

Dartford Community Infrastructure Levy Guidance:

*Frequently Asked Questions for Planning
Applicants*

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DARTFORD
BOROUGH COUNCIL

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a) What does this advice do?

This note outlines some key features of the Community Infrastructure Levy (CIL) in Dartford Borough. It provides a starting point about how the CIL levy is applied locally, for those considering altering their property or preparing planning applications, providing answers to commonly asked questions. It also points to further sources of information and how to find out more about CIL.

It does not set out statutory requirements, and is not an exhaustive guide to CIL. Broader guides on the Levy in general are available nationally for residents, local parishes and other interested parties.

b) What is the Community Infrastructure Levy?

The Community Infrastructure Levy (CIL) is a charge on development that will allow Dartford Council to raise and pool contributions from developers to contribute towards funding a wide range of infrastructure. It will help to pay for things such as schools, health facilities and transport improvements - all things that are necessary to support new development. Affordable housing is not included in CIL payments and should still be provided on developments in line with adopted policy.

c) Do I have to pay CIL on my development proposal?

The levy was introduced in Dartford on the 1st April 2014. From this point all developments that are granted planning permission may be subject to CIL. Reserved matters consents linked to outline planning consents approved prior to 1st April 2014 will not trigger a liability for CIL. Where a previous permission is varied after 1st April 2014, CIL will only be chargeable on any proposed floorspace that is in addition to that previously permitted.

The charge applies to most new development where the proposed new floorspace is 100 square metres or more or where a new dwelling is created. Normally proposals for change of use where no new floorspace is being created, or the erection of additional (mezzanine) floors in an existing building will not be liable to CIL.

d) If I am just extending my home, is this exempt from CIL?

This is not always the case. Some large extensions or changes may increase the floorspace by more than 100 square metres and may be CIL liable. However, where CIL is liable, it is possible to apply for exemption from paying the charge for this type of development. (See answer i below *Are Any Exemptions available?*).

e) Isn't CIL added to Council Tax/ Business Rates

No. This is a specific levy that is collected from new development. The money collected is pooled to pay for the infrastructure that is needed to support new development. It is additional to these other local taxes/rates, which are used to support running of services and ongoing maintenance costs, rather than provision of new infrastructure.

f) Who pays the charge? Is CIL paid by the agent or advisor I am paying for, or paid by the occupiers?

The responsibility to pay CIL rests with the owner(s) of the land at the time the development takes place. You cannot always assume local agents etc. have included, providing the CIL information required by the Council, advising you about the CIL process after planning consent is granted and/or pay the CIL Charge it within their fees.

It is possible for others to assume liability for the payment. If you have agreed for someone else to take on the CIL liability, you must notify the Council of any changes and the details of these. However, normally, liability is directly with the owner.

g) What about CIL and Section 106 Agreements?

CIL has replaced developer contributions for some types of infrastructure, including schools, road improvements and health facilities that in the past were funded through site specific Section 106 agreements. A regulation 123 list has been published on the Council's website of the types of infrastructure and projects that will be funded by CIL. After 1st April 2014, S106 obligations will not normally be sought for the types of infrastructure included on the Regulation 123 list.

In addition to paying a CIL charge, you may need to make provision for affordable housing in line with policy requirements, through a planning condition. In some limited circumstances, and also on many of the larger developments in the Borough, you may be required to make additional payments or meet specific obligations through a S106 agreement to mitigate the impacts of the proposal. This could be for non- CIL funded infrastructure such as highways safety works, play equipment, management and maintenance of open spaces, flood defences or drainage works.

h) What are the charges in Dartford?

Charges are set out in the adopted Charging Schedule. This has been through public consultation, independent examination and is supported by economic viability evidence. The rate is set out as pounds (£) per square metre and, in Dartford, varies according to the location and type of development. The main rates applicable are set out in the Appendix, based on the Charging Schedule. It should be noted that these rates are subject to indexation (see answer K below).

Dartford's Charging Schedule includes specific CIL rates for the following development:

- Residential
- Retail
- Office/ industrial/ hotel/ leisure.

Other uses may have a nil rate, but any queries over CIL liability should be checked with Dartford Borough Council, including for sites within the Ebbsfleet Development Corporation.

The rate for all residential development in Zone A (southern part of the Borough) is £200 /sqm.

In Zone B (the northern part of the Borough), the charge for residential development is, for viability reasons, related to the policy requirement for affordable housing (Core Strategy CS 19). Sites of over 15 homes have a policy requirement for affordable housing and for these sites the lower rate of £100 /sq. m is applied, even where, for viability reasons, no affordable

housing is provided. For sites of less than 15 units, there is no policy requirement for affordable housing and a charge of £200/ sq. m is applied. This applies even if the developer chooses to include affordable housing as part of the scheme, although an exemption can be claimed for the affordable housing element.

See the Appendix for maps of the charging zones.

i) Are any exemptions available?

Residential annexes, extensions, homes built or commissioned by the occupant affordable housing, development for charitable purposes, may not have to pay the charge but the applicant **must** apply for exemption **prior to commencement of development** (see answer n) below : *What information has to be provided to the Council?*). Applicants should note that specific requirements must be met and changes to the qualifying development within a specified period following commencement, may lead to full liability being applied.

Individual commercial or competition considerations for businesses (or as with planning law in general, personal circumstances) are not a basis for exemption. The Council has the option of formulating an Exceptional Circumstances policy. As at March 2017, it is considered that there is no strong justification for a local exceptional circumstances policy. Circumstances where exemptions do apply, in accordance with national regulations, are identified in the paragraph above.

j) Can I sort out CIL payment once I have completed building?

The start of development is a trigger for payment. If development commences, without informing the Council, the CIL Charge must be paid immediately with no ability to apply the time options as set out in the Instalment Policy. See answer m): *When does the payment have to be made?* The Council has a variety of collection powers that may be applied where the charge is not paid within the specified period.

k) How is the charge calculated?

Any existing floorspace within the proposal that is to be demolished or will remain can be deducted from the charge if it has been in continuous lawful use for 6 months in the last three years. In cases where existing floorspace is vacant at the time of planning application, evidence of previous continuous use will be required such as council tax or business rate documentation.

All floorspace within the external walls of the building including corridors, toilets, stairwells, storage, lift shafts etc. is included in the calculation. New floorspace includes residential garages.

The method of calculating the CIL charge has been set by the Government and can be found in the Dartford Charging Schedule. The basic calculation takes the net additional floorspace of the proposal and multiplies this by the relevant Dartford CIL rate and inflation index. An indication of the likely percentage increase, is regularly updated on the Dartford Council website. Liability of less than £50 is treated as zero.

I) Examples of how CIL is calculated

Site	Proposed Development & Gross Internal Floorspace in square metres (SQM)	CIL Liable?	Chargeable area and CIL calculation
No existing buildings	Single new dwelling (95 sqm)	Yes	Liability is 95sqm multiplied by £200 (Dartford rate for housing development under 15 units) multiplied by the relevant inflation index. Whilst the floorspace is under 100 sqm the proposal is CIL liable as a new dwelling is being created.
Existing dwelling	Extension to existing dwelling (30 sqm)	No	Not liable as the extension is under 100 sqm and a new dwelling is not being provided.
Existing dwelling	Residential annex (105sqm)	Yes – but exemption may be applied for	Liability is 105 (sqm) multiplied by £200 (Dartford rate for housing development under 15 units) multiplied by the relevant inflation index. The proposed extension is over 100 sqm. Note: the charge could be reduced to zero if a residential annex exemption application is received and approved.
Existing dwelling - in use*	Demolition of existing (100 sqm) and erection of new dwelling (125 sqm)	Yes	Liability would be 25 (sqm) multiplied by £200 (Dartford rate for housing development under 15 units) multiplied by the relevant inflation index. The charge is calculated by subtracting 100 (sqm existing dwelling) from 125 (sqm new dwelling).
No existing buildings	Erection of 25 new dwellings (2500 sqm)	Yes	Liability is 2500 (sqm) multiplied by relevant Dartford rate (either £100 or £200 depending on location)

	Including 9 affordable homes (900 sqm)		multiplied by the relevant inflation index. Note: this could be reduced to 1600 (sqm) multiplied by the indexed Dartford rate if an application for social housing relief is received and approved.
No existing buildings	Erection of office (90 sqm)	No	The proposal is under 100 sqm and does not create a new dwelling
Warehouse – in use*	Demolition of warehouse (500 sqm) and erection of offices (2,000 sqm)	Yes	Liability would be 1,500 (sqm) multiplied by £25 (appropriate Dartford rate) multiplied by the relevant inflation index. The charge is calculated by subtracting 500 (sqm existing warehouse) from 2,000 (sqm new offices).
Warehouse – not in use	Change of use of warehouse (500 sq. m) with <u>an new extension (90 sq. m)</u> to retail	No	The proposal creates under 100 sqm of new build floorspace and does not create any new dwellings

Note: if the existing floorspace had not been occupied for at least 6 months in the last 3 years for a lawful use then, according to the CIL regulations, the floorspace is considered as not in use and cannot be discounted from chargeable development floorspace.

m) When does the payment have to be made?

If the correct procedure is followed, the charge has to be paid within 60 days of commencement of development. If the correct procedure is not followed the charge is due on commencement. The Council has published an instalment policy on its website to enable charges of £100,000 or over to be paid in phases, so as to assist with cash flow issues on larger schemes. The instalment policy is available on the Council's website.

n) What information has to be provided to the Council?

There are a number of forms and notices that must be submitted to the Council at various points in the lead up to commencement. The Council must be notified if circumstances change.

Exemptions and Relief

Some types of development may apply for exemption. See answer i above *Are any Exemptions available?* This must be made using the correct forms and by providing all required information (see below). All submitted forms will be acknowledged. The Council will determine applications for exemption as soon as possible after receipt. **It should be noted that grant of exemption or relief must be approved before development commences.** Otherwise exemption or relief from the Charge cannot be applied.

Information and exemption claim forms and notices

(**Bold** indicates a form that all CIL liable developments must submit to the Council).

Form	Planning portal web page /reference (Forms may also be downloaded from the Council's website)	When Required	Other information
For <u>development s applying for planning consent</u> CIL Planning application Additional Information Requirement Guidance	https://ecab.planningportal.co.uk/uploads/1app/cil_guidance.pdf	With Planning application	There is an accompanying guidance note Relevant planning applications submitted without a completed form will be invalid
For relevant <u>development that does not require planning consent:</u> Notice of Chargeable Development	https://ecab.planningportal.co.uk/uploads/1app/forms/form_5_notice_of_chargeable_development.pdf Form 5	Prior to commencement	Additional site plans and photographic evidence required
Assumption of Liability	https://ecab.planningportal.co.uk/uploads/1app/forms/form_1_assumption_of_liability.pdf Form 1	Prior to commencement	If no-one has assumed liability before a demand notice is issued the liability defaults to the owners of the land.
Withdrawal of assumption of liability	https://ecab.planningportal.co.uk/uploads/1app/forms/form_3_withdrawal_of_assumption_of_liability.pdf Form 3	Prior to commencement	This may happen in cases where a person or organisation had previously officially assumed liability (Form 1) because of their material interest in the development but subsequently that interest no longer exists. <u>Note:</u> this would annul any agreed relief – therefore
			Form 1 "Assumption of Liability" must be re-submitted together with a new application for relief (Form 2).

Transfer of assumption of liability	https://ecab.planningportal.co.uk/uploads/1app/forms/form_4_transfer_of_assumed_liability.pdf Form 4	Prior to last payment	This may happen in cases where a person or organisation has previously officially assumed liability (Form1) because of their material interest in the development and this interest subsequently passes to a different person/organisation. <u>Note:</u> this would annul any agreed relief – therefore a new application for relief (Form 2) must be submitted
Claiming Exemption or Relief for charitable or affordable housing development	https://ecab.planningportal.co.uk/uploads/1app/forms/form_2_claiming_exemption_and_or_relief.pdf Form 2	Must be provided and approved by the Council prior to commencement	Relief is apportioned between each party assuming liability and must be signed by a land owner or qualifying lease holder
Exemption for residential extension (over 100sqm) or annex	https://ecab.planningportal.co.uk/uploads/1app/forms/form_8_self_build_residential_annex_claim.pdf Form 8	Must be provided and approved by the Council prior to commencement	Development must be within the site boundary and be only one dwelling.
Exemption for Self-Build Residential Extension	https://ecab.planningportal.co.uk/uploads/1app/forms/form_9_self_build_extension_exemption_claim.pdf Form 9	Must be provided and approved by the Council prior to commencement	Development must be within the site boundary and be an large extension to a main dwelling (extensions under 100 sqm are not CIL liable and do not have to apply for exemption)
Exemption and confirmation of self - build development	Part 1 https://ecab.planningportal.co.uk/uploads/1app/forms/form_7_self_build_part_1_exemption_claim.pdf (Claim form)	Must be provided and approved by the Council prior to commencement	A self – build development is that which is built or commissioned by a person, where it is to be their main residence
	Part 2 https://ecab.planningportal.co.uk/uploads/1app/forms/form_7_self_build_part_2_exemption_claim.pdf	6 months after final Building Control /approved inspectors completion	See application form for evidence that must be submitted with this claim for relief
	(confirmation) Form 7 part 1 and 2	certificate	

Commencement Notice	https://ecab.planningportal.co.uk/uploads/1a/pp/forms/form_6_commencement_notice.pdf Form 6	Prior to commencement	This must be submitted to notify that the development is about to begin. A commencement date may be “deemed” by the Council if notification is not received.
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The Process

When Planning Consent is Approved

The Council will issue a Liability Notice setting out how much CIL is to be paid and how this has been calculated. This will be sent to the landowner, to the applicant (if different) and any persons assuming liability. No payment is required at this stage.

When the consented development commences

It is the responsibility of the landowner and/or those who assumed liability to notify the Council when the development is about to commence. Upon receipt of a commencement notice a Demand notice will be dispatched by the Council to all liable parties. It is at this point that liability is formally triggered and all outstanding CIL liability is identified on the local land register. The Council will “deem” a commencement date and issue a Demand Notice if a development commences without a formal commencement notice (form 6) being previously submitted.

o) What happens if I don’t provide the correct information or if I don’t pay?

CIL is registered as a land charge against the property. Unpaid CIL monies may therefore make it hard to sell your land or property. If the correct information is not provided (for example the correct forms) before the development starts, or if payment is not made when due, then surcharges and interest may be applied. The penalties for not paying the charge include: exemptions being revoked; being forced to stop or remove the development; having the property re-possessed to recover the charge and/ or being imprisoned. Therefore it is important to ensure the correct procedures are followed and payment is made on time.

p) Can I appeal against a CIL charge?

The CIL charge is a set charge and is not negotiable. If you think that a mistake has been made in calculating the CIL charge you may be able to ask the Council to review the charge. If you still don’t agree, you may be able to appeal to the Valuation Office Agency. Further information is available on the Council’s website.

q) Further Information

Dartford Council CIL Information

<http://www.dartford.gov.uk/by-category/environment-and-planning2/new-planning-homepage/community-infrastructure-levy>

Planning Practice Guidance: Community Infrastructure Levy

<https://www.gov.uk/guidance/community-infrastructure-levy>

Planning Portal

<http://www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil>

APPENDIX: Dartford CIL Rates & Zones

Table of Rates

(Please also refer to the formal adopted Charging Schedule on-line)

CIL Rate (per square metre)	Zone	Development Type	Type of development included ¹ and <i>use classes</i> ²
		Residential	Dwelling houses and self-contained sheltered or specialist accommodation (but not extra-care housing) C3 -4
£200	A	All residential development	
£200	B	Residential development of less than 15 homes, providing solely market housing	
£100	B	Residential development of 15 homes or more, providing a housing mix which includes a proportion of affordable housing	
		Retail	A1 'All retail' includes supermarkets/superstores, retail warehousing and comparison shopping (retail provision of items not obtained on a frequent basis including clothing, footwear, household and recreational goods stores).
£125	D	All retail development above 500 sq m	
£65	C	Supermarkets/superstores (above 500 sq m)	
£0	C and D	All other retail development	
		Other Development Types	
£25		Office Industrial Hotel Leisure	<ul style="list-style-type: none"> Offices other than those that are for the purpose of providing financial or professional services to visiting members of the public <i>B1a</i> Development that is to be used for business, general industrial, storage and distribution purposes <i>B1, B2 and B8</i> Hotels <i>C1</i> Leisure facilities such as

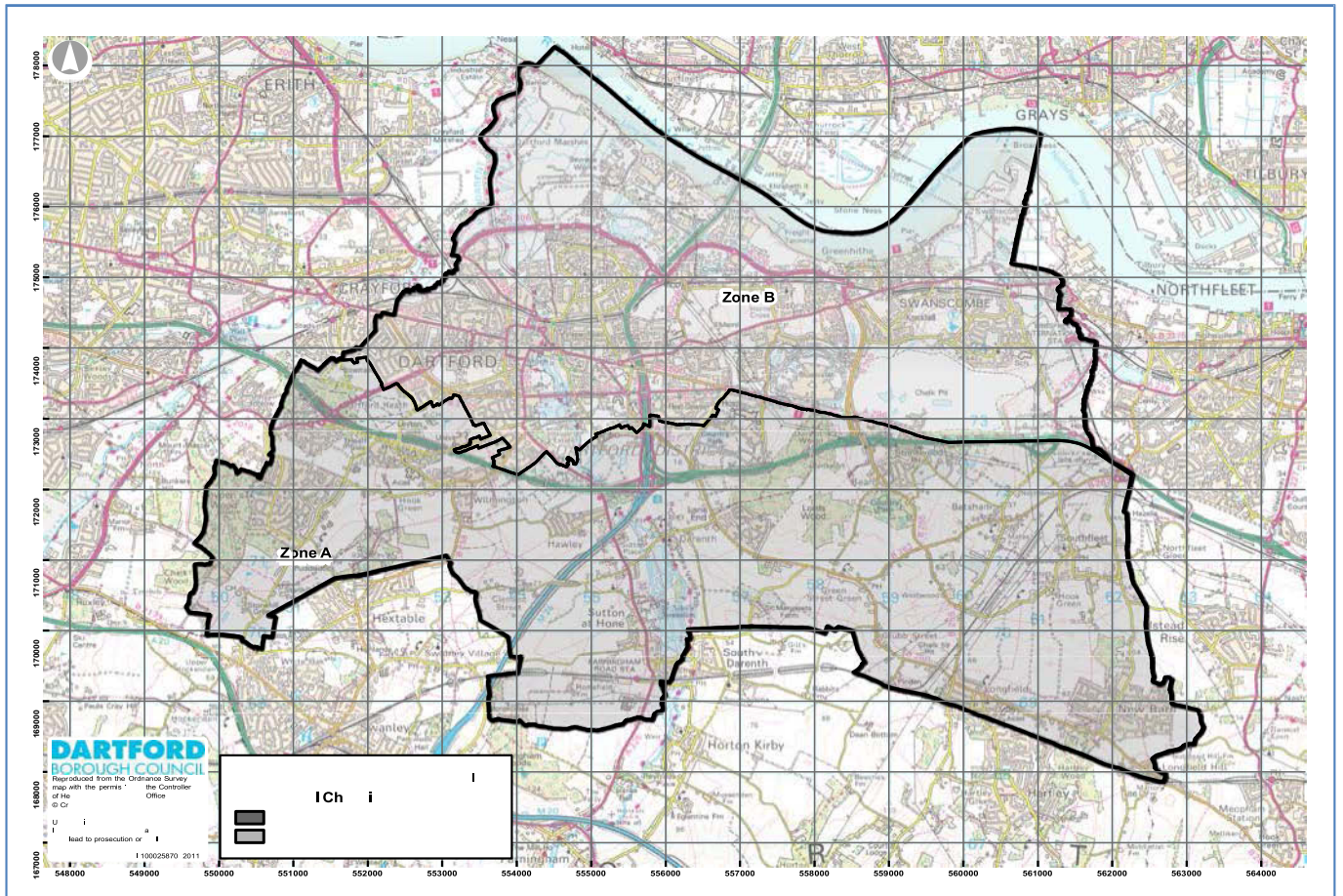
¹ Based on the typologies used in the Dartford CIL Viability Assessment 2012

² Use Class Order 2015

				cinemas, sports centres, sports and concert venues etc. <i>D2</i> ³
£0			Any development types not identified elsewhere in the schedule	

³ May not apply to all D2 uses

Residential Charging Zones



Retail Charging Zones (with large scale Zone C map)

