

Community Infrastructure Levy

Supporting policies and guidance for implementation of CIL in Teignbridge

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Introduction to Supporting Policies and Guidance

1. The policies and guidance relating to the operation of the CIL are at the discretion of the Charging Authority. Guidance is subject to change in accordance with amendments to Regulations and Government policy.
2. The rate at which CIL is levied must be based on the economic viability of development, taking into consideration the cost of development (such as the costs imposed by planning requirements, affordable housing requirements, build costs and interest rates), balanced against local house prices. CIL must be charged at a level that most development can bear.
3. The CIL raised by Teignbridge will be spent within communities on improving and providing new infrastructure services.
4. The CIL Charging Schedule viability evidence has been prepared in consideration of typical planning obligations agreed under section 106 of the Town and Country Planning Act 1990, and in view of policies contained in the Local Plan 2020-2040.
5. It is important to note that a commencement notice must be submitted for most chargeable development prior to the development commencing. If a commencement notice is not submitted in time, the charging authority may be required to impose a surcharge (currently equal to 20% of the notional chargeable amount, capped at £2,500).

The Definition of Development

6. The following development types may be liable for CIL;
 - any new development that results in the creation of one or more dwellings;
 - development comprising 100m² or more of new build floorspace;
 - the conversion or change of use of redundant buildings.
7. For the purposes of applying the CIL, the definition of “building” does not include:
 - a building into which people do not normally go;
 - a building into which people go only intermittently for the purpose of maintaining or inspecting machinery; or
 - a building for which planning permission was granted for a limited period.

8. Where buildings are demolished to make way for new buildings (such as replacement dwellings), the charge is based on the net increase in floorspace (ie; new floorspace minus the floorspace of the demolished buildings). Any offset from existing buildings is allocated proportionately to proposed new use classes across the new development.
9. The floorspace resulting from changes of use will not be charged where the building has been in continuous (lawful) use for at least six months of the three years prior to permission. In order to 'preserve' active uses following submission of a valid planning application, where sites have evidenced existing 'active uses' at the point of submission of a valid planning application, the determination of CIL changes should be based on consideration of those active uses at the point of calculation. This is particularly to ensure complex brownfield sites which may have a protracted determination process, do not lose CIL exemptions during the period of determination or S106 negotiations, which may impact their viability.
10. For retail, the type of retail development attracting the CIL Charge is presently in Use Class E(a) and includes large convenience and comparison retail in stores greater than 280 sq m sales area. Town Centre development in use classes E (b) – E (g) is £0 (zero) CIL rated.
11. Residential developments where the permission includes conditions restricting the development for holiday use are CIL liable unless they are flats or apartments.
12. Edge of Exeter development includes the strategic Local Plan allocations around Exeter at Atwells and South West Exeter.

Exemptions and Relief

Affordable Housing

13. CIL on dwellings is only payable on open market dwellings. Dwellings which meet the definition of social housing will not be required to pay CIL where a S106 has been agreed to secure the affordable housing. The Teignbridge £0 rate for affordable dwellings should remove the need for filing regulator relief claims (where a S106 agreement exists).
14. Where developments propose other forms of affordable housing consistent with the definitions of the NPPF, such as Discounted Market Sales Housing (with provisions in place to ensure it remains at a discount for future eligible households), Shared Ownership properties and Starter Homes, it should be noted that these are considered as affordable housing, and so would be £0 m² CIL.
15. Where open market units are delivered on a Policy H7 Rural Exception Site for the purpose of supporting and cross subsidising the delivery of the affordable housing, open market units will be CIL zero rated providing a S106 is in place for at least 70% of the new homes to be affordable. Development benefiting from this exemption must conform with the policy requirements relating to the Rural Exception Site policies in the Local Plan.
16. Where open market units are delivered on a Policy H8 Other Exception site for the purposes of providing housing for local people with a local connection test as a Planning Condition or obligation, the rate will be as set out in the Charging Schedule.

Self and Custom Build

17. Self and custom build dwellings and residential annexes and extensions can qualify for relief from paying CIL where they comply with the regulations. For self and custom build these include:
- CIL Liability has been assumed by the applicant prior to commencement
 - The dwelling / extension are for the applicants sole or main residence who must also own a material interest in the dwelling
 - The applicant occupies the dwelling for three years following completion, and
 - Appropriate forms and evidence are provided. Teignbridge will only accept CIL Form 7 available via the Planning Portal website.
18. Exemption must be granted before development commences. Sale or letting of the self and custom build property within a period of three years from completion will result in a withdrawal of exemption and requirement to pay the CIL outstanding.
19. It is important to note that a commencement notice must be submitted prior to the development commencing.

Retirement housing and Assisted Living

20. Housing for older people such as 'Retirement villages' can include a mix of age-restricted homes, as well as a range of communal facilities. The main forms of retirement housing and assisted living are defined as follows;
- a. Retirement housing, often known as "Sheltered Housing" or "Retirement Living" usually provides some facilities not found in completely independent accommodation. These can include a secure main entrance, residents' lounge, access to an emergency alarm service, a guest room. Extra facilities and services are paid for through a service charge on top of the purchase price or rent. To move into retirement housing residents are assumed to be independent enough not to need care staff permanently on site.
 - b. Supported Housing, often known as "Extra Care Housing" or "Assisted Living" provides for everyday care and support needs. Facilities will include those available in retirement housing plus others (such as a restaurant, communal lounges, social space and leisure activities, staff on site 24 hours a day). Service charges are likely to be higher than in retirement housing but this reflects the more extensive range of facilities.
 - c. Care Homes include what have traditionally been described as residential care homes or nursing homes and is where integral 24-hour personal care and/or nursing care are provided together with all meals. A care home is a residential setting where a number of older people live, usually in single rooms and people occupy under a licence arrangement.
21. Retirement housing as defined in a) above is liable for CIL in accordance with the Charging Schedule. Where retirement housing is deemed 'affordable housing' it is £0 CIL.
22. Supported housing such as Extra Care and Residential Care Homes are rated as £0 CIL.

Other development:

23. Residential development in the form of flats and apartments, including development such as extra care and sheltered accommodation, is £0 (zero) CIL rated where the development comprises 2 or more units on 2 or more storeys (in Use Class C3 or C4). This exemption does not apply to single homes.
24. For minor development (excluding new residential dwellings), CIL is not liable if the gross internal area of new build will be less than 100 sq m.

25. Where a charitable institution owns land, it may be exempt from CIL, providing the development will be used entirely or mainly for charitable purposes. Investments into land or buildings made by or on behalf of charities, where that land or buildings shall not be used entirely or mainly for charitable purposes would not be eligible for CIL relief.
26. Teignbridge Council as the Charging Authority has a duty to collect CIL in accordance with the Regulations. The Council is unable to make exceptions where it would contradict the regulations, irrespective of the particular circumstances that developers or applicants find themselves.

Instalment Policy

27. The payment of CIL is allowed in instalments. This will allow payments to be spread over longer periods and is proposed in order to assist all developers in managing their cash flow.
28. The Instalment Policy will take effect on adoption of this CIL Charging Schedule.
29. Instalments shall comprise 2 x 50% payments of the total chargeable CIL payable at the following times:
 - Instalment (1) – 50% of the total chargeable amount to be paid within 12 calendar months from commencement date
 - Instalment (2) – 50% of the total chargeable amount to be paid within 24 calendar months from commencement date
30. In accordance with Regulation 70 (Payment Periods) of the CIL Regulations 2011, a chargeable development may only benefit from the instalment policy where;
 - a. a person has written to the Council to assume liability to pay CIL in respect of the chargeable development, and;
 - b. the Council has received a timely commencement notice and has not been required to determine a deemed commencement date.
31. If the above requirements are not satisfied, the total CIL liability will become payable within 60 days of the commencement of the chargeable development.
32. The Council also has the right to apply surcharges if the CIL Assumption of Liability Form or the CIL Commencement Notice is not submitted to the Council prior to the commencement of the chargeable development.
33. Once the development has commenced, all CIL payments must be made in accordance with the CIL Instalment Policy. Where a payment is not received in full on or before the day on which it is due, the total CIL liability becomes payable in full immediately (Regulation 70(8)(a)).
34. Liable persons may pay the liability in full at any time before instalments are due. The instalment policy applies to cash payments. Where the council has agreed to consider land, buildings or infrastructure to be provided in lieu of cash payments, payment schedules will form part of the legal agreement between the Local Planning Authority and the applicant.

Payments In Kind and Infrastructure Payments

35. As specified in CIL Regulations where appropriate Teignbridge may agree to accept land, buildings as all or part of the payment of the CIL owed.

36. As specified in Regulation 73 an agreement to accept land and buildings as payment in kind would be where the value of CIL paid would be equal to the agreed value of the land and buildings acquired in kind (as determined by an independent person). Other key aspects of regulation 73 to highlight include:
- the person from whom land is acquired has assumed liability to pay CIL [73(6)(c)], and
 - an agreement to make land payment must be entered into before the development is commenced [73(6)(d)].
37. As specified in CIL Regulation 73A and 73B Teignbridge Council will consider, where appropriate, accepting infrastructure payments. Any agreement for infrastructure payments must be entered into before development commences. The Council is not obliged to accept any offer of payment in kind by land or infrastructure.
38. The Council will, subject to regulatory requirements, consider infrastructure payment for those projects, or types of projects which appear in the Infrastructure Delivery Plan, or any other physical infrastructure that directly supports the needs of the area.

Exceptional Relief

39. Teignbridge Council will consider granting discretionary relief from CIL liability where there are proven unique and exceptional circumstances.
40. The Council will only consider granting exceptional circumstance relief where the following provisions are satisfied including that;
- a s106 planning obligation has been entered into in respect of the planning permission for the chargeable development;
 - the Council considers that to require payment of the CIL charged in respect of the chargeable development would have an unacceptable impact on the economic viability of the development proposal; and
 - the Council is satisfied that to grant relief would comply with the UK's international subsidy control commitments (the World Trade Organisation (WTO) Agreement on Subsidies and Countervailing Measures (ASCM)).

Recovery of CIL passed to a Town or Parish Councils

41. Teignbridge passes 15% of CIL receipts (or 25% where a Neighbourhood Plan is adopted) to the relevant Town and Parish Councils. This CIL funding must be spent on addressing the demands that development places on an area, including funding the provision, improvement, replacement, operation or maintenance of infrastructure.
42. Local Town and Parish Councils will have 5 years from receipt to spend the funding on appropriate infrastructure (such as schools, health facilities, play areas or public transport). Where CIL funding is being accumulated beyond 5 years for a larger or longer-term project, the Town and Parish Council should communicate this, preferably through an infrastructure plan published on their website.
43. Teignbridge may serve a notice on a Town or Parish Council requiring it to repay some or all of the unspent CIL receipts if they have not been spent within 5 years of receipt. This action is most likely to be necessary in areas where the demands of new development, such as on education or travel infrastructure, require local

funding to be committed to infrastructure priorities (as set out in the infrastructure delivery plan).

44. Teignbridge may service notice on a Town or Parish Council requiring the repayment of funds where those funds are considered to have been mis-spent (eg not on infrastructure concerned with addressing the demands that development places on the area).