

Caerphilly County Borough Community Infrastructure Levy

Guidance Note 1 Example Calculations of CIL Liability

Takes Effect From 1st July 2014

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PREFACE

Caerphilly County Borough Council formally approved its Community Infrastructure Levy Charging Schedule (Charging Schedule) on 10 June 2014.

The Charging Schedule will take effect from 1 July 2014. This means that any planning application that is determined after that date will be subject to the provisions of the Charging Schedule.

This document is supplementary to the CIL Charging Schedule and provides guidance on how to calculate the CIL charge for different types of development.

Community Infrastructure Levy Guidance Note 1: Examples of How CIL Liability are Calculated

1.1 Purpose of document

- 1.1.1 This document sets out examples of how CIL liabilities are calculated and covers many scenarios that will occur within Caerphilly County Borough. **The examples are as at January 2014**

1.2 Basis of CIL calculations

- 1.2.1 All CIL calculations are based on the net increase in the Gross Internal Area (GIA) of the development, as set out in Regulation 40 of the Community Infrastructure Levy Regulations 2010 (as amended).

1.3 Indexation

- 1.3.1 CIL liabilities are index linked from the year in which the charging schedule took effect to the year in which planning permission is granted. The index used is the All-in Tender Price Index published by the Build Cost Information Service (BCIS), as set out in Regulation 40(7) of the Community Infrastructure Levy Regulations 2010.
- 1.3.2 As a result there will be no indexation on CIL liabilities for planning permissions granted in 2014

1.4 Mandatory relief for charitable development and social housing

- 1.4.1 Examples of how levels of mandatory relief will be calculated can be found in Guidance Note 3 - Social Housing Relief and Guidance Note 4 - Charitable Development Relief.

1.5 Definition of “Lawful Use”

- 1.5.1 The definition of lawful use is contained in Regulation 40(10) of the Regulations 2010 as amended by 40 (11) of the Amendment Regulations 2014 and states:

“For the purposes of this regulation a building is in use if a part of that building has been in use for a continuous period of at least six months within the period of 12 months ending on the day planning permission first permits the chargeable development.”

1.6 Exemption for self-build housing

- 1.6.1 The Amendment Regulations 2014 inserts an additional exemption for self-build housing. A person is eligible for an exemption from liability to pay CIL in respect of a chargeable development, or part of a chargeable development, if it comprises self-build housing or self-build communal development. Self build housing is a dwelling built by a specific person (including where built following a commission by that specific person) and occupied by that person as their sole or main residence (Refer to Regulation 54A of the Amendment Regulations 2014).

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The Scenarios

Scenario 1

The development of a new dwelling in the Higher Viability Zone either detached or attached to an existing dwelling. The new dwelling is 90m².

Though the development is less than 100m², it results in the creation of a new dwelling and therefore CIL applies.

The CIL charge for residential development in the Higher Viability Zone is £40 m².

The calculation is as follows:

90m² x £40 per m² = **CIL liability of £3,600**

Scenario 2

The development of an extension to an existing dwelling. The existing dwelling is 105m² and the extension is 45m²

The size of the existing dwelling is irrelevant. The only matter of relevance is the size of the extension.

As the extension is for less than 100m² of development, and does not result in the creation of a new dwelling, CIL does not apply.

Scenario 3

The conversion of an existing dwelling to two flats. The existing dwelling is 105m² and the conversion will not result in any new build floor space.

The size of the existing dwelling is irrelevant.

As the conversion does not result in any new development (i.e. it all takes place within the existing dwelling), CIL does not apply.

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Scenario 4

The conversion and extension of an existing dwelling in the Higher Viability Zone to form 2 flats. The existing dwelling is 105m² and the extension is 45m².

The size of the existing dwelling is irrelevant here. What is relevant is the level of new build. Although it is only 45m², because it results in a new dwelling, CIL applies.

The CIL charge for residential development in the Higher Viability Zone is £40 m².

The calculation is as follows:

$$45\text{m}^2 \times £40 \text{ per m}^2 = \text{CIL liability of } £1,800$$

Scenario 5

The demolition of an existing dwelling in lawful use (see note on Page 1) in the Higher Viability Zone and the construction of a block of flats in its place. The existing dwelling is 120m² and the block of flats is 1,000m²

The development of the block of flats results in the creation of a new dwelling therefore CIL applies. However, because the existing dwelling is in lawful use, its floor space is deducted when calculating the CIL liability.

The CIL charge for residential development in the Higher Viability Zone is £40 m².

The calculation is as follows:

Process 1 – deduct existing floor-space from new floor space

$$\text{The chargeable area is } 1,000\text{m}^2 - 120\text{m}^2 = 880\text{m}^2$$

Process 2 – calculate CIL liability based on the net increase in floor space

$$880\text{m}^2 \times £40 \text{ per m}^2 = \text{CIL liability of } £35,200$$

Scenario 6

The demolition of an existing dwelling not in lawful use (see note on Page 1) in the Higher Viability Zone and the construction of a block of flats in its place. The existing dwelling is 120m² and the block of flats is 1,000m².

The development of the block of flats results in the creation of a new dwelling therefore CIL applies. Because the existing dwelling is not in lawful use, its floor space is not deducted when calculating the CIL liability

The CIL charge for residential development in the Higher Viability Zone is £40 m².

The calculation is as follows:

$$1,000\text{m}^2 \times £40 \text{ per m}^2 = \text{CIL liability of } £40,000$$

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Scenario 7

The demolition of a building of 5,000m², 1,000m² of which is in lawful use, and its replacement with a building of 10,000m², comprising 1,000m² of retail development, 5,000m² of office development and 4,000m² of hotel development.

The key issue here is that the existing building is in lawful use. Therefore the total amount of existing floor space can be deducted from the CIL liability. As the new building comprises a range of uses, the deduction of the existing floor space is applied on a pro rata basis across the new uses.

The CIL charge for office development is £0 per square metre.

The CIL charge for retail development is £100 per square metre.

The CIL charge for hotel development is £0 per square metre.

The calculation is as follows:

Process 1 – calculate the deduction factor for the existing floor-space

$$5,000\text{m}^2 \text{ (existing floor-space)} / 10,000\text{m}^2 \text{ (new floor space)} = 0.5$$

Process 2 – calculate the office liability existing floor-space

$$5,000\text{m}^2 \times \text{£0 per m}^2 \times 0.5 = \text{£0}$$

Process 3 – calculate the retail liability

$$1,000\text{m}^2 \times \text{£120 per m}^2 \times 0.5 = \text{£50,000}$$

Process 4 – calculate the hotel liability

$$4,000\text{m}^2 \times \text{£0 per m}^2 \times 0.5 = \text{£0}$$

Process 5 – calculate the total liability

$$\text{Office (£0)} + \text{Retail (£50,000)} + \text{Hotel (£0)} = \text{CIL liability of £50,000}$$

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Scenario 8

A charitable institution gains planning permission for a supported housing residential development of 1,315 square metres GIA, and a retail unit (which will be occupied by the charitable institution) of 75m² GIA on a cleared site in the Higher Viability Zone.

The residential CIL rate in the Higher Viability Zone is £40m² and the retail CIL rate is £100m², therefore the total CIL liability is £60,100 (i.e. Residential liability of £52,600 + Retail liability of £7,500).

Prior to commencement of the development, the Council receives a claim for charitable relief.

The Council grants mandatory charitable relief for the residential element because the tests in Regulation 43 are satisfied, but does not grant charitable relief for the retail element because that is classed as an investment activity and the Council is not offering discretionary charitable relief for investment activity.

Consequently the CIL liability is reduced to £7,500 (i.e. the retail liability)

Scenario 9

A residential development of 4,000m² Gross Internal Area (GIA) on a cleared site in the Higher Viability Zone is granted planning permission.

The residential CIL rate in the Higher Viability Zone is £40 per m²; therefore the CIL liability is £160,000.

Prior to the commencement of the development, the Council receives a claim for 950m² of Social Housing Relief.

The calculation of the revised CIL liability is as follows:

Process 1 – Deduct the GIA eligible for relief from the total GIA

The total GIA (4,000m²) – the GIA eligible for relief (950m²) = 3,050m²

Process 2 – Recalculate the CIL liability

3,050m² x £40m² = **Revised CIL liability of £122,000**

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Scenario 10

The conversion of the first floor of an existing property within the higher viability zone into 2 residential flats. The ground floor of the property is an A1 retail unit. The first floor is currently used as storage for the retail unit.

The size of the existing dwelling is irrelevant.

As the conversion does not result in any new development (i.e. it all takes place within the existing building), CIL does not apply.

Scenario 11

The conversion of a 2,000m² vacant chapel in the Mid Viability zone into a residential dwelling. The building is vacant and has not been in use for 5 years.

The building is no longer in Lawful Use; therefore the floor space is not deducted when calculating the CIL liability

The residential CIL rate in the Mid Viability Zone is £25 per m²; therefore the CIL liability is:

$$2,000\text{m}^2 \times £25\text{m}^2 = \text{CIL liability of } \mathbf{£50,000}$$

Note: This building is CIL eligible and would not fall under the provisions of Regulation 54A as amended by the Amendment Regulations 2014, Exemptions for self-build housing. Self-Build housing is classified as 'a building built by a person (including where built following a commission by that person) and occupied by that person as their sole residence'. The Chapel is a conversion of an existing building and so cannot be considered to be self-build.

Scenario 12

A 3000m² retail unit within Caerphilly Town Centre has been vacant and not in use for a period exceeding 12 months. An application has been submitted to convert the former retail unit into a Public House. The application would not result in an extension or amendment to the gross internal area.

The building is no longer in Lawful Use; therefore the floor space is not deducted when calculating the CIL liability. The CIL rate for Class A3 uses is £25 m² therefore the CIL liability is:

$$3,000\text{m}^2 \times £25\text{m}^2 = \text{CIL liability of } \mathbf{£75,000}$$
