

West Berkshire Council Discretionary CIL Householder Review Scheme 2024 – 2025

Introduction:

The Community Infrastructure Levy (CIL) is a charge that can be levied by local authorities on new development in their area. This is an important tool to support local authorities to deliver infrastructure to support development in the local area, such as schools, roads and flood defences.

Following the introduction of a CIL Enforcement Policy – Householder Applications in May 2024, the Council agreed that it would consider requests from householders that it undertake a discretionary review of CIL payments made by them to the Council for qualifying householder development. This scheme sets out the criteria and process by which the Council will consider such requests.

The introduction of this discretionary CIL review process is to ensure that householders who have previously paid CIL are not penalised due to a genuine mistake or other circumstance beyond their control which resulted in a CIL payment being due.

This scheme does not apply to reviews or appeals made via the existing CIL Regulation 113 Review process to the Planning Inspectorate or the Valuations Office Agency (VOA).

It is not intended to enable the refund or cancellation of a CIL charge where the CIL liability has been assumed by a developer nor when the development has resulted in a capital gain through the subsequent sale or letting of a property.

Each case will be considered on its merits and reviewed in accordance with the CIL Enforcement Policy – Householder Applications. The Council has absolute discretion in the application of this Scheme and in determining the eligibility for re-calculation and re-issue of a Liability or Demand notice or refund of any CIL already paid.

Application process:

Applications will be considered taking into consideration the following criteria;

1. A formal request for review must be submitted to cil@westberks.gov.uk on the CIL Householder Review Scheme application form and received between 1 June 2024 and 31st May 2025. A request for a review can also be made via the digital form available on the Council's website.

2. The development in respect of which CIL was paid must have been a householder development in West Berkshire that falls into one of the following categories:
 - a. An extension to a person's own home in excess of 100sqm
 - b. Development of a residential annex (change of use/conversion of an existing building or newly constructed annex) within the grounds of a person's own home
 - c. A new build dwelling that has been built or commissioned to be built as a person's own home and principal residence
3. A request for a review must be made by the person (or persons in the case of joint liability) who assumed CIL liability for the development in question.
4. The person requesting the discretionary review will be required to provide evidence to support their application, including:
 - a. Evidence should be provided to demonstrate that the applicant would have met the exemption or relief criteria, if the correct process had been followed, prior to commencement of development.
 - b. Evidence should be provided to demonstrate the precise nature of the mistake made on the part of the applicant at the time of making an application for relief, exemption or offset or the nature of the mistake made on the part of the Council in determining the CIL Liability.
 - c. Evidence should be provided to demonstrate that if relief or exemption had been granted prior to commencement of development, the development would continue to meet the minor development exemption, residential annex exemption, or extension and no disqualifying event has occurred.
5. Any request for a discretionary review of a CIL payment by a householder will be considered by way of an Initial CIL Review undertaken by the Executive Director – Place in consultation with either the Leader, Deputy Leader, or the Portfolio Holder for Finance on the basis of the evidence submitted.
6. This will follow an internal validation process of each application and an initial assessment and recommendation by the CIL review team.
7. Agreement to re-issue a CIL Liability Notice with a zero liability will only occur where the Council is satisfied in its absolute discretion that the charge and liability and/or demand notice was incorrect due to a genuine error on the part of the applicant or error on the part of the Council.
8. Refunds will only be issued to the person who made the CIL payment to the Council where there was a genuine error on the part of the applicant or error on the part of the Council during the CIL exemption process, which resulted in the CIL charge becoming payable.
9. Surcharges and late payment interest charges will be refunded at the discretion of the panel based on the facts of the case.

10. Applications for financial compensation in addition to repayment of CIL, surcharges and late payment interest paid to the Council will not be considered under this scheme.
11. The Council will evaluate all relevant evidence and will notify the Householder of its decision in respect of the Initial CIL Review within 20 working days of the receipt of the formal request. Where this timescale cannot be met, the person requesting the review will be kept updated as to progress.
12. Where a request for a review has been rejected at the Initial CIL Review, the Householder may request the opportunity to present their case in person to a Member Panel. This request for a review must be received by the Council within 10 working days of the date of the Initial CIL Review decision. The Member panel will be comprised of three members of the Administration (including two Members of the Executive). The considerations for the Member Panel at this stage of the process will be the same as set out above, having regard to any additional representations made at the hearing by the person requesting the review, and the Executive Director Place.
13. There will be no further right of appeal.