granted by the Council. If exemption is not claimed and granted, the development remains CIL liable. Unlike for extensions, where exemption has been granted for an annexe by the Council the applicant must still submit a commencement notice before starting any work. Failure to submit a commencement notice will attract a surcharge of £2500 or 20% of the CIL charge, whichever is the lower amount. What has changed since the 2019 amendments is that the applicant will still retain their exemption. The other significant difference between extensions and annexes is that there is a clawback clause for annexes whereby CIL will be payable if a disqualifying event (such as letting the annexe as a separate dwelling) occurs within 3 years. There are no clawback provisions for extensions.
- 5.15 **Self-Build Exemptions:** These are a different proposition. The 2019 amendments apply as for extensions and annexes and therefore where exemption has been granted it is no longer lost as a result of not serving a commencement notice, but a surcharge may be imposed. The criteria for self-build relief are more stringent, to deter abuse of the

provisions, and the claw back provisions apply if the building is sold within the 3-year occupancy limit and CIL then becomes payable in full. These provisions are there to prevent self-builders claiming relief and then selling on immediately, or developers purporting to be self-builders attempting to avoid CIL.

- 5.16 The clawback provisions differentiate between extensions and annexes/self-build relief. While there is the potential justification for taking extensions out of the process completely at the outset, to do so for annexes and self-build would allow abuse of the system whereby applicants could build and sell on immediately and avoid CIL liability. These exemptions were introduced to benefit the householder to improve or build their own property for their own use. The issue for the Council is therefore how it can improve the customer experience for those people who should be benefiting from valid exemptions, while ensuring that CIL avoidance is kept to the minimum. The Review Team is aware of at least one authority which takes a more lenient approach to self-build claims where there is clear evidence of genuine self-builders. While they still require a claim to be made and approved they will not rigidly impose the deadlines for such claims such as commencing before the claim is approved. The justification for this is that it was clearly the Government's intention that genuine self-builders should be exempt from CIL and the intention should not be denied because of minor errors, misunderstandings or delay.

## **SECTION 5 RECOMMENDATIONS**

### **Para 5.7**

***As a matter of urgency, a prominent note should be posted on the website, clarifying that the exemptions set out in the Charging Schedule must be applied for by the applicant as per the regulations, and spelling out the repercussions of not doing so.***

### **Para 5.13**

***Report to Executive on the benefits of not processing CIL liable domestic extension applications, taking account the risks for the Authority of non-compliance with the regulations***

### **Para 5.16**

***Report to Executive on taking a more lenient approach to self-build claims for genuine self-builders***

## 6. The customer experience

6.1 The Review Team interviewed and received statements from the different customers of the system, including householders, agents, developers and major housebuilders. Across these interviews many common themes and concerns were raised and in reviewing standard correspondence/emails evidence suggested that there was some merit in many of these claims. Inevitably with reviews of this kind there is an emphasis on negative factors where there is room for improvement. The Review Team has also seen many emails to the CIL Team expressing the applicants' thanks for the help that they have provided.

6.2 The main areas of complaint related primarily to the following:

- A general lack of customer awareness
- Inflexibility of approach with regards to information requirements
- Delays in responding to customers
- The general tone of communication both in face to face and written interactions

These issues are examined in more detail below.

### **Lack of customer awareness**

6.3 The Review Team heard about a generally unsympathetic approach and a perceived lack of appreciation for customers who were in many cases being faced with responding to a complicated and bureaucratic process for the first and only time in their lives.

6.4 This was compounded in some cases by responses to customer queries being provided by generic email responses rather than through a phone call to explain the process in simple terms that the "man in the street" could understand.

6.5 The complexity of the system was cited as a major issue to understanding the process. It is couched in legalistic terms which can be daunting and officious to the layman if not tempered with accompanying customer friendly information. The need for a clear and simple explanatory material to be available rather than a complex and legalistic letter was evident to the Review Team. Some interviewees cited a CIL FAQ sheet produced by South Oxfordshire Council and available on their website as having been the most helpful document of this type that had been seen (See Annex E). This document is quite lengthy but includes a helpful flowchart which outlines the CIL process and also provides answers to the most likely questions that householders particularly will have. It is considered that such a document would be helpful to West Berkshire residents.

6.6 Such a document would also be of assistance to the authority's customer services team who should, as a matter of course, have some basic knowledge of CIL or helpful material to consult, in their role as the first point of contact with potential applicants, particularly in the possible absence of a duty planner (see Section 8 for further on this).

6.7 The Review Team also consider that engagement of the CIL team with applicants earlier in the application process would be very helpful in improving customer awareness of CIL, particularly where there is any formal pre-application engagement in place. This is considered further in paras 7.4 and 9.5 below.

6.8 Finally, it is considered that there is a role for parish councils to play in explaining the benefits of the CIL system to their local area and ensuring that parish councillors understand enough of the process to assist their residents would be helpful to all concerned. The Council should provide training and information for parish councillors and officers.

### **Inflexibility of approach**

6.9 The Review Team heard that some customers felt that any accidental mistakes made in applying for exemptions, had been pursued relentlessly and that there was very little margin allowed for genuine errors in providing information.

Examples of this provided to the Review Team included:

- a) an insistence that forms need to be personally signed with a “wet signature”. This is not the case in other authorities or departments where electronic signatures, that are now a standard practice in many other contract situations, including financial services, are accepted as standard. This had led to unnecessary delays.
- b) an on-going process of asking for more and more information leading to further delays in the process rather than accepting the information provided, with some requests for further evidence being almost impossible to provide.

6.10 Such a rigid approach is not customer focussed and reflects poorly on the authority as a whole, not just the team. The Review Team heard that customers felt as if the system was set up to “catch you out” rather than working with them to get the best result for all.

6.11 In addition, agents and developers all spoke of much more stringent information requirements being made by West Berkshire than the other authorities they worked with. Issues such as those mentioned in para 6.9 above had led to significant delays and were considered to be both heavy handed and unnecessary.

### **Delays in response**

6.12 The Review Team heard about many examples of delays in responding to material provided which have led not only to misunderstandings but also significant delays in development proceeding and additional financial costs to developers.

6.13 Examples provided included:

- a) A 10-week delay in obtaining a zero liability notice;
- b) A six-month delay in responding to a request for the Liability Notice which led an applicant to commence development and then being charged for it. Even though it was admitted that due to staff shortage, perhaps information had not been forwarded, there was no leeway given;
- c) Delays in responding to exemption applications have lost applicants the right to appeal

6.14 Some of these delays may indeed have been due to a lack of staff resource. But the Review Team also noted that decision-making within the team was very top heavy, with all decisions being taken at either the Team Leader or Principal Officer level. Because of Principal Officer post has been vacant for significant periods, the decision-making process has moved entirely upwards to the Team Leader level, with very little delegated to other members of the team. This bottleneck has had a significant impact and there seems to have been no appreciation of the inevitable cost of such delays and little sense

of urgency. The Review Team heard that the unintended consequence of these delays has been that, within the development industry, the authority is rapidly gaining a reputation for not being a good authority to work with whilst other authorities in the same region were praised for their responses. Such a reputational risk is clearly not to be welcomed in an authority with a forward programme of economic growth which is seeking to attract new development to the area.

- 6.15 Responses to the comparator survey (see Annex I) indicate that all who have responded work to target times for responding to CIL communications although the CIL Team were not aware of a specific target they should be working to for CIL responses. The Review Team feel that a similar target response time, which is considered achievable in the short term, should be introduced at West Berkshire. Because of the complexity of responses required, it is likely that this may be significantly different to the corporate target standard response time that is in place at West Berkshire.

#### **The tone of communications/attitude**

- 6.16 Many of the customers interviewed were vocal in their criticism of what they referred to as the “aggressive and insensitive tone” of CIL communications, both in face-to-face meetings and in written correspondence, which displayed any sense of empathy for the situation that customers might find themselves in.
- 6.17 The Review Team is unable to comment on reports of face-to-face meetings which they were not a party to. However, they would recommend that the managers responsible for the CIL Team, need to ensure that the future ethos should be re-set as collaborative rather than confrontational. Above all the aim should always be to administer the system fairly and responsibly.

#### **Written communications**

- 6.18 Many of the standard written email communications seen by the Review Team also reflect very inflexible sets of instructions with no allowance being made for human failings/errors. Some of the emails were lengthy and although some trouble had been taken to ensure that the content followed the process through its various stages in chronological order, this had inevitably meant that information about timing for the commencement of works was a significant way through the communication and could easily be missed until too late. The Review Team recognise that the legalistic aspects of the CIL process need to be addressed in all the forms and letters, but consider that there is still scope for a more plain English and customer friendly approach.
- 6.19 In some cases the Review Team heard that important letters had been lost, because they had been sent to agents rather than to the applicants with the request that the agent forward to the applicant. Even though the request to forward the communications was stated at the top of correspondence there was no check undertaken to confirm that such forwarding had taken place and no particular chasing undertaken to ensure that the applicant had received the information. It should be noted that although this would be the normal way of contacting an applicant during the application process, it is not so clear cut after permission has been granted when the agent may no longer be acting for the applicant.

#### **Site visits and meetings**

- 6.20 Other concerns raised by customers related to visits by members of the CIL team to the homes of householder applicants. To evidence this the Review Team were shown

CCTV footage of a staff member visiting a residential property and interacting with the resident whilst a CIL Stop Notice was being installed in an applicant's front garden. Although legally the CIL team were within their rights to install such a notice the impact on the resident always needs to be considered in such situations.

- 6.21 The Review Team were concerned to hear that not only was the member of staff apparently often on their own in such situations but also that some of the actions reported may not be what would have been expected from local authority staff. The concern here is not only for the safety on site of the officer, but also for the customers, especially in confrontational situations which can easily escalate out of control.
- 6.22 The Review Team has seen the authority's model risk assessment for external visits and understand that Lone Working training is available to staff. It is recommended that such training should be provided to all CIL team members and refreshed on a regular basis.

### **Complaints**

- 6.23 One of the questions that was asked of the comparator authorities in the questionnaire was the number of complaints received relating to CIL over the last two financial years. The Review Team noted that of the four authorities who have responded so far the most complaints received were 5 against West Berkshire's 15.
- 6.24 The Review Team consider that there are probably two contributory factors here in the light of the interviews undertaken. Certain high profile cases have led to a significant amount of publicity on an authority wide basis and this may well have encouraged others to add their voices to the level of complaints, but the general tone of the authority's response to concerns may also have been a contributing factor.
- 6.25 As mentioned earlier the Review Team are also aware that complaints are by no means the situation in all cases and many examples of praise from applicants for the assistance given and the helpfulness of the staff have been provided to the Team during the course of the review.

### **Pre-application engagement**

- 6.26 The Review Team heard from all those interviewed that proactive engagement with the CIL team at the pre-application stage would have been very helpful. Such an approach is discussed further in Sections 7 and 8 below.

## **SECTION 6 RECOMMENDATIONS**

### **Para 6.5**

***Consider the compilation of a clear downloadable CIL FAQs sheet (similar to the examples provided from South Oxfordshire and Wokingham) to assist applicants and agents who are inexperienced at dealing with CIL matters.***

### **Para 6.7**

***Earlier engagement of the CIL team during the application process to avoid mistakes later on***

### **Para 6.8**

***Increase and improve parish councils' awareness of the CIL process for local applicants, through training***

**Para 6.14**

***Review levels of delegation within the CIL Team, empowering staff to make decisions on straightforward and obvious matters without reference to the Team Leader***

**Paras 6.14 -6.15**

***Consider introducing a standard response time for CIL Team communications against which performance can be measured***

**Para 6.17**

***Instill an ethos of collaborative rather than confrontational working whilst bearing in mind at all times that the system must be administered fairly and responsibly.***

**Para 6.18**

***Review the order and content of standard letters particularly at the initials stages to ensure that information about timing for the commencement of works is highlighted much earlier within these communications.***

**Para 6.19**

***Seek ways to ensure that applicants themselves receive communications regarding CIL liability after permission is granted rather than placing the onus on agents to forward communications.***

**Para 6.20**

***Clarify the legal position of posting CIL Stop Notices on private applicants' property in respect of GDPR regulations***

**Para 6.22**

***Ensure that the CIL Team are aware of the safe-guarding protocols in place at the authority and ensure that lone worker training is provided to the whole team with regular refresher training.***

## 7 Compliance

- 7.11 The report outlined in section 4 the legal framework around CIL and that the legislation was designed from the outset to ensure that system was non-negotiable and that monies due to the collecting authority would be paid. The CIL regulations reinforce the principle: Of the one hundred and twenty-nine sections in the CIL regulations forty two are in Part 9: 'Enforcement'. There is little or no discretion afforded to the authority in waiving, negotiating or reducing CIL charges, and little or no leeway for the applicant who does not comply with the letter of the regulations.
- 7.12 There are a number of potential opportunities for the Council to assist applicants in a customer friendly environment to help avoid situations where they feel they have been disadvantaged.
- 7.13 These can be broadly grouped into three categories, advice and information, policy and practice and discretionary opportunities. In every case the Council needs to consider the legal implications and risks involved.

### Advice and information

- 7.14 Advice and information is available in a number of ways. For CIL, for all the reasons outlined already, advice is needed right at the outset, before an application is submitted. This can come from a number of sources but it is always essential to bear in mind that for the individual householder in particular, they may never have encountered either the planning system or CIL before. The primary Council vehicle for advice is now the Council's website and this is dealt with in more detail in Section 9 below. At this stage it is important to recognise that CIL needs to be displayed prominently, clearly and very early in the planning pages. Officers dealing with advice to applicants, whether they are the customer services team, duty planning officers or engaged in pre-application discussions need to be properly briefed to ensure the possibility of CIL liability is flagged early on and applicants pointed to more detailed information. The CIL Team themselves also need to be available to applicants to provide advice and information, possibly through a CIL pre-application service which could be charged for.
- 7.15 Many if not most applicants will employ professional agents or advisers, some of whom still lack awareness and knowledge of CIL. The Council may want to consider holding CIL training sessions through its developer forum and by inviting a wider spread of agents working in the Council area. This is by no means foolproof but may be of benefit.
- 7.16 The Council also needs to revisit the formal CIL process and what written advice and correspondence it provides with the statutory CIL forms. These can be rather daunting to the uninitiated and accompanying guidance in plain English can be very helpful. The Review Team is aware that the CIL Team does keep its standard letters and templates under constant review which is to be commended. An occasional look at these by someone outside of the team may be useful.

### Policy and Practice

- 7.7 Most but not all of the complaints about CIL in West Berkshire have been concerned with 'Householder' developments. While better advice and information would help in reducing this problem there are also options for reducing the numbers of such

applications which have CIL implications. The possibility of not processing domestic extensions has been rehearsed in Section 5 but it is worth emphasising again that this would need to be as a result of a formal council decision taking account of the all the relevant factors and risks.

- 7.8 At least one authority known to the Review Team has excluded single houses from CIL through its Charging Schedule. This would have to be justified through a full review of the schedule as outlined in para 4.10 above and the Council would have to justify at examination that charging CIL on individual houses could not be justified in viability terms. Whether this is possible would need a robust study by viability consultants.

### **Discretionary options**

- 7.9 There is little discretion in the CIL regulations. Once a CIL liability has been established and development has commenced the authority must issue a demand notice requiring payment in full within 60 days. The only exception to this is where the authority has agreed to an instalment plan. West Berkshire has an instalment plan in place which allows for sums over £15000 to be paid in instalments on application. This is reasonably generous.
- 7.10 Problems arise when payments are not paid by the due date. Where it is a single payment the full amount becomes due immediately and if this has not been received within 30 days a surcharge may be imposed at 5% of the due sum or £2500 whichever is the lesser sum. In addition, late payment interest also becomes payable at a rate of the Bank of England interest rate plus 2.5%. Whereas the surcharge is discretionary the late payment interest is not. This means that where payments are not made by the due date and the Council does not pursue them the surcharge may be waived but the late interest payment will continue to accrue until the CIL is paid in full.
- 7.11 The general distinction in the regulations is that CIL MUST be paid and the same applies to late payment interest. Surcharges which can be applied for a variety of reasons such as missing the deadline for payment, failing to submit a commencement notice, failure to assume liability, failure to notify a disqualifying event, MAY be applied. If the authority was minded to not impose surcharges for any reason, it should adopt a formal policy setting out which charges will not be pursued and in what circumstances.

## **SECTION 7 RECOMMENDATIONS**

### **Para 7.4**

***Consider introducing a CIL pre-application process with appropriate range of fees***

### **Para 7.5**

***Provide information and training sessions for agents and developers***

### **Para 7.6**

***Consider employing external advisers to review the CIL standard letters and templates***

**Para 7.8**

***Should the authority decide to review its Charging Schedule, to include in any viability study the testing of single house developments***

**Para 7.11**

***Consider whether to pursue a formal policy in regards to whether to impose surcharges, identifying which charges and in what circumstances the policy would apply.***

## 8 Liaison with development management

- 8.1 When CIL was introduced the Government of the day went to some lengths to emphasise that it was separate from the planning processes and should not be considered as a tax. It was established under its own CIL regulations rather than through the planning regs or the tax regime. Since 2008/10 it has become much more closely aligned to planning both in policy terms - the desirability of CIL to be developed with and consistent with the local plan - and in Development Management.
- 8.2 Development management decisions right from the outset in the description of development can have significant implications for CIL. For example, the description given to an application as a change of use rather than a building development in a recent case elsewhere was quoted by the inspector as a contributory reason for the decision that there was no CIL liability (Valuation Office Agency CIL Appeal 1814012)
- 8.3 Other decisions such as whether an application can be described as a non-material amendment (which are not CIL liable even where they result in an increase in floorspace) or whether retrospective consent is required can have a dramatic impact. The latter situation will almost always result in a change of CIL liability as retrospective permissions often result in a legal requirement to pay all CIL due immediately together with any penalties.
- 8.4 These examples illustrate that there needs to be an understanding of the implications for CIL of DM decisions by the officers involved and this works both ways – the CIL teams need to be aware of how and why DM decisions are made. This is often a problem area across the country in the experience of the Review Team, and West Berkshire is no exception. None of the current CIL Team have a background in planning and there was evidence of the attitude amongst DM officers that ‘CIL was dealt with by the CIL Team’.
- 8.5 This can be a particular problem for householders who have little interaction with planning until they have a proposal for their own property. It should be the case that initial inquiries include a ‘health warning’ about potential CIL liability, rather than this being left to a later stage. The customer service team and duty planners need to be aware of CIL and at least be able to point customers in the right direction. This has not always been the case. CIL needs to be included as a matter of course in the pre-application process with the informed advice being available at an early stage.
- 8.6 At East Suffolk Council the CIL team have gone a stage further and provide a publicised CIL advice service. They continue to respond to requests which they estimate can be dealt with within 15 minutes on a free of charge basis but they have recently launched a new CIL advice service that enables agents, applicants and solicitors to contact them using an advice request form which is a paid for service.
- 8.7 The service provides advice on assessing if a development could be CIL liable as well advising on CIL instalments or exemptions and explaining the Self Build exemption. The service also provides assistance with the completion and submission of CIL forms. (see Annex F)

- 8.8 This is also an issue with the Council's planning web pages where CIL does not have sufficient prominence within the planning application process pages. This is dealt with in Section 9 below.
- 8.9 West Berkshire is not unusual in the division between CIL and DM teams. Remedying this needs to start at the top. CIL now represents a major financial contribution to the Council and is increasingly important in its ability to fund and contribute to the funding of essential infrastructure. This should give it a corporate significance reflected in how it is viewed at a strategic level and its importance at operational level. This point is explored further in the section of the report on Infrastructure Funding Strategy.
- 8.10 Within the planning service there is an immediate need for training – for the DM officers to ensure they understand how their decisions impact on CIL further down the line, and when they need to liaise with the CIL Team an early stage, and for the CIL team to have a better appreciation of how and why DM decisions are taken.

## **SECTION 8 RECOMMENDATIONS**

### **Para 8.5**

***That front line staff in both customer services and planning are given training on ensuring customers are given an appropriate awareness of CIL and what further information they should be directed towards***

### **Para 8.5**

***That CIL should be included as an item in all pre-application discussions with appropriate advice available***

### **Para 8.10**

***That a joint training programme is set up for DM and CIL Team staff to promote awareness how their processes interrelate.***

## 9 Use of the website

- 9.1 The Review Team is well aware that information about CIL can often be difficult to find and access on local authority websites. Because the CIL team often sits within the policy function many websites place the CIL pages within the policy part of the website with little or no connection to the pages relating to the planning application process.
- 9.2 The Review Team found that several of the comparator authorities, as well as West Berkshire, only mentioned CIL as being part of the application process within the validation check list. In all cases the relevant pages existed but it was sometimes extremely difficult to find them. West Berkshire has now amended its planning page so that CIL is one of the headings, but unless an applicant knows exactly what CIL is they would not necessarily realise the significance of CIL for their own application. The Review Team would suggest that the wording of the CIL heading on the main planning page be amended to include similar wording to the Swindon website (see Annex G) which is the clearest signposting they have found to date.
- 9.3 The Review Team consider it would also be helpful if the possibility of CIL charges were much more clearly signposted within the planning application pages, with links back to the detailed CIL information pages.
- 9.4 In all instances the wording of all CIL information should be reviewed to ensure that it is customer friendly and is not open to mis-interpretation. In addition to the FAQs sheet referred to in para 6.5 above, the authority may wish to look at the Guidance to Applicants document available on the Wokingham website. There is also a very helpful flowchart of the entire CIL process available on the Southend on Sea City Council website (see Annex H).

### **SECTION 9 RECOMMENDATIONS**

#### **Para 9.2**

***Review the wording of the CIL heading to clarify to users how CIL relates to planning applications.***

#### **Para 9.3**

***Review linkages to CIL pages from within the planning application pages***

#### **Para 9.4**

***Review the wording of all CIL information held on the website to ensure it is customer friendly and consider and including a simple FAQs sheet for applicants to download.***

## 10 Finance and resources

- 10.1 CIL continues to be a significant source of funding for the Council to support its capital expenditure. Councils must spend CIL on infrastructure needed to support the development of their area. Infrastructure is not defined in the legislation but the government guidance lists a broad range of examples. The one item it cannot be spent on is affordable housing which was specifically excluded through a ministerial statement. Of the total collected annually the Council must pass on a proportion to parish and town councils dependant on the CIL received from development within their area and varying from 15-25% with a cap of £100 per dwelling within the parish. The Council can also spend up to 5% of the annual CIL receipts on the costs of administering CIL.
- 10.2 In the most recent financial year 2022/23 CIL receipts were £4.642m of which £674,254 was passed on to parishes and £232,121 was spent on administration. During the year £7.538m was spent on infrastructure leaving £12.335m in accumulated balances. The essential purpose of CIL is to support the provision of infrastructure for the benefit of Council residents and in this respect they are very much CIL customers. CIL, together with S106 spending, is a positive 'good news' story for the residents of the Borough and Section 11 of the report sets out how this message can be better spread through the annual Infrastructure Funding Statement. Parish Councils are another significant beneficiary.
- 10.3 The 5% allowance for administrative costs means that administering CIL is largely self-financing. The table in Annex J sets out the comparative income and expenditure levels of the selected comparator authorities. This shows that the administrative expenditure is at a comparable level with the other authorities, although with one exception authorities spend up to the 5% ceiling. It is beyond the brief of this report to go in to detail about how these costs have been compiled.
- 10.4 The CIL team currently consists of 3.3 FTE officers, which again stands comparison with the other comparator authorities if the number of applications and CIL cases are taken into account. The current Team Leader is a temporary contract appointment and the Team also deal with S106 monitoring. What was of concern to the Review Team was the complaints, particularly about delays, from customers as examined in Section 6 of the report. The number of complaints was far higher than comparators. It was clear from the interviews and interrogation of the systems that these delays were not as a result of any lack of commitment from the staff. Time spent on responding to complaints, an over emphasis on ensuring every detail was covered and dealing with unproductive householder extensions were more compelling reasons for the delays. Reducing the time spent in these areas would enable staff to provide a more responsive service to customers. The recommendations to Section 6 are intended to address these issues.

## 11 Infrastructure Funding Statements

- 11.1 Infrastructure Funding Statements (IFS) were introduced in 2019 and there is now a requirement for all local authorities to produce one annually. It replaces the previous annual CIL monitoring report. It is much broader in scope looking both backwards in terms of what CIL the Council has collected and spent, and forwards in terms of what the Council's priorities for future spend are. It is also more comprehensive in that it includes S106 income and expenditure as well as CIL.
- 11.2 West Berkshire has produced comprehensive IFS documents which are posted on the Council website but are not straightforward to find. The Review Teams sees these publications as a major opportunity for the Council to set out the positive benefits of CIL to all its residents, which could go some way to counter the negative press it has had in the past. In 2022/23 the Council spent £6.23m on a wide range of infrastructure projects as well as passing £675,000 to parish councils for them to spend. All this is set out in the IFS.
- 11.3 The fundamental purpose of CIL is to fund some of the infrastructure demands which are created by new development through contributions from developers. The major contributions come from the larger development schemes but the smaller developments also have a part to play. The IFS must contain various facts and figures about receipts and expenditure and so on, but otherwise the format and content is for the Council to decide, which presents the opportunity for publicising and promoting the many valuable and valued projects that the Council has enabled through CIL.

### **SECTION 11 RECOMMENDATION**

#### **Paras 11.2 & 11.3**

***That the Council reviews the presentation and content of the IFS to promote the positive benefits of CIL to the community***

## Interviews undertaken by the Review Team

### Staff

Executive Director - Place

Executive Director - Resources and S151 Officer

Service Lead – Planning & Economy

Outgoing Planning Policy, Infrastructure & Place Manager (in November 2023)

Interim Planning Policy, Infrastructure & Place Manager (since January 2024)

Development Manager

Infrastructure Team Leader (in November 2023)

Interim Infrastructure Team Leader (since January 2024)

The CIL Team

Members of the development management team

Legal Department Representative

### Elected members

Cllr Geoff Brooks, Acting Leader of the Council

Cllr Tony Vickers, Portfolio Holder, Planning & Community Engagement

Cllr Richard Somner, Shadow Portfolio, Planning & Community Engagement

Cllr David Marsh, Minority Group Leader

### Customers

A mixed group of 6 agents and developers

Meetings with and material received from various householders and self-builders who have had recent experience of the West Berkshire CIL system – both good and bad

## The West Berkshire Charging Schedule

# Community Infrastructure Levy Charging Schedule

Adopted March 2014 - Effective from 1 April 2015



## Contents

<b>1 Introduction to the Community Infrastructure Levy</b>	<b>3</b>
<b>2 CIL and its relationship with S106</b>	<b>4</b>
<b>3 Discretionary Relief</b>	<b>4</b>
<b>4 Evidence Base</b>	<b>5</b>
<b>5 Charging Schedule</b>	<b>8</b>
<b>Appendix A: Differential Rate Map</b>	<b>9</b>
<b>Appendix B: Instalment Policy</b>	<b>10</b>
<b>Appendix C: Appendix C: Residential Differential Rate Maps</b>	<b>11</b>

## Community Infrastructure Levy: Charging Schedule

### 1 Introduction to the Community Infrastructure Levy

**1.1** This Community Infrastructure Levy (CIL) Charging Schedule has been adopted by West Berkshire District Council at a meeting of Full Council in March 2014. As a Unitary Authority, the Council is both a Charging Authority and a Collecting Authority.

**1.2** The Charging Schedule<sup>(1)</sup> is issued, approved and published in accordance with Part 11 of the Planning Act 2008<sup>(2)</sup> (as amended by Part 6 of the Localism Act 2011), and the Community Infrastructure Levy Regulations 2010<sup>(3)</sup> (as amended by the CIL (Amendment) Regulations 2011<sup>(4)</sup>, the CIL (Amendment) Regulations 2012<sup>(5)</sup>, the CIL (Amendment) Regulations 2013<sup>(6)</sup>, and the CIL (Amendment) Regulations 2014<sup>(7)</sup>) (“the Regulations”).

**1.3** The Charging Schedule takes effect from 1<sup>st</sup> April 2015.

#### What is CIL?

**1.4** The Community Infrastructure Levy (commonly known as CIL) is a tool intended to secure contributions from developers towards improvements and enhancements to infrastructure required as a result of development. It is intended to supplement other funds to provide new infrastructure in the District - it is not intended to provide the full costs associated with all the infrastructure required.

**1.5** The purpose of the levy is to give developers more certainty about costs and to give councils and local communities more flexibility about how infrastructure is funded. The money raised through the levy can be used to fund a range of projects including towards:

- roads and other transport facilities;
- flood defences;
- schools and other educational facilities;
- medical facilities;
- sporting and recreational facilities; and
- open spaces.

#### How is it calculated and what development is liable?

**1.6** CIL will be levied at a rate per m<sup>2</sup> (based on Gross Internal Floorspace) on new development of more than 100m<sup>2</sup> of floorspace (net) or when a new dwelling is created (even if it is less than 100m<sup>2</sup>). Please see the table at paragraph 5.1 for the rates applicable for different types of development.

**1.7** There will be no CIL charge for Change of Use applications unless additional floorspace is created and no charge for the subdivision of existing dwellings. In addition CIL is not payable on:

- Structures into which people do not normally go;
- Structures which are not buildings;
- All Affordable Housing (including the element of a mixed development which is provided as affordable housing);

1 West Berkshire District Council's CIL web page: <http://info.westberks.gov.uk/cil>

2 Planning Act 2008: [http://www.legislation.gov.uk/ukpga/2008/29/pdfs/ukpga\\_20080029\\_en.pdf](http://www.legislation.gov.uk/ukpga/2008/29/pdfs/ukpga_20080029_en.pdf)

3 Community Infrastructure Levy Regulations 2010: [http://www.legislation.gov.uk/uksi/2010/948/pdfs/uksi\\_20100948\\_en.pdf](http://www.legislation.gov.uk/uksi/2010/948/pdfs/uksi_20100948_en.pdf)

4 CIL (Amendment) Regulations 2011: [http://www.legislation.gov.uk/uksi/2011/987/pdfs/uksi\\_20110987\\_en.pdf](http://www.legislation.gov.uk/uksi/2011/987/pdfs/uksi_20110987_en.pdf)

5 CIL (Amendment) Regulations 2012: [http://www.legislation.gov.uk/uksi/2012/2975/pdfs/uksi\\_20122975\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/2975/pdfs/uksi_20122975_en.pdf)

6 CIL (Amendment) Regulations 2013: [http://www.legislation.gov.uk/uksi/2013/982/pdfs/uksi\\_20130982\\_en.pdf](http://www.legislation.gov.uk/uksi/2013/982/pdfs/uksi_20130982_en.pdf)

7 CIL (Amendment) Regulations 2014: [http://www.legislation.gov.uk/uksi/2014/385/pdfs/uksi\\_20140385\\_en.pdf](http://www.legislation.gov.uk/uksi/2014/385/pdfs/uksi_20140385_en.pdf)

## Community Infrastructure Levy: Charging Schedule

- Temporary buildings;
- Self-build housing;
- Residential annexes and extensions;
- Development for charitable purposes; and
- Applications for development where no buildings are proposed (e.g. mineral extraction sites).

### When is it payable?

**1.8** As set out in Regulations, CIL is payable within 60 days of commencement of development, although the Regulations allow for an instalment policy to be adopted alongside CIL if the authority wishes. West Berkshire Council's instalment policy is attached as Appendix B to this document.

**1.9** The responsibility to pay the levy lies with the owner of the land, unless liability is assumed as set out in Regulations 31 to 39 (as amended), and the amount payable will be calculated in accordance with Regulation 40 (as amended).

## 2 CIL and its relationship with S106

**2.1** With the introduction of a CIL charge, the use of S106 obligations is restricted to site specific impacts, for instance enabling works such as site access, or the provision of facilities and infrastructure directly required as a result of large scale developments, and the provision of affordable housing.

**2.2** This position is reflected in our Developer Contributions SPD which has been updated during 2014 and adopted at a meeting of Full Council in December 2014.

**2.3** The Council has prepared a Regulation 123 list, setting out the infrastructure intended to be funded from the levy.

## 3 Discretionary Relief

**3.1** West Berkshire Council does not intend to adopt an Exceptional Circumstances policy.

## Community Infrastructure Levy: Charging Schedule

### 4 Evidence Base

**4.1** In setting its CIL rates (in accordance with Regulation 14(1) of the Community Infrastructure Regulations 2010), West Berkshire District Council has aimed to strike what appears to the Council to be an appropriate balance between:

- the desirability of funding from CIL (in whole or part) the infrastructure required to support the development of its area; and
- the potential effects of the imposition of CIL on the economic viability of its area.

**4.2** In order to set appropriate rates the Council has had regard to:

- The adopted West Berkshire Local Plan Core Strategy (June 2012)<sup>(8)</sup>.
- The refreshed Infrastructure Delivery Plan (IDP) (March 2013)<sup>(9)</sup>, which details the infrastructure required to support development in the period of the West Berkshire Local Plan Core Strategy (2006 - 2026).
- The West Berkshire CIL Viability Study (January 2013)<sup>(10)</sup> prepared for the Council by Dixon Searle LLP.

**4.3** These documents are available to download from the Council's website as supporting information used to guide the rates of CIL.

#### West Berkshire Local Plan Core Strategy

**4.4** The Core Strategy was adopted by the Council in July 2012. This document forms part of the West Berkshire District Local Plan. It sets out the long term vision for the District to 2026 and translates this into spatial planning terms, setting out proposals for where development will go and how this development will be built.

**4.5** The Core Strategy sets out top level spatial policies on the four areas which make up the District, it sets out a settlement hierarchy and broad housing numbers for each of the spatial areas. It also provides core policies to guide development, including policies on retail, employment, affordable housing, flooding, infrastructure and the historic environment. The Core Strategy identifies two strategic site allocations, one at Newbury Racecourse and one at Sandford Park, to help deliver the District's housing requirement of 10,500 net additional dwellings over the plan period.

**4.6** The Core Strategy provides an overall framework for the more detailed policies and site specific proposals to be contained in other documents of the Local Plan.

#### Infrastructure Delivery Plan

**4.7** The latest update to the Infrastructure Delivery Plan (IDP) took place in February and March 2013. The refresh involved contacting all service units, infrastructure providers, and all Parish and Town Councils. The IDP shows a gross funding requirement in excess of £257 million. Funding already earmarked, or expected to be available totals £93.8 million, leaving a shortfall in funding of £163.5 million. The following table shows the additional housing requirement across West Berkshire's four spatial areas and an estimate of CIL receipts based on delivery in line with the housing requirement at the proposed CIL rates. It shows that CIL receipts will contribute towards the funding requirement, but there will be a substantial shortfall.

8 West Berkshire Core Strategy DPD: <http://info.westberks.gov.uk/index.aspx?articleid=28782>

9 West Berkshire Infrastructure Delivery Plan: <http://info.westberks.gov.uk/cil>

10 West Berkshire CIL Viability Study: <http://info.westberks.gov.uk/cil>

## Community Infrastructure Levy: Charging Schedule

## 4.8 Funding Gap Analysis

	A	B	C	D	E	F	G
Spatial Area	Additional Housing Requirement 2014 – 2026 <sup>(1)</sup>	CIL Rate per m <sup>2</sup>	Estimate of Minimum Floorspace created <sup>(3)</sup> (M <sup>2</sup> )	Estimate of Maximum Floorspace created <sup>(4)</sup> (M <sup>2</sup> )	Minimum Anticipated CIL Receipt (B x C)	Maximum Anticipated CIL Receipt (B x D)	Net Funding requirement from IDP
Newbury / Thatcham <sup>(2)</sup>	2,200	£75	99,000	275,000	£7.425m	£20.625m	
Eastern Urban Area	690	£75	31,050	86,250	£2,329m	£6.469m	
East Kennet Valley	260	£125	11,700	32,500	£1.462m	£4.062m	
North Wessex Downs AONB	670	£125	30,150	83,750	£3.769m	£10.469m	
<b>TOTALS</b>	<b>3,820</b>		<b>171,900m<sup>2</sup></b>	<b>477,500m<sup>2</sup></b>	<b>£14.985m</b>	<b>£41.625m</b>	<b>£163.5m</b>

## Notes to Table:

1. Additional Housing requirement taken from Infrastructure Delivery Plan Table 2.1 'Anticipated additional housing requirement 2014-2026'
2. Housing Requirement includes 1,000 planned for Sandleford Strategic Site within the plan period
3. Minimum floorspace based on dwelling size of 1bed private flat, taken from DSP viability study Figure 4: Residential Unit Sizes
4. Maximum floorspace based on dwelling size of 4bed private house, taken from DSP viability study Figure 4: Residential Unit Sizes

## 4.9 Calculation of Shortfall

Net Funding Requirement from Infrastructure Delivery Plan	£163.5 million (Column G)
Shortfall based on Minimum CIL Receipt	£148.5 million (Column G minus Column E)
Shortfall based on Maximum CIL Receipt	£121.9 million (Column G minus Column F)

## Community Infrastructure Levy: Charging Schedule

**4.10** Given that the likely scale of development in terms of unit size cannot be accurately predicted, the above calculation shows a significant shortfall even if the largest homes are delivered over the plan period.

### **Viability Study**

**4.11** The West Berkshire CIL Viability Study was prepared in January 2013 by Dixon Searle LLP. The study investigated the potential scope for CIL charging in West Berkshire. This was done by considering the economic viability of residential and commercial / non-residential scenarios within West Berkshire; taking into account the range of normal costs and obligations associated with development, as would be borne by development schemes alongside the CIL charge. It provided the Council with advice as to the likely viability of seeking developer contributions towards infrastructure provision through the CIL. This included the consideration of viability and the potential charging rate or rates appropriate in the local context as part of a suitable and achievable overall package of planning obligations. The viability study ensures that the rate set is not at the limits of site viability and that delivery of development is not threatened.

### **Further Supporting Information**

**4.12** In addition to the documents referred to above, further documents are available from the Council's website as supporting information, all of which can be found at [www.westberks.gov.uk/cil](http://www.westberks.gov.uk/cil)

## Community Infrastructure Levy: Charging Schedule

**5 Charging Schedule**

**5.1** Based on the findings and outcomes of the West Berkshire CIL Viability Study the following rates of CIL are charged:

		<b>Newbury &amp; Thatcham, and Eastern Urban Area</b>	<b>Area of Outstanding Natural Beauty, and East Kennet Valley</b>
<b>Type of Development</b>	<b>Use Class</b>	<b>CIL Rate per sq.m</b>	<b>CIL Rate per sq.m</b>
Residential (See Notes 1 and 2 below)	C3 & C4	£75	£125
Retail	A1 to A5	£125	£125
Business Development - Offices	B1a to B1c	£0	£0
Business Development - Industrial	B2	£0	£0
Business Development - Warehousing	B8	£0	£0
Hotels	C1	£0	£0
Residential Institutions	C2 & C2a	£0	£0
Community and all Other Uses	-	£0	£0

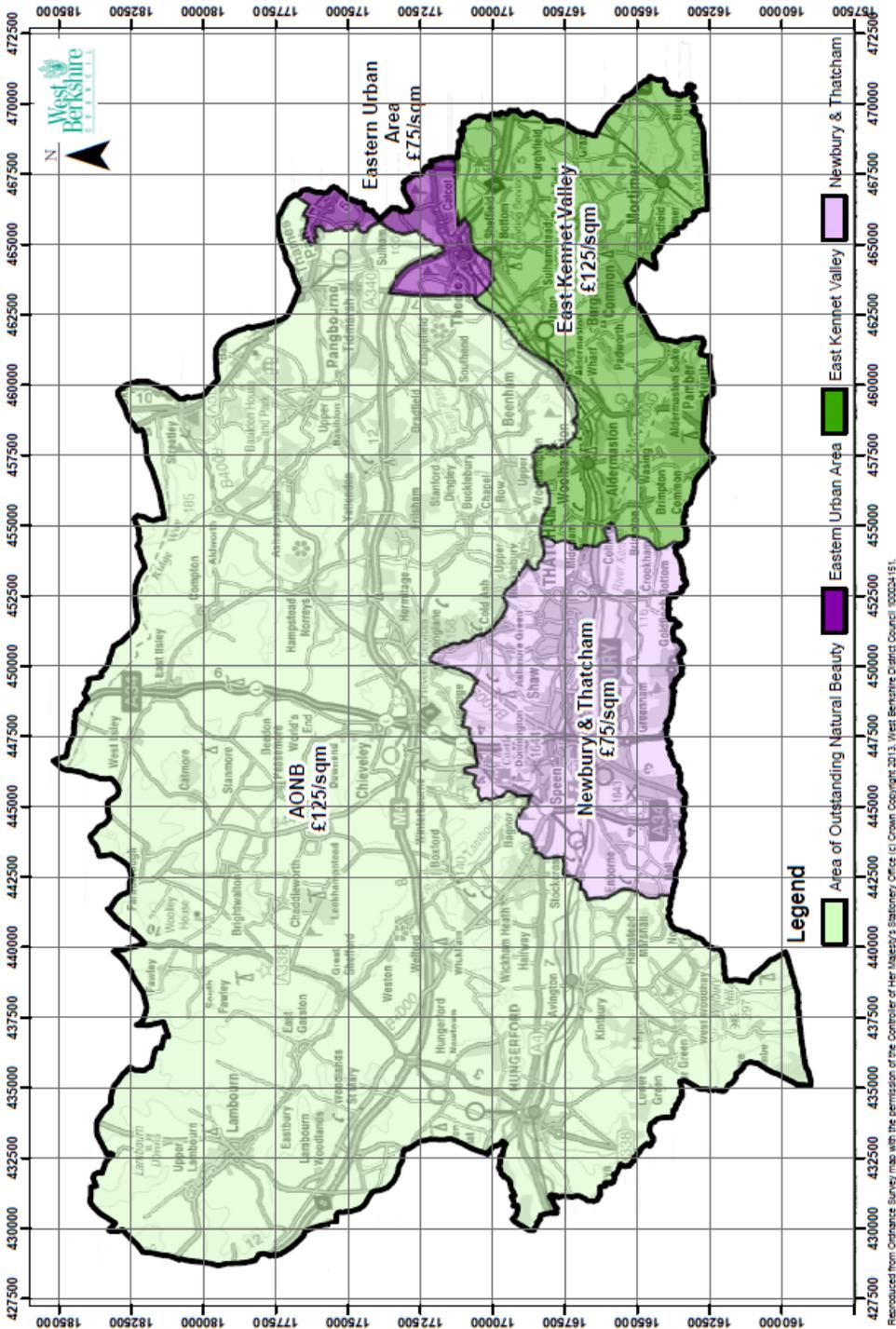
**5.2** Notes:

(1) Please see Differential Rate Map at Appendix A. The differential rate map is available on the Council's mapping system. This allows the service units and public to view which rate is chargeable for a particular site.

(2) Detailed Differential Rate Maps for Residential development are available as supporting information at Appendix C.

Community Infrastructure Levy: Charging Schedule

Appendix A: Differential Rate Map



## Community Infrastructure Levy: Charging Schedule

**Appendix B: Instalment Policy**

<b>Level of CIL Payable</b>	<b>Instalment Policy</b>
Where the chargeable amount is less than £15,000	No instalments - the full amount is payable within 60 days of commencement
£15,000 or greater but less than £100,000	50% within 60 days of commencement, and 50% within 180 days of commencement
£100,000 or greater but less than £200,000	35% within 60 days of commencement, 35% within 180 days of commencement, and 30% within 270 days of commencement
£200,000 or greater but less than £1,000,000	25% within 60 days of commencement, 25% within 180 days of commencement, 25% within 270 days of commencement, and 25% within 360 days of commencement
£1,000,000 or greater	25% within 180 days of commencement, 25% within 360 days of commencement, 25% within 540 days of commencement, and 25% within 720 days of commencement

**Notes:**

**B.1** The commencement date is the date given on the commencement notice as advised by the liable party under Regulation 67. The failure to provide such notification in accordance with the Regulations results in the removal of the use of the instalments policy. Full payment would then become due within 60 days of commencement, including payment of the surcharge as detailed in Part 9 of the Regulations.

**B.2** This instalment plan is subject to change at any time in accordance with Regulation 69B of the CIL (Amendment) Regulations 2011.

## Community Infrastructure Levy: Charging Schedule

**Appendix C: Appendix C: Residential Differential Rate Maps**

**C.1** The following maps show every parish where there are two different residential charging zones:

Map 1 - Beenham Parish

Map 2 -Bucklebury Parish

Map 3 -Cold Ash Parish

Map 4 - Englefield Parish

Map 5 - Hamstead Marshall Parish

Map 6 - Purley-on-Thames Parish

Map 7 - Shaw cum Donnington Parish

Map 8 - Speen Parish

Map 9 - Theale Parish

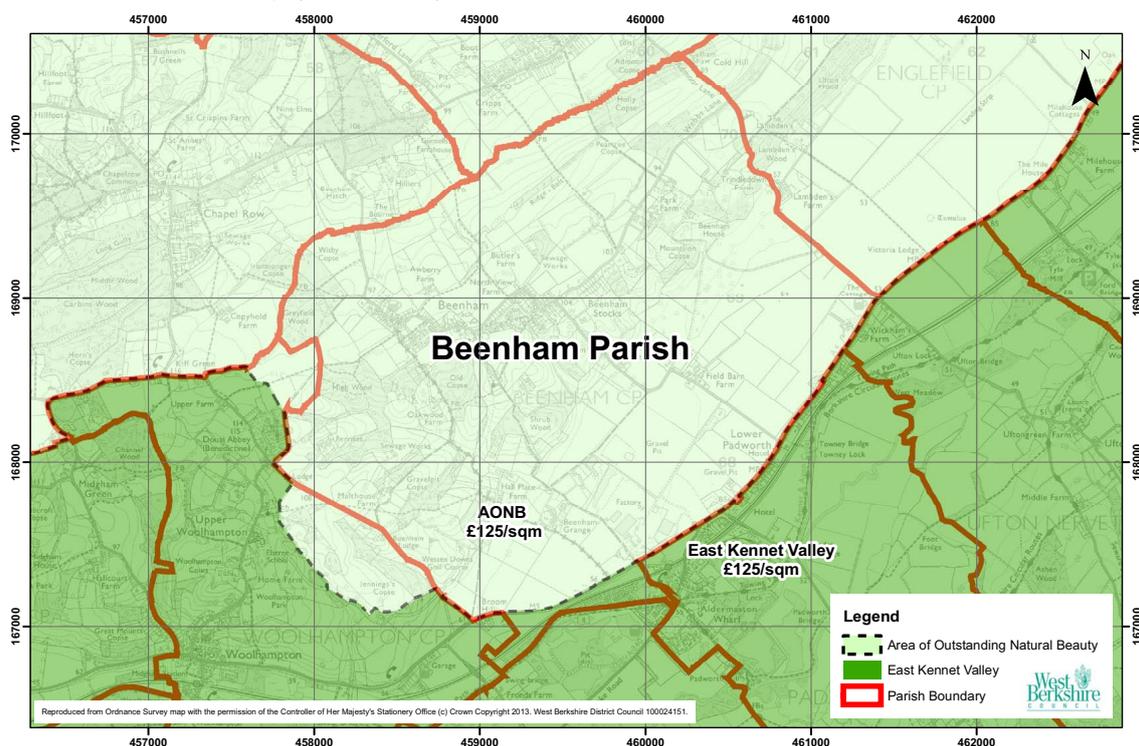
Map 10 - Tilehurst Parish

Map 11 - Woolhampton Parish

**C.2** Please note these maps are available via our website as larger scale pdf documents, which will enable you to view in more detail by using the zoom function.

**C.3 Map 1**

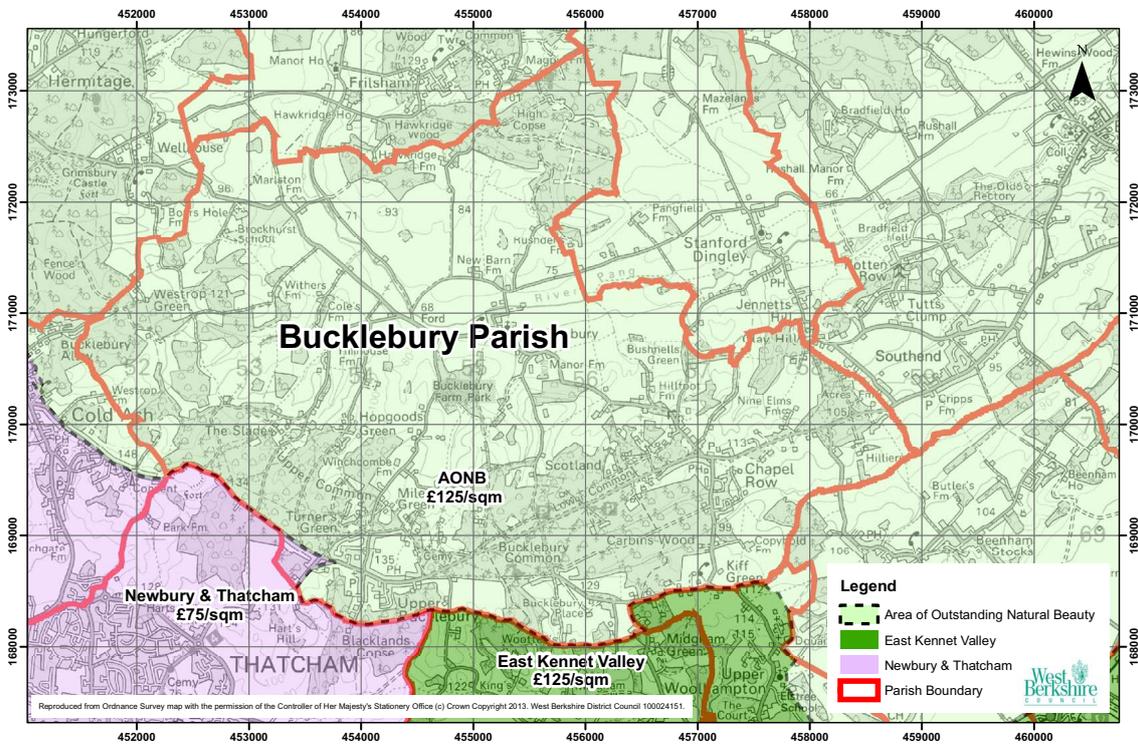
Differential Rate Map (Residential) - Beenham Parish



# Community Infrastructure Levy: Charging Schedule

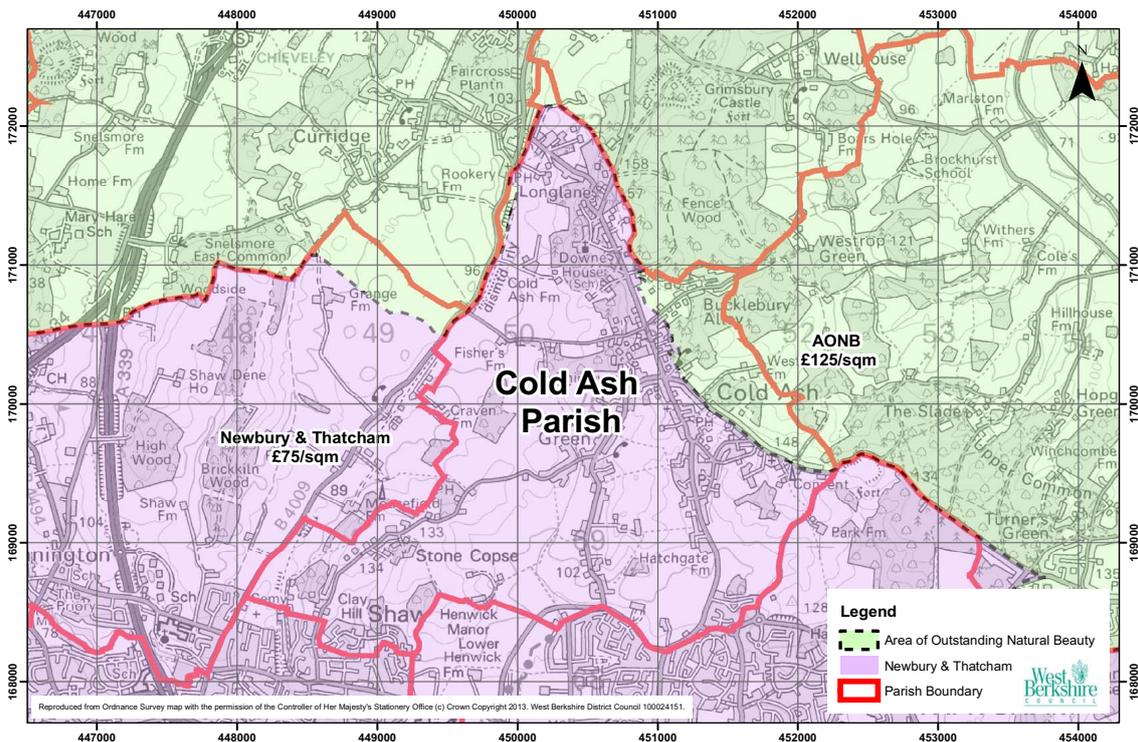
## C.4 Map 2

Differential Rate Map (Residential) - Bucklebury Parish



## C.5 Map 3

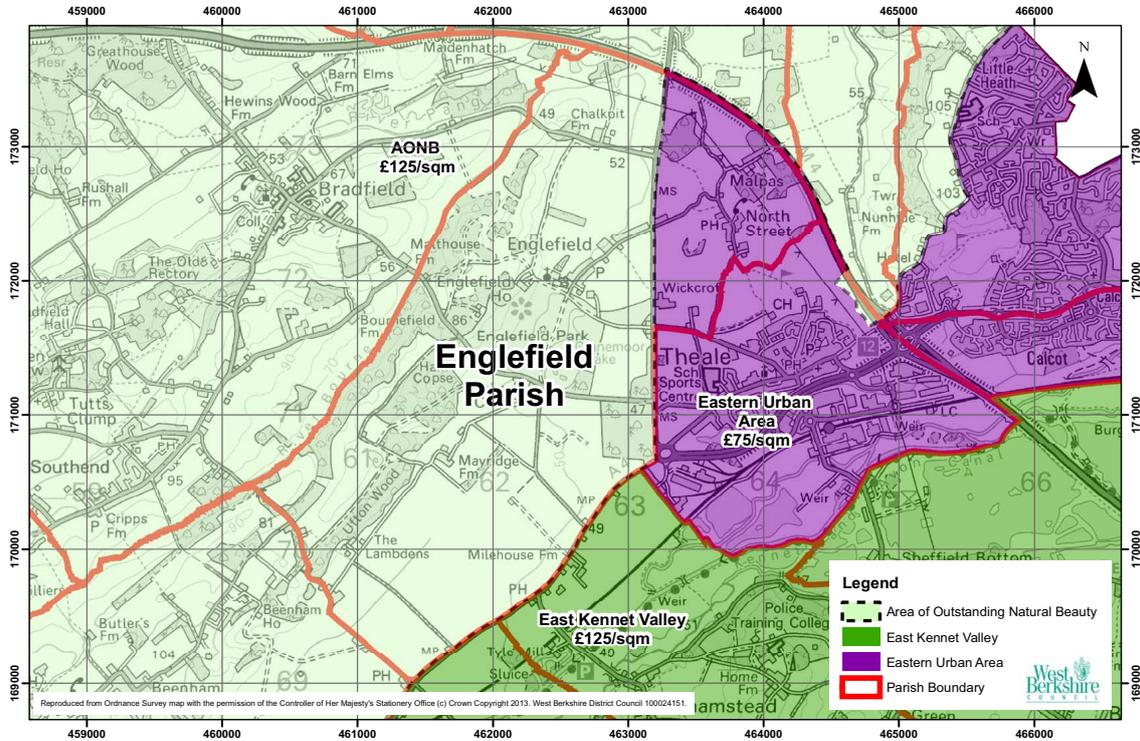
Differential Rate Map (Residential) - Cold Ash Parish



# Community Infrastructure Levy: Charging Schedule

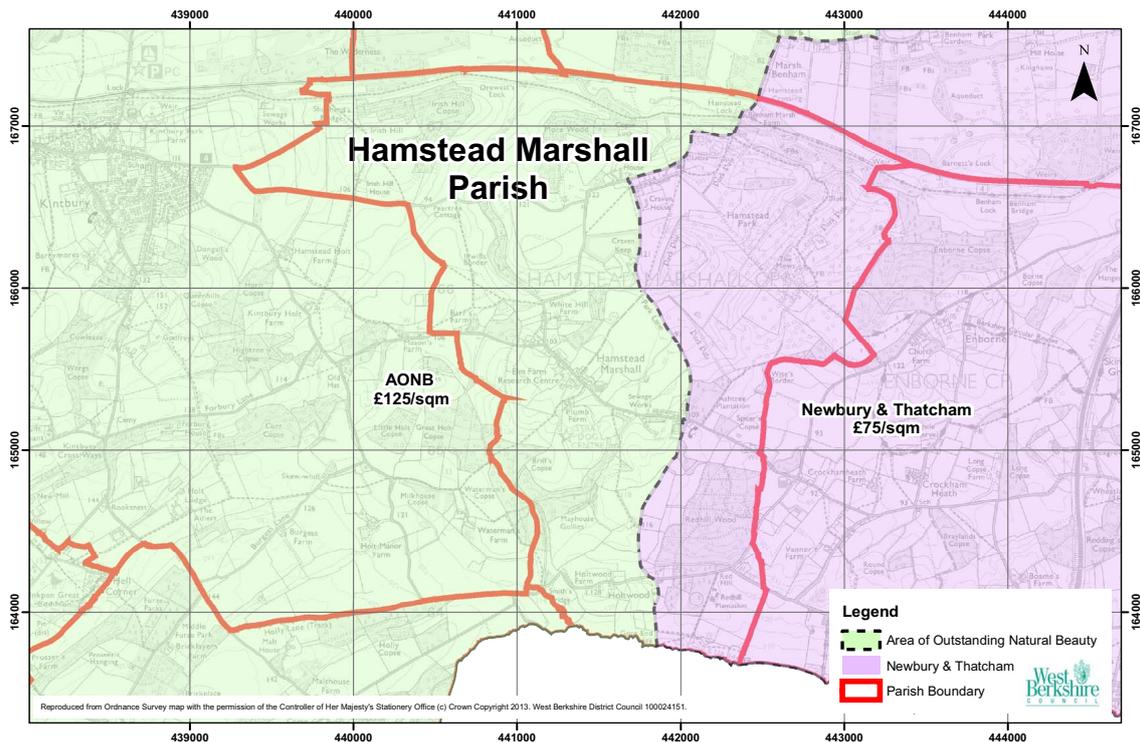
## C.6 Map 4

Differential Rate Map (Residential) - Englefield Parish



## C.7 Map 5

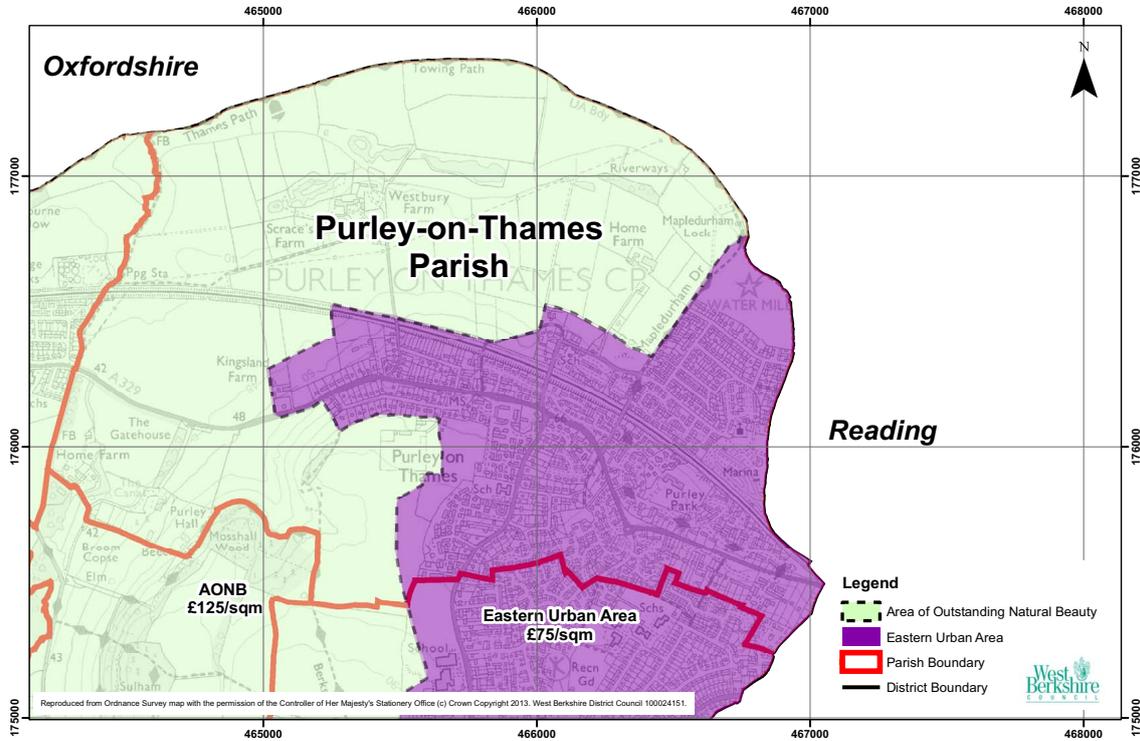
Differential Rate Map (Residential) - Hamstead Marshall Parish



# Community Infrastructure Levy: Charging Schedule

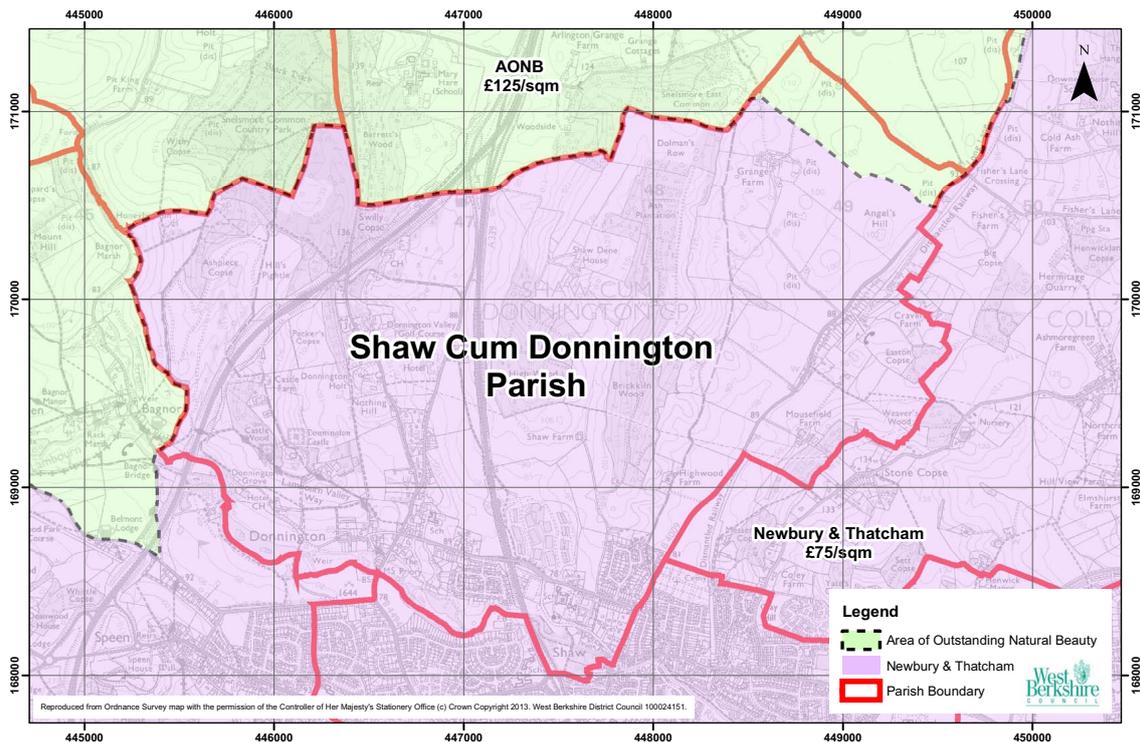
## C.8 Map 6

Differential Rate Map (Residential) - Purley-on-Thames Parish



## C.9 Map 7

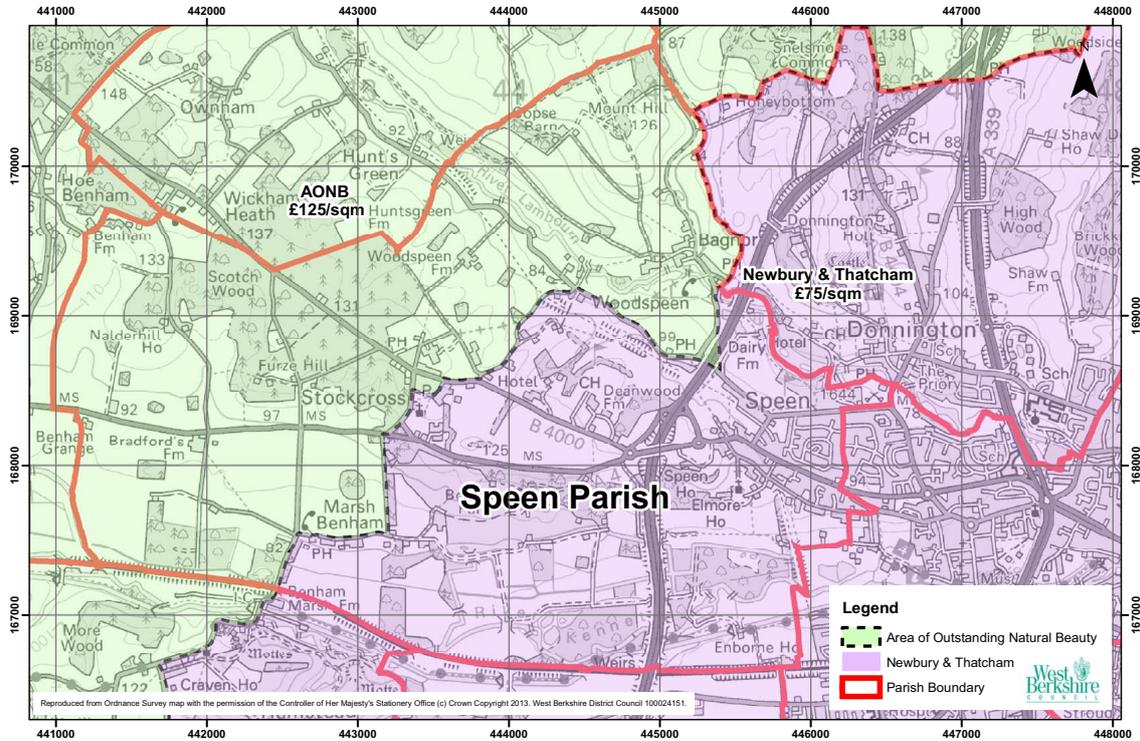
Differential Rate Map (Residential) - Shaw Cum Donnington Parish



# Community Infrastructure Levy: Charging Schedule

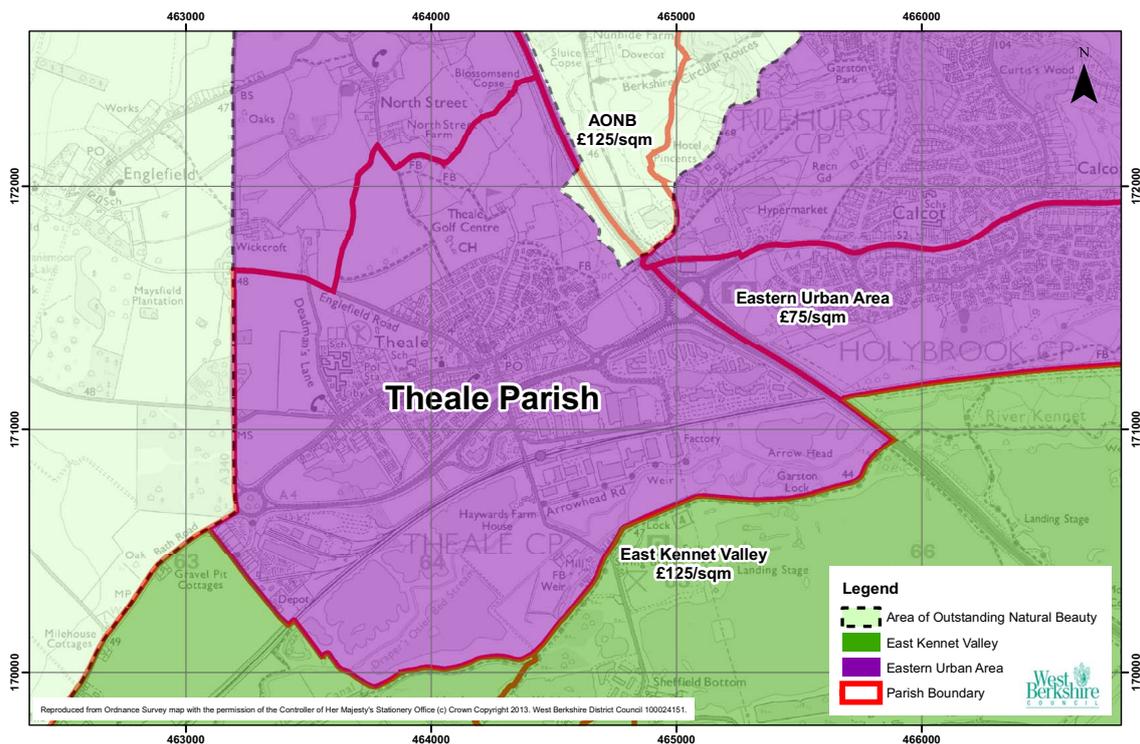
## C.10 Map 8

Differential Rate Map (Residential) - Speen Parish



## C.11 Map 9

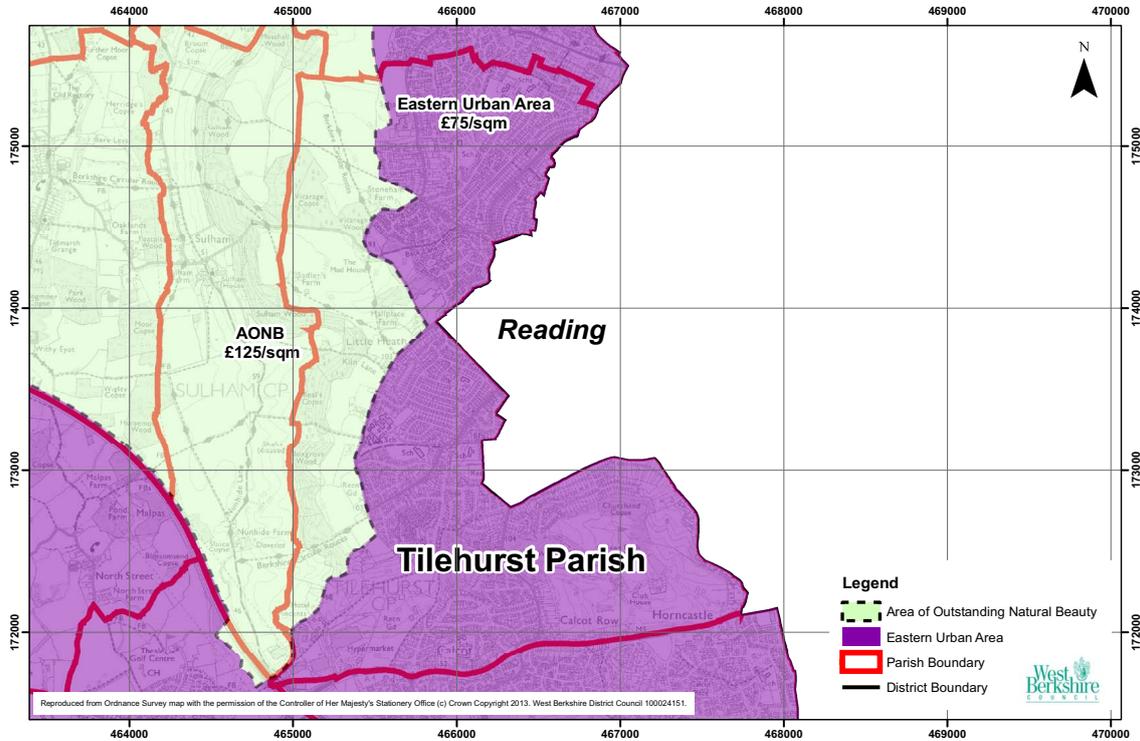
Differential Rate Map (Residential) - Theale Parish



# Community Infrastructure Levy: Charging Schedule

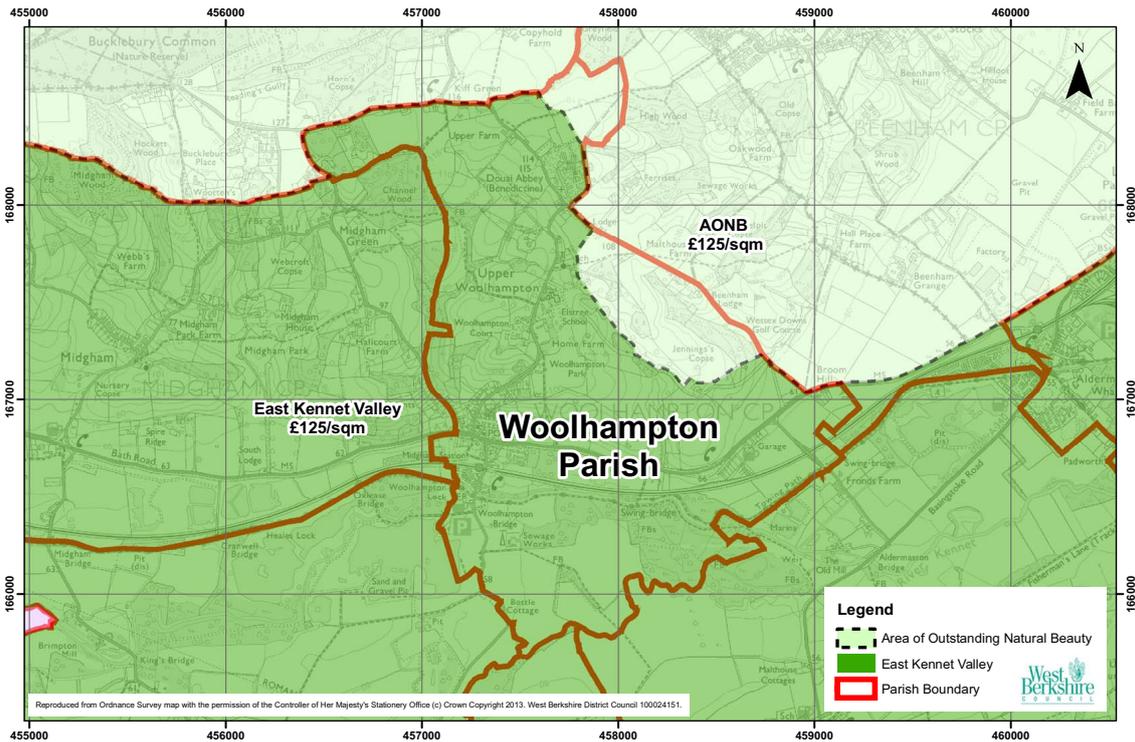
## C.12 Map 10

Differential Rate Map (Residential) - Tilehurst Parish



## C.13 Map 11

Differential Rate Map (Residential) - Woolhampton Parish



If you require this information in an alternative format or translation,  
please contact Planning & Countryside on Telephone 01635 42400 .

**West Berkshire Council  
Planning and Countryside.**

Council Offices  
Market Street  
Newbury  
RG14 5LD

Tel: 01635 519111  
Fax: 01635 519408  
Email: [planningpolicy@westberks.gov.uk](mailto:planningpolicy@westberks.gov.uk)  
Website: [www.westberks.gov.uk](http://www.westberks.gov.uk)

## West Berkshire CIL charges 2024

## Newbury and Thatcham and Eastern Urban Area

<i>Type of Development</i>	<i>Use class</i>	<i>CIL rate per sq metre</i>
Residential (new or replacement dwellings, annexes/extensions over 100m2 GIA)	C3 and C4	£111.62
Retail	Previously A1 to A5	£186.04
Business development – offices	Previously B1a to B1c	£0
Business development – industrial	B2	£0
Business development – warehousing	B8	£0
Hotels	C1	£0
Residential institutions	C2 and C2a	£0
Community and all other users	Not applicable	£0

## Area of Outstanding Natural Beauty and East Kennet Valley

<i>Type of Development</i>	<i>Use class</i>	<i>CIL rate per sq metre</i>
Residential (new or replacement dwellings, annexes/extensions over 100m2 GIA)	C3 and C4	£186.04
Retail	Previously A1 to A5	£186.04
Business development – offices	Previously B1a to B1c	£0
Business development – industrial	B2	£0
Business development – warehousing	B8	£0
Hotels	C1	£0
Residential institutions	C2 and C2a	£0
Community and all other users	Not applicable	£0

CIL Form 1

This form should be saved to your device and then completed using the free Adobe Acrobat Reader application or full version of Adobe Acrobat. Many internet browsers and other applications can display PDF files, but we cannot guarantee their compatibility in regard to these forms. We specifically advise users of Apple devices not to use 'Preview' because of known issues.

# Community Infrastructure Levy (CIL) - Form 1: CIL Additional Information

Determining whether a Development may be CIL Liable - For submission with Planning Application

**Please note:** This version of the form should only be used for submissions relating to planning applications in England. There is a legacy version of the form for use in Wales:

Following the introduction of the Community Infrastructure Levy (CIL) all applicants for full planning permission, including householder applications and reserved matters following an outline planning permission, and applicants for lawful development certificates are required to provide the following information.

**Please read the associated Guidance Note before you complete the form. This and additional per-question help can be viewed at:**

Please complete the form using block capitals and black ink and send to the Collecting Authority.

See [here](#) for guidance on CIL generally, including exemption or relief.

## Privacy Notice

This form is provided by Planning Portal and based on the requirements provided by Government for the sole purpose of submitting information to a Local Authority in accordance with the 'The Community Infrastructure Levy Regulations 2010 (as amended)'.

Please be aware that once you have downloaded this form, Planning Portal will have no access to the form or the data you enter into it (unless you choose to upload it to any Planning Portal online service in agreement with the relevant terms and conditions). Any subsequent use of this form is solely at your discretion, including the choice to complete and submit it to a Local Authority in agreement with the declaration section.

Upon receipt of this form and any supporting information, it is the responsibility of the Local Authority to inform you of its obligations in regards to the processing of this information. Please refer to its website for further information on any legal, regulatory and commercial requirements relating to information security and data protection of the information you have provided.

## 1. Application Details

Applicant or Agent Name:

Planning Portal Reference (if applicable):

Local authority planning application number (if allocated):

Site Address:

Description of development:

## 2. Applications to Remove or Vary Conditions on an Existing Planning Permission

a) Does the application seek to remove or vary conditions on an existing planning permission (i.e. Is it a Section 73 application)?

Yes   
If 'Yes', please complete the rest of this question

No   
If 'No', you can skip to **Question 3**

b) Please enter the application reference number

c) Does the application involve a change in the amount or use of new build development, where the total (including that previously granted planning permission) is over 100 square metres gross internal area?

Yes  No

d) Does the application involve a change in the amount of gross internal area where one or more new dwellings (including residential annexes) are to be created, either through new build or conversion (except the conversion of a single dwelling house into two or more separate dwellings with no additional gross internal area created)?

Yes  No

If you answered 'Yes' to either c) or d), please go to **Question 5**

If you answered 'No' to both c) and d), you can skip to **Question 8**

## 3. Reserved Matters Applications

a) Does the application relate to details or reserved matters on an existing permission that was granted prior to the introduction of the CIL charge in the relevant local authority area?

Yes   
If 'Yes', please complete the rest of this question

No   
If 'No', you can skip to **Question 4**

b) Please enter the application reference number

If you answered 'Yes' to a), you can skip to **Question 8**

If you answered 'No' to a), please go to **Question 4**

## 4. Liability for CIL

a) Does the application include new build development (including extensions and replacement) of 100 square metres gross internal area or above?

Yes  No

b) Does the application include creation of one or more new dwellings (including residential annexes) either through new build or conversion (except the conversion of a single dwelling house into two or more separate dwellings with no additional gross internal area created)?

Yes  No

If you answered 'Yes' to either a) or b), please go to **Question 5**

If you answered 'No' to both a) and b), you can skip to **Question 8**

## 5. Exemption or Relief

a) Is the site owned by a charity where the development will be wholly or mainly for charitable purposes, and the development will be either occupied by or under the control of a charitable institution?

Yes  No

b) Does the proposed development include affordable housing which qualifies for mandatory or discretionary Social Housing relief?

Yes  No

If you answered 'Yes' to either a) or b), please note that you will need to complete 'CIL Form 10: Charitable and/or Social Housing Relief Claim'. The form must be submitted to the Collecting Authority, **and** any relief must be granted by them, prior to the commencement of the development. Otherwise the full CIL charge will be payable.

A Commencement (of development) Notice (CIL Form 6) must also be received by the Collecting Authority prior to the commencement of the development otherwise:

- *If your CIL Liability Notice was issued on or after 1 September 2019*  
A surcharge equal to 20% of the notional CIL chargeable amount or £2,500, whichever is the lower amount, will be incurred; **or**
- *If your CIL Liability Notice was issued prior to 1 September 2019*  
The relief previously granted will be rescinded and the full levy charge will be payable.

You will also need to complete 'CIL Form 10: Charitable and/or Social Housing Relief Claim' if you think you are eligible for discretionary charitable relief, or discretionary social housing relief (if this is available in your area).

If you wish to claim exceptional circumstances relief, and if the charging authority have made exceptional circumstances relief available in their area (please check their website for details), you will need to complete 'CIL Form 11: Exceptional Circumstances Relief Claim'. The form must be submitted to the Collecting Authority, **AND** any relief must be granted by them, prior to the commencement of the development. Otherwise the full CIL charge will be payable.

All CIL Forms are available from:

c) Do you wish to claim a self build exemption for a whole new home?

Yes  No

If you have answered 'Yes' to c), please note that you will need to complete 'CIL Form 7: Self Build Exemption Claim - Part 1'. This form must be submitted to the Collecting Authority, **and** any exemption must be granted by them, prior to the commencement of the development. Otherwise the full CIL charge will be payable.

A Commencement (of development) Notice (CIL Form 6) must also be received by the Collecting Authority prior to the commencement of the development otherwise:

- *If your CIL Liability Notice was issued on or after 1 September 2019*  
A surcharge equal to 20% of the notional CIL chargeable amount or £2,500, whichever is the lower amount, will be incurred; **or**
- *If your CIL Liability Notice was issued prior to 1 September 2019*  
The exemption previously granted will be rescinded and the full levy charge will be payable.

All CIL Forms are available from:

d) Do you wish to claim an exemption for a residential annex or extension?

Yes  No

If you have answered 'Yes' to d), please note that you will need to complete either 'CIL Form 8: Residential Annex Exemption Claim' or 'CIL Form 9: Residential Extension Exemption Claim'. The relevant form must be submitted to the Collecting Authority, **and** any exemption must be granted by them, prior to the commencement of the development. Otherwise the full CIL charge will be payable.

In respect of a residential annex, a Commencement (of development) Notice (CIL Form 6) must also be received by the Collecting Authority prior to the commencement of the development otherwise:

- *If your CIL Liability Notice was issued on or after 1 September 2019*  
A surcharge equal to 20% of the notional CIL chargeable amount or £2,500, whichever is the lower amount, will be incurred; **or**
- *If your CIL Liability Notice was issued prior to 1 September 2019*  
The exemption previously granted will be rescinded and the full levy charge will be payable.

All CIL Forms are available from:

## 6. Proposed New Gross Internal Area

a) Does the application involve new **residential development** (including new dwellings, extensions, conversions/changes of use, garages, basements or any other buildings ancillary to residential use)?

Please note, conversion of a single dwelling house into two or more separate dwellings (without extending them) is **not** liable for CIL. If this is the sole purpose of your development proposal, you should answer 'No' to Question 4b above.

Yes  No

If yes, please complete the table in section 6c below, providing the requested information, including the gross internal area relating to new dwellings, extensions, conversions, garages or any other buildings ancillary to residential use.

b) Does the application involve new **non-residential development**?

Yes  No

If yes, please complete the table in section 6c below, using the information from your planning application.

c) Proposed gross internal area:

Development type	(i) Existing gross internal area (square metres)	(ii) Gross internal area to be lost by change of use or demolition (square metres)	(iii) Total gross internal area proposed (including change of use, basements, and ancillary buildings) (square metres)	(iv) Net additional gross internal area following development (square metres) (iv) = (iii) - (ii)
Market Housing (if known)				
Social Housing, including shared ownership housing (if known)				
Total residential				
Total non-residential				
Grand total				

## 7. Existing Buildings

a) How many existing buildings on the site will be retained, demolished or partially demolished as part of the development proposed?

Number of buildings:

b) Please state for each existing building/part of an existing building that is to be retained or demolished, the gross internal area that is to be retained and/or demolished and whether all or part of each building has been in use for a continuous period of at least six months within the past thirty six months. Any existing buildings into which people do not usually go or only go into intermittently for the purposes of inspecting or maintaining plant or machinery, or which were granted temporary planning permission should not be included here, but should be included in the table in section 7c.

	Brief description of existing building/part of existing building to be retained or demolished.	Gross internal area (sqm) to be retained.	Proposed use of retained gross internal area.	Gross internal area (sqm) to be demolished.	Was the building or part of the building occupied for its lawful use for 6 continuous months of the 36 previous months (excluding temporary permissions)?		When was the building last occupied for its lawful use? Please enter the date (dd/mm/yyyy) or tick still in use.
					Yes <input type="checkbox"/>	No <input type="checkbox"/>	
1					Yes <input type="checkbox"/>	No <input type="checkbox"/>	Date: <input type="text"/> or Still in use: <input type="checkbox"/>
2					Yes <input type="checkbox"/>	No <input type="checkbox"/>	Date: <input type="text"/> or Still in use: <input type="checkbox"/>
3					Yes <input type="checkbox"/>	No <input type="checkbox"/>	Date: <input type="text"/> or Still in use: <input type="checkbox"/>
4					Yes <input type="checkbox"/>	No <input type="checkbox"/>	Date: <input type="text"/> or Still in use: <input type="checkbox"/>
Total floorspace		<input type="text"/>		<input type="text"/>			

## 7. Existing Buildings (continued)

c) Does the development proposal include the retention, demolition or partial demolition of any whole buildings **which people do not usually go into or only go into intermittently for the purposes of inspecting or maintaining plant or machinery, or which were granted planning permission for a temporary period?**

Yes  No

If yes, please complete the following table:

	Brief description of existing building (as per above description) to be retained or demolished.	Gross internal area (sqm) to be retained	Proposed use of retained gross internal area	Gross internal area (sqm) to be demolished
1				
2				
3				
4				
Total of which people do not normally go into, only go intermittently to inspect or maintain plant or machinery, or which was granted temporary planning permission				

d) If the development proposal involves the conversion of an existing building, will it be creating a new mezzanine floor within the existing building?

Yes  No

If Yes, how much of the gross internal area proposed will be created by the mezzanine floor?

Use	Mezzanine gross internal area (sqm)

## 8. Declaration

I/we confirm that the details given are correct.

Name:

Date (DD/MM/YYYY). Date cannot be pre-application:

It is an offence for a person to knowingly or recklessly supply information which is false or misleading in a material respect to a collecting or charging authority in response to a requirement under the Community Infrastructure Levy Regulations (2010) as amended (regulation 110, SI 2010/948). A person guilty of an offence under this regulation may face unlimited fines, two years imprisonment, or both.

### For local authority use only

Application reference:

South Oxfordshire's CIL FAQs sheet

# South Oxfordshire and Vale of White Horse District Councils

## Community Infrastructure Levy (CIL) FAQs and Guidance for applicants and developers

December 2022

1 About CIL	2
2 CIL Process for Applicants/Developers	3
3 CIL Calculations	5
4 Relief and Exemptions	7
5 Making a CIL Payment	9
6 Appealing against a CIL Charge	9
7 Enforcement of CIL	10
8 Common Scenarios in the transition to CIL	11
9 Site Phasing	12
10 Further Information & Contact us	13
Appendix 1a: Further Details and Examples of CIL Calculations	14
Appendix 1b: Examples of how the chargeable area would be calculated	15
Appendix 2: CIL Forms explained	16

## 1 About CIL

### 1.1 When will CIL come into effect?

CIL has been implemented from 1 April 2016 in South Oxfordshire. And from 1 November 2017 in the Vale of White Horse.

### 1.2 What is CIL and who will collect it?

CIL is a charge on new development that will be collected by the District Council to provide additional funding to help pay for the cost of infrastructure arising from new development such as highways, leisure facilities and schools. CIL is charged per square metre of additional floorspace of new development and is non-negotiable.

### 1.3 What are the CIL rates for development?

The CIL Charging Schedule sets out the rates of CIL that will be charged and is available on our websites. CIL rates will be index-linked annually. There is relief from CIL for affordable, self-build and charitable housing. This can be viewed on our websites.

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

Development will potentially be liable for CIL if it:

- contains at least 100 square metres of new floor space
- is less than 100 square metres but results in the creation of a new dwelling (including self-contained annexes)
- involves change of use to residential where floorspace has not been in (lawful) use for six months of the previous three years (three year period ending on date of planning permission)
- includes development permitted by a 'general consent' (e.g. permitted development, prior approval).

### 1.5 Development will potentially not be liable for CIL, or not be charged if it:

- is for a use which has a zero or nil charge (£0/sq m) set out in the CIL Charging Schedule;
- involves only conversion or change of use with no additional floorspace
- involves Mezzanine floors inserted into an existing building, unless they form part of a wider development (e.g., external alterations, changes of use etc)
- involves the subdivision of a dwelling which has been in lawful use
- is for a building into which people do not normally go, or go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery
- If the chargeable amount is less than £50 CIL will not be charged.

### 1.6 Is Permitted Development (under the General Permitted Development Order) CIL liable?

Yes, if the development meets the basic criteria for CIL liable developments as set out above. It is the applicant's responsibility to serve a Notice of Chargeable Development (Form 5) before the commencement of the development.

### 1.7 Are 'General Consents' development liable to CIL?

Yes, if the development meets the basic criteria for CIL liable developments e.g., 100 sqm of additional floor space. The CIL Regulations 2010 (as amended) defines 'General Consents', so as to include:

- Permitted Development rights under the General Permitted Development Order (GDPO) 1995 (as amended)

- Consents granted for Nationally Significant Infrastructure Projects (NSIPs) by the Infrastructure Planning Commission (IPC) or Major Infrastructure Planning Unit (MIPU) of the Planning Inspectorate (PINS)
- Development consented through any Enterprise Zone, Simplified Planning Zone (SPZ), Local Development Order (LDO) or Neighbourhood Development Order (NDO); and
- Development consented through an Act of Parliament, for example, the Crossrail Act 2008

For permitted development, it is the applicant's responsibility to serve Notice of Chargeable Development CIL Form 5, and CIL Form 6 Commencement Notice, before the commencement of the development.

#### 1.8 Will CIL replace Section 106 agreements?

S106 will be scaled back with the introduction of CIL, but S106 agreements will continue to fund affordable housing and essential site specific infrastructure. S106 will also be used to deliver all infrastructure needed to support development which is zero-rated for CIL.

- 1.9 Our Planning Obligations SPDs provides more information on how CIL and S106 will work together to deliver infrastructure.

## 2 CIL Process for Applicants/Developers

- 2.1 CIL involves a number of stages, which are legal processes that must be complied with in order to administer CIL effectively. If the stages are not complied with, for example you fail to assume liability or submit a Commencement Notice, you may be subject to financial penalties as required by the CIL Regulations.

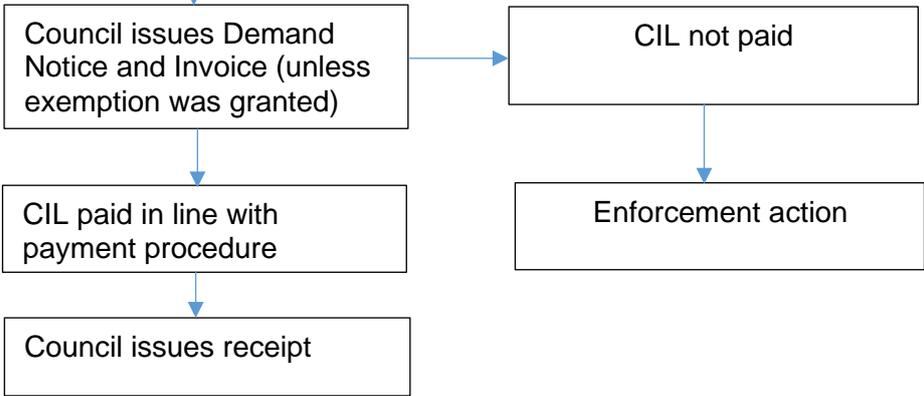
**SUBMIT WITH PLANNING APPLICATION**

- CIL Additional Information Request Form 1
  - Plans/information that will allow us to calculate CIL accurately (ideally annotated plans)
  - Evidence of any floorspace in 'continued lawful use'
  - CIL Form 2 'Assumption of Liability'
- (If liability changes any time before final payment becomes due, submit withdrawal or transfer of liability form (CIL Forms 3 or 4))
- If applicable, submit relevant form to claim relief:
- Social Housing or Charitable Relief (Form 10)\*
  - Self Build Annex or Extension Claim Form (Forms 8 or 9)\*
  - Self Build Exemption Claim Form, Part 1 (Form 7 Part 1)\*

If planning permission granted, Council issues a Liability Notice to parties that have assumed liability and/or landowners.

**SUBMIT BEFORE DEVELOPMENT (INC. PERMITTED DEVELOPMENT) COMMENCES**

- CIL Form 6 Commencement Notice for applications with planning permission
- CIL Form 5 Notice of Chargeable Development for permitted development



- If applicable, submit to confirm relief within six months of completion
- Self Build Exemption Claim Form 7, Part 2 (self-build new dwelling developments only)



\*Please see Appendix 2 for details on further exemption claim forms.

### 3 CIL Calculations

**3.1 What is included as CIL chargeable floorspace?** CIL is charged on the 'gross internal area' of the development for which planning permission is granted. This includes:

- all new floor space within the external walls of the building
- circulation and service space such as corridors, storage, toilets, lift, balconies, porches (see Appendix 1) etc. Canopied porches with or without posts are not considered liable, but porches with sides (including half walls), and covered areas bordered by 2 or more walls of the dwelling are considered liable.
- loft space that is used as rooms, with stairs or a permanent ladder including accessible storage areas
- enclosed attached or detached outbuildings e.g., garages and carports. Generally, any structure with one or more walls and a roof is considered to be 'internal' floor space and therefore chargeable. Carports supported on pillars are not considered liable, but if it had one wall and a roof it would be considered liable. Detailed information on how 'gross internal area' is calculated is provided in Appendix 1.

3.2 CIL is chargeable on the existing floor space of a building if a change of use is proposed.

**3.3 Is CIL chargeable for subdividing a house into two or more homes?**

No, unless additional new build floorspace is provided as part of the scheme in which case the additional floorspace may be liable.

**3.4 Is CIL chargeable on a barn conversion?**

Potentially, but a change of use from a barn to a residential use should not result in CIL liability as long as the barns are permanent usable buildings in lawful use. To be usable such buildings should be weathertight with four complete walls, a floor, and a roof. The definition of lawful use includes a requirement to be 'in use' for a continuous six month period out of the three years prior to planning permission first permitting development, the onus of proof being on the applicant.

3.5 Any additional new build floorspace proposed as part of the application, extending the barns or to provide new build garages for example would be charged CIL.

3.6 If a development is in progress and a change of use approved during the building process, then the CIL charge that reflects the new use will be applied. If the development is complete, it must demonstrate six months continuous lawful use within three years of the Change of Use approval for any floor space to be offset against the new use CIL charge. An example would be an Institutional Care Home applying for Change of Use to Elderly Persons Accommodation. It must demonstrate six months continuous use as an Institutional Care Home dating back three years from the consent for change of use to Elderly Persons Accommodation. Schedule 1, Part 1, 1(10).

**3.7 How is CIL calculated?**

The calculation involves multiplying the CIL charging rate by the additional (new build) floor space, and factoring in an Inflation index figure.

$$CIL\ Charge = Net\ additional\ new\ build\ floor\ space\ (A) \times CIL\ Rate\ (R) \times Inflation\ index\ (I)$$

*Where:*

*A = the net 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 = All-in tender price index of construction costs in the year planning permission was granted, divided by the All-in tender price index for the year the Charging Schedule took effect.*

3.8 Existing floor space that has been in continuous lawful use can be deducted from the floorspace on which CIL is charged. The onus is on the applicant to demonstrate this usage.

3.9 If the building is demolished before planning permission for redevelopment is granted, the previous floor space cannot be taken into account for the purpose of calculating the CIL charge.

**3.10 How is the CIL Inflation index calculated?**

CIL payments are index linked from the year that CIL was introduced to the year that planning permissions are granted, to allow for changes in building costs over time. We use the national All-in Tender Price Index published by the Build Cost Information Service (BCIS).

**3.11 There are buildings on the application site that will be demolished as part of the development proposals. Will this reduce my CIL liability?**

Deductions in respect of demolition of buildings before completion of the chargeable development will only apply where:

- there is an existing building that has been in ‘continuous lawful use’ for at least six months of the three years prior to ‘planning permission first permitting the development’
- the building is a permanent building into which people normally go
- the building is not demolished prior to planning application approval. The onus of proof is on the applicant.

3.12 The table below sets out when ‘planning permission first permits the development’ for the purposes of the CIL regulations:

<b>Application Type</b>	<b>Phasing</b>	<b>Conditions</b>	<b>Date that “planning permission first permits the development”</b>
Full Planning Application	No phasing	N/A	Date of Decision Notice approving the permission
Full Planning Application	Phased	No pre-commencement conditions	Date of Decision Notice approving the permission
Full Planning Application	Phased	With pre-commencement conditions	Date of approval of final pre-commencement condition for that phase
Outline Planning Application	No phasing	N/A	Date of Decision Notice approving the last Reserved Matter
Outline Planning Application	Phased	No pre-commencement conditions	Date of Decision Notice approving the Reserved Matters for that phase
Outline Planning Application	Phased	With pre-commencement conditions	Date of approval of final pre-commencement condition for that phase
Permitted development	N/A	N/A	Date of Notification of Commencement to the District Council OR Date that the District Council serves the Notice of Chargeable Development.

### 3.13 What evidence do I need to supply to show buildings on my site have been in 'continued lawful use'?

Information that could be submitted to demonstrate 'continued lawful use' can include the combination of the following:

- Copies of leases
- Electricity/gas bills for the six month period
- Business rate/council tax bills and payments. Note: The Local Planning Authority does not have access to this information as it is data protected
- Where an informal arrangement exists, redacted bank statements to show rent/rates have been paid
- Confirmation from a letting agent/solicitor advising of the period of occupancy

3.14 If it is not evident from the information supplied, we will not consider the existing floor space as deductible.

## 4 Relief and Exemptions

### 4.1 What reliefs and exemptions are available?

These can be sought in certain circumstances but is not automatic. Instead, relief and exemptions must be applied for, and this must be done before development commences, using the relevant forms. To apply for relief and exemptions you must also have assumed liability. There are several other conditions which also apply dependant on the type of relief or exemption. Relief and exemptions can be obtained for:

- Social / affordable housing
- Charitable housing<sup>1</sup>
- Self-build – whole houses
- Self-build – residential extensions / annexes
- Phased credit

4.2 Relief and exemptions are not automatic, and you must apply for them before development commences.

### 4.3 How do I apply for relief?

The claim for relief must be made on the appropriate form (available on [Planning Portal](#)) by a land owner who has assumed liability to pay CIL (using CIL Form 2: 'Assumption of Liability').

**You must make your claim before commencing development or we will be unable to accept your claim and a Demand Notice for the full CIL Liability will be issued.** [Appendix 2](#) provides a list of CIL forms and further explanation on which one to use.

4.4 As soon as possible after receiving the claim, we will assess it and notify you of our decision, reasons, and the amount of relief they qualify for. Do not commence development before you have received a response to your claim, or it may become invalid.

4.5 The amount of relief is shown in the Liability Notice – if need be, we will issue a revised Liability Notice.

### 4.6 What evidence will I need to provide if I am claiming self-build relief for a new property?

Within six months of *completion* of your self-build, you will need to provide the following evidence, and submit it along with CIL Form 7: 'Self Build Exemption Claim Form: Part 2':

All three of the following:

---

<sup>1</sup> Where the chargeable development will be used wholly, or mainly, for charitable purposes.

1. Compliance certificate and date
2. Title deeds
3. Council Tax certificate

Two of the following three:

1. Utility bill
2. Bank statement
3. Local electoral roll registration.

One of the following:

1. An approved claim from HM Revenue and Customs under VAT431 NB: VAT refunds for DIY housebuilders
2. Proof of a specialist Self Build or Custom Build Warranty
3. Proof of an approved Self Build or Custom Build Mortgage from a bank or building society

Please ensure that you can meet these requirements before the initial claim for self-build exemption is made.

**4.7 Are there any circumstances where I might be asked to repay the relief?**

Yes – if relief is granted and a reduced CIL paid, but circumstances change within a set period, the relief will be disqualified, and the outstanding CIL must be paid.

Type of relief	Clawback Period
Social / affordable housing	7 years
Charitable purposes	7 years
Self-build	3 years

**4.8 Disqualifying events include:**

- Any change in relation to the self-build housing or self-build communal development such that it ceases to meet the criteria set out in regulations;
- Failure to comply with the evidence requirements on completion; [at clawback or at 7 Part 2]
- The letting out of a whole dwelling or building that is self-build housing or self-build communal development; or
- The sale of the self-build housing or self-build communal development.

**4.9 If a disqualifying event occurs before the development commences**, any granted relief would be withdrawn, and the full liability recalculated.

4.10 A CIL Form 4 Transfer of Liability jointly completed by old and new landowners must be submitted in the event of landownership change. If not already commenced, the new owners may submit a claim for relief. It is advisable to discuss the CIL aspect between solicitors prior to exchange.

**4.11 If the disqualifying event occurs after commencement**, the relief is withdrawn, and the relevant person is liable to pay an amount of CIL equal to the withdrawn relief.

4.12 The person benefitting from the exemption must notify the charging authority in writing within 14 days of the disqualifying event occurring. Failure to do so will result in enforcement action against the relevant person and a surcharge will become payable.

4.13 For further detail on the criteria for each relief type see [GOV.UK's CIL page, paragraph 94](#)

## 5 Making a CIL Payment

### 5.1 How much will I have to pay?

Eligible developments that receive planning permission from the dates of South and Vale CIL implementation will be charged in accordance with the rates set out in the CIL Charging Schedule. The amount payable is calculated when planning permission is granted and is set out in the Liability Notice which we will send you.

### 5.2 When does payment become due?

Payment is due on commencement of development and is payable within 60 days or in accordance with our instalment policy. Before you commence the development, you must send us CIL Form 6: 'Commencement Notice'.

5.3 We will send you a Demand Notice, and a separate invoice including details of how to make a payment.

### 5.4 What constitutes commencement?

CIL Regulation 7, and Section 56(4) of the Town and Country Planning Act 1990 define commencement as from the first 'material operations' carried out, including: erecting a building, demolition, digging a trench, laying underground pipes or mains, any operation to construct a road, or any change in the use of land that is classed as material development.

### 5.5 Can I pay in instalments?

Yes - we offer an Instalment Policy that allows payments over £30,000 to be spread over longer periods. We will automatically apply the Instalment Policy where applicable. [See our websites]

5.6 Please note that this Instalment Policy will not be available if CIL Form 2: 'Assumption of Liability' and CIL Form 6: 'Commencement Notice' are not provided before the relevant development commences, or if payments are not made on time.

### 5.7 Who is liable to pay?

Landowners are ultimately liable to pay CIL, but anyone involved in a development may take on the liability to pay. In order to benefit from payment in instalments, someone must assume liability using CIL Form 2: 'Assumption of Liability' prior to commencement.

5.8 Where no one has assumed liability to pay the levy, the liability will automatically default to the landowners and payment becomes due as soon as development commences. Liability to pay the levy can also default to the landowners where we have been unable to recover the levy from the party that assumed liability for the levy, despite making all reasonable efforts.

## 6 Appealing against a CIL Charge

### 6.1 I think the CIL for my development has been calculated incorrectly, what can I do? If

you think that the CIL charge for your development has been calculated incorrectly, you can apply to us and ask us to review how your CIL was calculated.

### 6.2 In what other circumstances can I appeal against CIL?

Once a Charging Schedule is adopted, the rate of the levy is non-negotiable, and we are not required to justify its application on a case-by-case basis. Appeals under the CIL Regulations

are overwhelmingly about matters of fact (e.g., did the Council make a mistake in calculating the liability? Did the development actually commence on such and such a date?).

### 6.3 What are the requirements for lodging appeals?

A liable person can ask the levy collecting authority for a review of the chargeable amount within 28 days from the date on which the liability notice (that sets out the chargeable amount) was issued. The collecting authority is required to review the calculation. This review must be carried out by someone who is senior to the person who made the original calculation, and who had no involvement in that original calculation. A decision must be issued within 14 days, and this decision cannot be reviewed again (see regulation 113). Following this review, the liable person may submit an appeal to the Valuation Office Agency.

6.4 Appeals made in connection with the calculation of the chargeable amount, an apportionment of liability, charitable relief and self-build exemptions and appeals in relation to notional relief relating to transitional cases (Schedule 1(9)) should be submitted to the independent Valuation Office Agency, on a form provided by the Agency within 60 days of the date the liability notice is issued.

6.5 Appeals related to enforcement (surcharges, commencement notices and stop notices) should be submitted to the Planning Inspectorate. All appeals to the Planning Inspectorate must be made using the form published by the Secretary of State (or forms substantially to the same effect). This can be found on the Planning Inspectorate website.

6.6 Please find here a link to the [GOV.UK CIL Appeals](#) page.

## 7 Enforcement of CIL

### 7.1 What happens if I fail to submit Form 6: 'Commencement Notice' before I commence my development?

Failure to submit a valid Commencement Notice before development commences *may* result in imposing a surcharge of 20% of the CIL amount due, up to a maximum of £2,500. In addition, payments *will not* be permitted to be made in line with the Instalment policy. Payment will be due in full on the day that the council believes the development to have commenced.

### 7.2 What happens if CIL is not paid?

Failure to pay CIL on time will result in the imposition of late payment interest at 2.5% above the Bank of England base rate.

7.3 Continued failure to pay CIL may result in additional late payment surcharges:

- Five per cent of the outstanding amount where payment is still overdue after 30 days, subject to a £200 minimum
- Further five per cent of the outstanding amount where payment is still overdue after six months, subject to a £200 minimum
- Further five per cent of the outstanding amount where payment is still overdue after 12 months, subject to a £200 minimum

7.4 If CIL remains unpaid the council may take any or all of the following actions, in order to recover the debt, as based on the CIL Regulations:

- Removal of the right to pay by instalments

- Impose surcharges and late payment interest
- Issue a CIL Stop Notice
- Seek authorisation from the courts to seize and sell assets to recover the CIL due
- Issue a Charging Order which remains as a land charge against your property. If you sell or re-mortgage your home before the debt is cleared, the charging order will be paid off from the proceeds.
- Seek committal to prison

**7.5 When will the Council issue a Stop notice, and what does this mean?**

A Stop notice will prohibit development with immediate effect, until payment of the outstanding amount is made.

7.6 Before serving a CIL Stop notice, we will first issue a warning to the person liable to pay the amount, the land's owners, occupiers, and all those who we consider will be affected by the notice. We will also post a warning on the site itself. This warning will state that continued non-payment may result in a CIL stop notice being issued. It will also set out the amount overdue and the number of days after which a CIL stop notice may be served if payment continues not to be made.

**7.7 What other methods will we take to try and recover the CIL funds due?**

We may seek a court's consent to seize and sell your assets to recover the money due. These assets may include any land you hold. We will send you notice of our intention to do so beforehand.

**7.8 Could I really be sent to prison if I don't pay CIL?**

Yes! Where a liable party continues to evade paying CIL, we can ask a magistrates' court to commit the relevant person(s) to prison for no more than three months. To do this, we must be able to demonstrate to the court that we have been unable to recover the CIL amount due by seizing and selling your assets and land.

## **8 Common Scenarios in the transition to CIL**

**8.1 Will a development be liable to pay CIL if there was a resolution to grant planning permission (e.g., subject to a S106 agreement or pending planning appeal) before CIL comes into effect, but the formal grant of planning permission is made on or after CIL comes into effect?**

Yes. This is because any resolution to grant planning permission by the Committee does not formally grant the permission as a decision notice cannot be issued until, for example, a S106 agreement has been signed. Obligations for affordable housing and other infrastructure projects not covered by CIL will continue to be secured through Section 106, alongside the CIL requirements. See the [SODC Section 106 Planning Obligations SPD](#) and [VoWHDC Section 106 Planning Obligations SPD](#) for further details on the interaction between planning obligations and CIL.

**8.2 Will a development be liable to pay CIL if there was an outline planning permission before CIL is in effect, but the approval of reserved matters/ phases is made on or after CIL is effective?**

No. But if the outline planning permission is granted on or after CIL comes into effect, followed by the approval of reserved matters/phases at a later date, the approval of reserved matters/phases does trigger a new liability to pay CIL.

- 8.3 The same applies when a revised charging schedule is introduced in the area before reserved matters are approved. When a charging authority introduces a revised schedule, there may be some developments which have been granted an outline permission when the original schedule was in force, but which are reserved matters when the revised charging schedule comes into effect. In these circumstances, the earlier charging schedule, which was in effect at the time of granting the outline permission, should be used for calculating the chargeable amount once reserved matters are approved. The requirements are set out in [CIL Regulations 2019 \(Amended\) Schedule 1 paragraph 2.](#)
- 8.4 If an outline application includes phasing of development, each phase is treated as a separate development for the purpose of paying CIL. The CIL liability for each phase is calculated at reserved matters stage for that phase.
- 8.5 **Will a development be liable to pay CIL if there was a full planning permission before CIL came into effect, but the approval of pre commencement conditions is made on or after CIL is effective?**  
No, the approval of pre commencement conditions does not trigger a liability to pay CIL.
- 8.6 **Will a development be liable to pay CIL if there was a refusal of planning permission before CIL came into effect, but an approval of planning permission on appeal is made on or after CIL came into effect?** Yes.
- 8.7 **Will a development be liable to pay CIL if there was a planning permission before CIL came into effect, but an approval of a S73 application to vary or remove conditions of that planning permission is made on or after CIL is in effect?**  
Yes, the approval of a S73 application to vary or remove conditions does trigger a liability to pay CIL because it results in a new planning permission. However, the CIL (Amendment) Regulations 2012 confirms that although a new CIL liability is triggered, the new additional chargeable amount is equal only to the net increase in the chargeable amount arising from the original planning permission, so as to avoid double counting of liability.
- 8.8 **Will a development be liable to pay CIL if there was a planning permission before the CIL came into effect, but a different planning permission is granted on the same site when CIL is in effect?**  
Yes. Whilst a planning permission granted prior to CIL coming into effect it can be implemented in its current form without incurring CIL, if a fresh application is submitted then any residential development it comprises, granted planning permission when CIL is in effect, would be liable for CIL even if it was within the application site of the development that had been granted planning permission previously. Residential floorspace previously granted planning permission (and not implemented and lived in) cannot be set against CIL liability on the new development. The exception to this is S73 applications mentioned about where there is only a minor amendment to the original scheme.

## 9 Site Phasing

- 9.1 **Phasing must be secured as a planning condition during the planning process.** Detailed description of each phase proposed and phasing plan showing each phase. Usually White, Red, Green, Blue. The phasing should be set out in the planning permission or secured through a planning condition.

## South Oxfordshire and Vale of the White Horse District Councils

- 9.2 Demolition and/or preparation of the site for access and utilities, if intended as a separate phase, must be Phase 1 and separate from other works.
- 9.3 Without phasing the entire site is bound by a single commencement notice, commencement taken as 1<sup>st</sup> material operation (except for pre-commencement conditions). The CIL charge amount becomes due when the first CIL liable phase commences. Each phase must submit a separate commencement notice.
- 9.4 If the proposal contains multiple plots seeking to benefit from self-build relief, phasing must be secured to prevent liability issues. We cannot grant relief for multiple plots on a single application without phasing.

## 10 Further Information & Contact us

- 10.1 Further general information on CIL can be found on our websites at [Vale of White Horse District Council](http://www.whitehorsedc.gov.uk) (www.whitehorsedc.gov.uk) or [South Oxfordshire District Council](http://www.southoxon.gov.uk) (www.southoxon.gov.uk).
- 10.2 If you have further questions related to CIL, please contact the customer service team on 01235 422600 or [planning@whitehorsedc.gov.uk](mailto:planning@whitehorsedc.gov.uk) or [planning@southoxon.gov.uk](mailto:planning@southoxon.gov.uk) or email the CIL Team direct via [communityinfrastructure@southandvale.gov.uk](mailto:communityinfrastructure@southandvale.gov.uk)

## Appendix 1a: Further Details and Examples of CIL Calculations

**Guidance on measuring GIA is available in the RICS Code of Measuring Practice, 6<sup>th</sup> edition.**

### **Calculation of the CIL chargeable area: -**

Floorspace within the chargeable development is measured as gross internal floorspace (GIA) in square metres. This will include:

- Areas occupied by internal walls and partitions
- Columns, piers, chimney breasts, stairwells, lift-wells, other internal projections, vertical ducts, and the like
- Atria and entrance halls, with clear height above, measured at base level only
- Internal open sided balconies, walkways, and the like
- Structural, raked, or stepped floors are property to be treated as a level floor measured horizontally
- Horizontal floors, with permanent access, below structural, raked, or stepped floors
- Corridors of a permanent essential nature (e.g., fire corridors, smoke lobbies)
- Mezzanine floor areas with permanent access (subject to exclusion)
- 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
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaner's rooms, and the like
- Voids over stairwells and lift shafts on upper floors
- Porches with sides, including half walls. Covered areas bordered by 2 or more walls of the dwelling.
- Areas under and above 1.5m ceiling height.
- Loading bays
- Pavement vaults
- Garages and other ancillary buildings
- Conservatories

When measuring the GIA the following is excluded:

- Perimeter wall thicknesses and external projections
- External open sided balconies, covered ways and fire escapes
- Canopies. Including canopied porches with no posts/sides and canopied porches with posts but no sides.
- Voids over or under structural, raked, or stepped floors
- Greenhouses, garden stores, fuel stores, and the like in residential

South Oxfordshire and Vale of the White Horse District Councils

**Appendix 1b: Examples of how the chargeable area would be calculated**

<b>Current site</b>	<b>Proposed development</b>	<b>CIL liable</b>	<b>Chargeable area</b>
Cleared building site	90 sq m new residential dwelling	Yes	90 sq m
Single dwelling – in use	Single dwelling with a 25 sq m extension	No	Not liable as under 100 sq m new build and does not create a new dwelling
Single dwelling – in use	Single dwelling (currently 100 sq m) with a 125 sq m extension	Yes	125 sq m
Cleared building site	2,000 sq m residential, including 40% affordable housing (800 sq m)	Yes	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	Yes	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	Yes	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	No	Not liable as project involves bringing a vacant dwelling back into use, does not create a new dwelling
Shop unit – not in use	90 sq m conversion /change of use of unit to residential	Yes	90 sq m NB: building has not been in use and creation of new dwelling
Shop unit – in use	90 sq m conversion /change of use of unit to residential	Yes	0 sq m so no charge NB: No exemption even though under 100 sq m 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.
4,000 sq m offices – in use	4,000 sq m conversion of offices to flats	No	Not liable as existing floorspace converted and has been in use
3,500 sq m business development in use but to be demolished	15,000 sq m new residential 5,000 sq m new business 3,500 sq m original business use demolished	Yes	12,375 sqm residential 4,125 sqm business but as zero rate no charge N.B the demolished amount is apportioned across the whole development e.g., $\frac{3}{4}$ development residential, $\frac{1}{4}$ business; therefore, of the 3,500 sq m demolished floorspace, 2,625 sq m is deducted from residential floorspace and 875 sq m from business

## Appendix 2: CIL Forms explained

**All CIL Forms need to be dated and manually signed by the liable person or claimant.**

Any CIL Form received by the collecting authority will be acknowledged.

CIL Form	When should it be submitted?
<p><b>Form 1 – Determining whether a development may be CIL liable – Planning Application Additional Requirement Form</b>                      This requires the applicant to supply to the Council the relevant floorspace<sup>1</sup> detail of all existing buildings<sup>2</sup> (that are to be demolished or re-used) and all proposed buildings. This information then enables the Council to calculate the correct CIL liability for the chargeable development</p>	<p>With the planning application</p>
<p><b>Form 2 – Assumption of Liability</b>                      The person who will pay CIL must first formally assume liability to do so by submitting a <u>manually signed</u> CIL Form 2.                      We must receive this form so that we can grant the self build relief (if eligible).</p>	<p>Prior to commencement. Must be submitted in conjunction with a Claim form 7, 8, 9 or 10 (whichever one is applicable)</p>
<p><b>Form 3 – Withdrawal of Assumption of Liability</b>                       A party who has assumed liability to pay CIL but no longer wants to have assumed liability to pay CIL must submit CIL Form 3 to the Council</p>	<p>Prior to commencement of development</p>
<p><b>Form 4 – Transfer of Assumed Liability</b>                       A party who has assumed liability to pay CIL can transfer that assumed liability to another party through submitting CIL Form 4 to the Council</p>	<p>No later than the day on which the final payment of CIL is due in respect of the chargeable development</p>
<p><b>Form 5 – Notice of Chargeable Development</b>                       CIL Form 5 is required to be submitted prior to commencement of development where a CIL liable development is proposed that ordinarily would not require planning permission (i.e., permitted development)</p>	<p>Prior to commencement of development</p>

<sup>1</sup> The gross internal floorspace includes internal walls and partitions, chimney breasts, stairwells, lift-wells, atria and entrance halls, internal open-sided balconies, corridors, mezzanine floor areas, service areas (WCs, showers, changing rooms), lift rooms, plant rooms etc. It excludes things like open balconies, open fire escapes, greenhouses, garden stores and fuel stores.

<sup>2</sup> Please provide the floorplans of the existing building(s).

<b>CIL Form</b>	<b>When should it be submitted?</b>
<p><b>Form 6 – Commencement Notice</b></p> <p>CIL Form 6 is required to notify the Council that a chargeable development is about to be commenced. Submission of CIL Form 6 is therefore the trigger that starts the payment of CIL from the person who has assumed liability to the Council. Failure to follow the correct procedure may see the Council impose surcharges and take enforcement action.</p>	<p>Prior to commencement of development<sup>3</sup></p>
<p><b>Form 7 - Self Build Exemption Claim Form: Part 1</b></p> <p>CIL Form 7 Part 1 is effectively a declaration by the applicant that they meet the self-build criteria and are aware of the disqualifying events that could see this form of relief revoked. For relief to be granted, the person seeking relief first must formally submit a claim form <u>and</u> assume liability to pay CIL.</p>	<p>Prior to commencement. Claim must be granted by the council before commencement.</p>
<p><b>Form 7 - Self Build Exemption Claim Form: Part 2</b></p> <p>CIL Form 7 Part 2 is accompanied by all the necessary evidence<sup>4</sup> that is required to prove that the dwelling is self-build. Applicants should make sure that they can meet these requirements prior to claiming the self-build exemption.</p>	<p>Within six months of completing the self-build dwelling</p>
<p><b>Form 8 – Self Build Exemption for Annex</b></p> <p>Relief from CIL via this form is available for a residential annex. For relief to be granted, the person seeking relief first must formally submit a claim form <u>and</u> assume liability to pay CIL.</p>	<p>Together with the planning application (or shortly after planning permission). Claim must be granted by the council before development commences.</p>

<sup>3</sup> Commencement is any work carried out, including: erecting a building, demolition, digging a trench, laying underground pipes or mains, any operation to construct a road, or any change in the use of land that is classed as material development.

We must also receive this form even if you have been given an exemption/relief. This is because there is a clawback period of three years for self-build relief and of seven years for social housing relief. This means that when the dwelling is sold within the clawback period you will be liable to pay CIL.

<sup>4</sup> A compliance certificate, Title deeds and a Council Tax certificate. Two of the following: Utility bill, bank statement or local electoral roll registration. One of the following:

- An approved claim from HM Revenue and Customs under VAT431 NB: VAT refunds for DIY housebuilders
- Proof or a specialist Self Build or Custom Build Warranty
- Proof of an approved Self Build or Custom Build Mortgage from a bank or building society

CIL Forms	When should they be submitted?
<p><b>Form 9 – Self Build Exemption for residential extension</b></p> <p>Relief from CIL via this form is available for residential extensions. For relief to be granted, the person seeking relief first must formally submit a claim form <u>and</u> assume liability to pay CIL.</p>	<p>Together with the planning application (or shortly after planning permission). Claim must be granted by the council before development commences.</p>
<p><b>Form 10 – Claiming Exemption or Relief for Charitable and/or Social Housing</b></p> <p>Relief from CIL via this form is available for development by charities and social housing. For relief to be granted, the person seeking relief first must formally submit a claim form and assume liability to pay CIL.</p> <p>When claiming social housing relief please supply: -</p> <ul style="list-style-type: none"> <li>i). a map clearly identifying the location of the affordable dwellings and</li> <li>ii). an accommodation schedule including the floorspace by dwelling (including garages and communal areas).</li> </ul> <p>Annex B of CIL Form 10 needs to be completed. As the floorspace figures can change during the course of the planning application we advise to submit CIL Form 10 when the application is at its final stage. Also, social housing will need to be secured through a S106 legal agreement.</p>	<p>Together with the planning application (or shortly after planning permission). Claim must be granted by the council before development commences.</p>
<p><b>Form 12 – Further Charitable and/or Social Housing Relief Claim (when the development is altered)</b></p> <p>This form should be used by persons seeking to obtain further charitable or social housing relief from CIL when the development previously subject to relief is subsequently amended by a Section 73 permission, creating a new liability.</p>	<p>With the planning application.</p>

<p><b>Form 13 – Further self-build Exemption Claim (for dwelling, annex or residential extension)</b></p> <p>This form should be used by persons seeking to obtain further exemption from CIL when the development previously granted an exemption is subsequently amended by a Section 73 permission, creating a new CIL liability. The previous exemption must have been granted to the same person(s) now seeking further relief.</p>	<p>With the planning application.</p>
<p><b>Form 14 – Phase Credit Application</b></p> <p>Form 14 is used by a person who wishes to apply a phased credit with the intent to offset CIL liability from a separate phase of the development.</p> <p>This form must be used when a further Full, or a Section 73, application has been submitted in relation to a development where the original application was granted permission before a CIL charging schedule had been adopted in that area. Any change in floorspace under the section 73 amendment would be subject to the CIL levy.</p>	<p>With the planning application.</p>

**All CIL Forms need to be dated and manually signed by the liable person or claimant.** Forms cannot be signed by an agent on the liable person’s behalf. Please note that we do not accept an electronic signature.

## East Suffolk CIL Advice Service



[My East Suffolk](#) | [Contact us](#) | [Make a payment](#) | [Jobs](#)

Access local council services and information quickly and easily

Home > Planning > Developer contributions > Community Infrastructure Levy (CIL) > CIL and s106 advice service

### CIL and s106 advice service

#### Community Infrastructure Levy (CIL) advice and guidance

New residential development, including conversion/change of use to residential, and other types of development (e.g. retail) may be liable to pay CIL. This relates to full and reserved matters planning applications and Certificates of Lawfulness approved on or after 1 August 2013. This also includes development permitted by way of general consent (development which does not require submission of a planning application) which commences on or after 1 August 2013.

CIL is charged in pounds per square metre and relates to qualifying development, in accordance with the provisions of the CIL Regulations 2010 (as amended).

- [CIL rates in the East Suffolk area](#)

Further guidance and information on CIL, together with the relevant CIL forms can be found on the [Planning Portal](#).

We will continue to respond to enquiries which can be dealt with in a short timescale of up to 15 minutes. Where enquiries are likely to take longer than 15 minutes we will refer you to make a CIL advice service enquiry.

#### CIL and s106 advice service

We have launched a new CIL and Section 106 (s106) advice service that enables agents, applicants and solicitors to email us on [CIL@east Suffolk.gov.uk](mailto:CIL@east Suffolk.gov.uk) using an advice request form. This is a paid for service. We can provide an estimate of the cost of support for any of the following services:

Advice request	Detail
Assessing if development could be liable for CIL	Advice and guidance in relation to proposed potentially CIL liable development, new buildings, change of use, conversions, buildings requiring retrospective planning approval, etc that could be CIL chargeable development
Non-Phased and Mixed Development	Advice on CIL implications where more than one dwelling or building or use type is being proposed
Phased Development	Advice on CIL implications where the proposed development is likely to be delivered in more than one phase
How to Benefit from CIL Instalments or Exemptions	Advice on payment of CIL by instalment or how to claim CIL exemptions
How does CIL Self Build Exemption operate	Advice on claiming self build exemption and on compliance with CIL Self Build Exemptions once granted
Calculating CIL/CIL Estimates*	Advice on calculating CIL for estimating potential cost of CIL/or the provision of estimates of CIL liability where scaled floorplans are provided
Completion of CIL forms	Advice on which CIL forms to complete and completion and submission of these forms
Other	Other bespoke advice on CIL not meeting any of the above categories

#### Payment instructions

Please use our [online payment facility](#) and select 'Other Payments'. Then select 'CIL' and then 'CIL Advice Service'.

#### How to apply for the CIL and s106 advice service

Please download our advice request form and complete it with as much information as you can to assist us to understand your enquiry. Please note that for CIL estimates of liability it is likely you will need to provide further information, such as existing and proposed floor plans, site layout plans and a red line location plan in order for us to provide you with an estimate. We will confirm what information we require from you when we provide the estimate.

- [CIL and s106 advice request form - Adobe PDF format](#)

Once completed, please email the form to [CIL@east Suffolk.gov.uk](mailto:CIL@east Suffolk.gov.uk).

#### CIL and s106 advice - timescales

It is expected that the majority of advice can be provided with a quick turnaround, once all documents required to support you have been provided to us. For the majority of advice requests, we would expect to respond in writing within 7-14 days, depending on the complexity of your request.

**In this section**

- ▶ [CIL rates](#)
- ▶ [CIL collection process and forms](#)
- ▶ [CIL spending](#)
- ▶ [CIL parish support](#)
- ▶ [CIL reporting](#)
- ▶ [How to pay CIL](#)
- ▶ [CIL forms and guidance](#)
- ▶ [Infrastructure Funding Statement \(IFS\)](#)
- ▶ [CIL and s106 advice service](#)

▶ [Contact us](#)



## Swindon's website main planning page





My Account
Menu

**Have you signed up yet?**

Join thousands of other residents who have already registered for a new online Council Tax account.  
[www.swindon.gov.uk/ctaxreg](http://www.swindon.gov.uk/ctaxreg)

[Home](#) > [Planning and regeneration](#)

## Planning and building control

**Important planning service update**

We are currently receiving high numbers of planning applications, appeals and enquiries which means applications are taking longer to process and decisions are likely to be delayed beyond the anticipated time limits.

Planning officers are currently seeking extensions of time for determination.

We apologise for this delay and appreciate your continuing patience and understanding.

In light of this, we would encourage the use of the [frequently asked questions webpage](#) and the [planning portal website](#) for general enquiries.

**Planning applications and prior approval update**

From Wednesday, 5 July 2023 certain planning applications and prior approval applications with 9.4km of North Meadow Special Area of Conservation, must be subject to an Appropriate Assessment under the Habitats Regulation 2017.

Please see our [habitats, ecology and bio-diversity page](#) to check if your application is affected.

<a href="#">Make a planning application</a> >	<a href="#">Search for planning applications</a> >	<a href="#">Guide to planning</a> >
<a href="#">Building control and regulations</a> >	<a href="#">New Eastern Villages</a> >	<a href="#">Local plan and planning policy</a> >

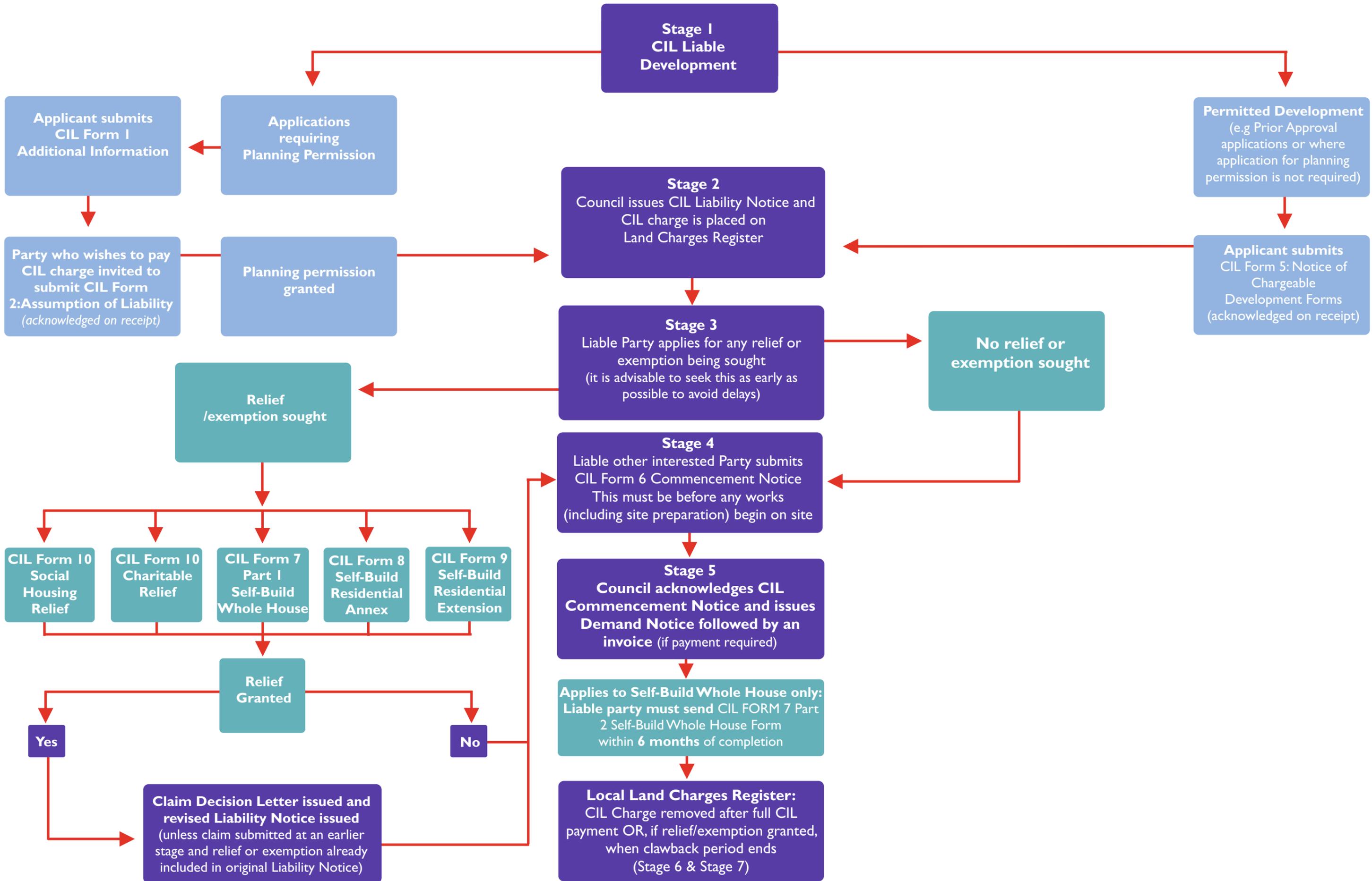
<p><a href="#">Swindon town centre regeneration</a></p> <p>Vision, projects and plans for the town centre re-development</p>	<p><a href="#">Community infrastructure levy</a></p> <p>Mandatory tariff set on new development</p>	<p><a href="#">Report an alleged breach of planning</a></p> <p>How we enforce planning law and control breaches</p>
<p><a href="#">Swindon Heritage Action Zone</a></p> <p>Scheme to revitalise historic areas of the town</p>	<p><a href="#">Appeal against a planning decision</a></p> <p>How to appeal and associated guidance on the Planning Portal</p>	<p><a href="#">Apply for a local land charges searches</a></p> <p>How to apply online, what to pay, advice and support</p>
<p><a href="#">Tree protection</a></p> <p>How to request a tree preservation order</p>	<p><a href="#">Planning committee meetings and agendas</a></p> <p>Browse details of planning decisions and committee documentation</p>	<p><a href="#">Planning document copies and charges</a></p> <p>How to request copies online and what to pay</p>
<p><a href="#">Conservation areas</a></p> <p>List of areas and supporting documentation</p>	<p><a href="#">Listed buildings</a></p> <p>Apply for listed building consent and search the National Heritage list</p>	<p><a href="#">Landscape and countryside management</a></p> <p>Guidance on landscape, arboriculture and countryside initiatives</p>
<p><a href="#">Self build register</a></p> <p>Guidance about building your own home</p>	<p><a href="#">Habitats, ecology and bio-diversity</a></p> <p>Natural environment requirements for planning applications and prior approvals</p>	<p><a href="#">Nature conservation and creation</a></p> <p>Work to protect and enhance nature and wildlife in Swindon</p>

	<p><b>Fostering Friendly</b></p> <p>with Swindon Council</p>	<p>Contact us</p> <p>Accessibility</p> <p>Your privacy</p> <p>A-Z of services</p> <p>Newsletters</p>
		<p>© 2024 Swindon Borough Council Powered by <b>Jadu</b></p>

Southend on Sea City Council's CIL process flowchart from website

# Basic CIL Process Diagram

Please note: This diagram summarises the CIL Process and is provided for guidance only. Please ensure you also refer to the CIL Regulations 2010 (as amended) and the Council's CIL webpages [www.southend.gov.uk/cil](http://www.southend.gov.uk/cil) to ensure you comply with the relevant requirements.



## POS ENTERPRISES CIL REVIEW COMPARATOR AUTHORITIES

For years 2022/23 and 2023/24 to date

Item	West Berkshire	Auth 1	Auth 2	Auth 3	Auth 4
Total number of CIL Liability Notices issued	273	81	188	1193	350
Total number of exemptions agreed – domestic extensions	62	6	70	159	42
Total number of exemptions agreed – domestic annexes	3	0	5	40	19
Total number of exemptions agreed – self build	29	11	63	202	75
Total number of Liability Orders issued	0	0	0	0	0
Number of appeals	15	1	2	37	1
Number of successful appeals	2 (3 pending)	0	2	13	1 <i>(allowed in part)</i>
Number of complaints received	15	0	5	2	0
Number of fte staff working directly on CIL	3.3	1.8	3	3.58	1.5
Do you have a standard target time for responding to CIL communications?	No policy in place	No, usually by return same day	3 wkg days	7 days email enq 5 days LNs where possible	No standard but 5 wkg days (10-15 if complex or high workload)

### Comparator authorities CIL income and expenditure 2021/22 and 2022/23 including admin costs

	Income 21/2	Income 22/3	Spend 21/2	Spend 22/3	Admin 21/2	Admin 22/3
W Berks	£6.29m	£4.642m	£3.85m	£7.54m	£307k	£232k
Auth 1	£5.63m	£6.29m	£6.69m	£8.10m	£281k	£314k
Auth 2	£10.43	£9.97m	£8.08m	£8.02m	£288k	£330k
Auth 3	£6.312	£6.792m	£4.16m	£6.26m	£320k	£359k
Auth 4	£3.69m	£1.08m	£250k	0	£185k	£54k

Source: Local Authority Infrastructure Funding Statements