

## COMMUNITY INFRASTRUCTURE LEVY (CIL) *GUIDANCE NOTES*

### Form 1: Determination of CIL Liability

**Please read these notes before completing the CIL Form 1: Determining CIL Liability. It is designed to help you complete the form accurately.**

Please note that changes to the national CIL Forms in September 2019 have been replicated in Shropshire Council's CIL Forms. Specifically, CIL Form 1: Determination of CIL Liability has replaced CIL Form 0: Determination of CIL Liability. CIL Form 2: Assumption of Liability has replaced CIL Form 1: Assumption of Liability. Their contents remain the same.

Completion of **CIL Form 1: Determining CIL Liability** is required alongside the submission of a Planning Application. Failure to do so may result in the Planning Application not being validated and delay the consideration of the application until the form is submitted. It may also cause problems selling your land or buildings at a later date.

The form will enable Shropshire Council to establish whether or not your development is liable to make a CIL contribution, and if so to calculate it accurately using the gross internal floor areas and other information that you provide.

Shropshire Council will also independently check plans when applications are assessed. Misleading or inaccurate answers could delay the processing of your application, result in a CIL liability that is higher than it needs to be, and in some cases may lead to surcharges being imposed.

Your development may be liable for a charge under the Community Infrastructure Levy (CIL), if it involves:

1. The formation of one or more new dwellings (including holiday lets), either through conversion or new build, regardless of size (unless it is 'affordable housing'); or
2. The establishment of new residential floorspace (including extensions and replacements) of 100sqm or above. *Note: If the additional residential floorspace is over 100sqm then all additional floorspace created is CIL liable, not just the area exceeding this threshold.*

The CIL levy rate applies to all residential floorspace (including ancillary buildings such as garages). It also applies to Holiday Lets which are considered use class C3. CIL liability is calculated based on the "**gross internal areas**" of the "**development for which planning permission is granted**" (CIL Regulations 40 and 9). This is the proposed floorspace of a development **before** the consideration of any deductions for existing floorspace that is to be converted or demolished. If your scheme is liable, this charge is payable on commencement of development.

**Please Note:** *it is the responsibility of the liable party to understand and comply with the National CIL Regulations, including any eligibility for relief. Shropshire Council can only make an assessment of a CIL liability based on the information provided.*

Further information on CIL and all relevant forms can be found on the Council's website at: [www.shropshire.gov.uk/cil](http://www.shropshire.gov.uk/cil).

## **What information is required in CIL Form 1: Determination of CIL Liability?**

**Question 1: Application Details** requires the applicant(s) to provide their personal information, information on the site and a description of the proposed development.

**Question 2: Liability for CIL** requires the applicant(s) to identify the type of development proposed; this information is used to determine whether it is liable for a contribution to CIL.

If the development is an extension of less than 100m<sup>2</sup> (before deductions) the applicant(s) should also provide the proposed floorspace of the extension before deductions to inform the Councils assessment of the CIL liability of the development.

**Question 3: Reserved Matters Applications** requires the applicant(s) to identify whether the application relates to details or reserved matters pursuant to an Outline Application that was granted planning permission prior to the introduction of the CIL charge in Shropshire on the 1<sup>st</sup> January 2012. If so details of the previous planning permission must be provided.

**Question 4: Minor and Non Material Changes** requires the applicant(s) to identify whether the application represents either:

- A Section 73 Application for minor material changes to an existing planning permission; or
- A Non Material Amendment Application for non-material changes to an existing planning permission.

If so details of the previous planning permission must be provided and any changes to the overall amount of chargeable floorspace (increase or decrease) resulting from the revisions to the development.

**Question 5: Exemption or Relief** if relevant allows the applicant(s) to identify whether they consider that the development would be eligible for a form of relief from CIL.

*This must be applied for separately using the appropriate relief application process.*

**Question 6: Phasing** if relevant allows the applicant(s) to identify whether they are interested in phasing the development for the purposes of CIL. If the applicant(s) is intending to phase the development they should identify the potential number of phases.

*Please note: If development is to be phased, the relevant Planning Permission must expressly provide for the development to be carried out in phases. Each phase is considered a separate chargeable development.*

### **Question 7: Existing Buildings:**

**Question 7.1: Number of Existing Buildings** requires the applicant(s) to identify the number of existing buildings located within the application site boundary that are to be demolished, converted or undergo a change of use.

**Question 7.2: Details of Existing Buildings** if relevant, requires the applicant(s) to identify:

- The gross internal floorspace of each existing building located within the application site boundary that is to be demolished, converted or undergo a change of use;
- Whether each building has been 'in lawful use' for a continuous period of at least six months within the period of thirty six months (three years) ending on the day planning permission first permits the chargeable development;
- When that 'lawful use' last occurred; and
- What 'lawful use' occurred in the building.

Buildings that are to be demolished, converted or undergo a change of use as part of the development may be deducted from the CIL liability, but **only** if it “contains a part that has been in ‘lawful use’ for a continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development” (CIL Regulation 40 (as amended)).

It is the applicant’s responsibility to provide evidence to the effect that buildings were in a use that is “lawful”, and that the building(s), or part of the building, have been in use for a “continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development”. **If no or insufficient evidence is provided, Shropshire Council cannot deduct the floor space.**

A building is considered to have been occupied for its ‘lawful use’, where its use is consistent with its approved use. Clarification as to what constitutes a ‘lawful use’ is given in the Town and Country Planning Act, Section 191 (2).

**Please Note:**

**If a building is demolished before the date at which development can first commence then it cannot be deducted from the chargeable floorspace.**

*For the purposes of CIL, a Planning Permission first permits the commencement of a chargeable development:*

- *Ordinarily, on the date Planning Permission is granted.*
- *However, where development is phased through an Outline and subsequent Reserved Matters Applications this is the day the last Reserved Matter associated with each phase of development is agreed, or if earlier, and if agreed in writing by the collecting authority before commencement of any development under that permission, on the day final approval is given under any pre-commencement condition associated with that phase.*
- *Where the development is phased through any other form of Planning Application, this is the day final approval is given under any pre-commencement condition associated with that phase; or where there are no pre-commencement conditions associated with that phase, the day planning permission is granted. Any pre-commencement conditions will be clearly marked on the planning consent as “condition(s) that require approval before the development commences”.*

*When the final Reserved Matter Application or pre-commencement conditions associated with each phase are discharged/approved, the applicant(s) should provide Shropshire Council with confirmation that building(s) can still be considered to have been in ‘lawful use’, as defined above.*

**Question 8: Proposed Residential Floorspace**

**Question 8.1: Chargeable Floorspace** requires the applicant(s) to indicate whether an application includes chargeable floorspace. This includes new dwellings, extensions, conversions, garages or any other buildings ancillary to residential use.

**Question 8.2: Details of Chargeable Floorspace** if relevant, requires the applicant(s) to provide details of the floorspace of any market dwellings, affordable dwellings and ancillary buildings such as garages.

If the breakdown of the residential floorspace is not known at the time of completing the form, please just enter the total residential floorspace (including ancillary buildings) and put a note to explain that the amount of affordable housing is to be determined.

The Council's definition of "affordable dwellings" is contained in *Appendix G of the Type and Affordability of Housing Supplementary Planning Document*. Occupational dwellings that will default to affordable housing only include those that have a legal agreement that provides for the dwelling to revert to affordable housing in the event of the occupational restriction being lifted.

**Question 8.3: Mezzanine Floor** requires the applicant(s) to identify whether the development involves the conversion of an existing building, and if so, whether it will involve the creation of a new mezzanine floor within the existing building. If yes, the applicant(s) should identify how much of the gross internal floorspace proposed will be created by a mezzanine floor.

### **Question 9: Proposed Non-Residential Floorspace**

**Question 9.1: Non-Residential Floorspace** requires the applicant(s) to indicate whether any non-residential floorspace results from the implementation of the Planning Application. This floorspace is not CIL chargeable however the information is required to allow the Council to determine the CIL liability of a scheme.

**Question 9.2: Details of Non-Residential Floorspace** if relevant, requires the applicant(s) to provide details of any non-residential floorspace. This floorspace is not CIL chargeable however the information is required to allow the Council to determine the CIL liability of a scheme.

**Question 10 Additional Information** this question allows the applicant(s) to provide any additional information that may assist the Council in determining the liability of a scheme.

**Question 11: Declaration** requires the applicant(s) to sign a disclaimer confirming that the information provided, is accurate.

**Please note:** *It is an offence for a person to knowingly or recklessly supply information which is false or misleading in a material respect to Shropshire Council, as the CIL 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.*

**Question 12: Assumption of Liability** allows the applicant(s) to assume liability for the payment of any CIL levy associated with the development. This would mean that the applicant(s) would not need to submit CIL Form 2: Assumption of Liability at a later date.

**Please Note:** *When a person(s) assumes liability for payment of a Community Infrastructure Levy Charge for a development they must declare that: 'I/we understand that I/we must submit a commencement notice in order to secure the 60 day payment window or such time as the charging authority has allowed in its current payment instalments policy, as per the requirements of the Community Infrastructure Levy Regulations (2010) as amended. I/we am/are aware of the surcharges I/we will incur if I/we do not follow the correct procedures for paying the CIL charge. I/we understand any communication and actions by the collecting authority to pursue me/us for the assumed liability will be copied to the site land owners (as defined in CIL regulations)'.*