

LONDON BOROUGH OF BROMLEY



## Community Infrastructure Levy



## Operational Guidance

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Planning Strategy and Projects

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## **1) INTRODUCTION**

### **What is CIL?**

1.1 The Community Infrastructure Levy (CIL) is a levy that allows local authorities to raise funds from new development towards local infrastructure. CIL will supplement rather than replace other sources of funding and will be used alongside a range of other funding sources to continue to invest in infrastructure projects that are required to facilitate and accommodate development in the borough and deliver the adopted Local Plan. Information on how the Council proposes to spend CIL can be found in Part 12 of this guidance.

1.2 CIL is a set charge based on square metres of proposed development at the rates proposed – it is non-negotiable but there are certain provisions that may affect the amount of CIL that has to be paid, such as whether there is Affordable Housing, if the unit is a self-build housing or if a development operated by a charity.

### **Why does the Council propose to operate a CIL?**

1.3 New development will have an impact on the local infrastructure within the Borough. CIL income will assist the funding of the necessary infrastructure that the Council, local community/neighbourhoods need.

1.4 The implementation of a CIL will also have other benefits. It will provide developers with more certainty up front. They will know how much they will need to contribute before they submit a planning application and can factor this in the formulation of development proposals.

1.5 CIL will also provide local communities with greater transparency and understanding of the planning process by seeing how new development is contributing to their community/ward through publication of an 'Annual Funding Statement'. A set proportion of CIL will also be required to be spent in direct consultation with the Local Community where CIL Charging

development has occurred – more guidance on this is set out in Pat 13 of this guidance

### **CIL and Section 106**

1.6 CIL will provide funds towards infrastructure to support the overall development of an area rather than direct mitigation of impacts of an individual development proposal. The Council may still require an individual site to enter into a 'Section 106 agreement' (S106) – which may require the provision of (or a financial contribution towards) measures or infrastructure necessary to make a development proposal acceptable in planning terms. This could include works to the adjacent highway needed to facilitate the development, landscaping and on-site open space, or sums towards the Council's costs of managing and monitoring certain aspects of the development. S106 Agreements will also be used to secure Affordable Housing provision

1.7 Further guidance on S106 agreements can be found in the Council's Planning Obligations Supplementary Planning Document – available at [https://www.bromley.gov.uk/info/1004/planning\\_policy/160/planning\\_obligations\\_supplementary\\_planning\\_document](https://www.bromley.gov.uk/info/1004/planning_policy/160/planning_obligations_supplementary_planning_document)

## **2) LIABILITY TO PAY CIL**

### **General – what type of development and when?**

2.1 Liability to pay CIL applies to all development proposals involving the creation of built floor space, or where creating a new dwelling, which is awarded planning consent on or after the date the schedule is adopted – irrespective of when the application was received by the Council. This includes development permitted under a Government Order, such as the General Permitted Development Order or awarded by the Mayor of London. However CIL does not apply:

- 1) Where the total gross new build floor space proposed (new buildings or extensions to existing buildings) is less than 100 square metres (unless the proposal involves a new residential unit)
  - 2) For floor space defined as a building where people ‘would not normally go’ such as for the purpose of maintaining or inspecting machinery (However floor space ancillary to main use that would be used by occupiers, such as underground car parking would be calculated as part of the development proposal).
  - 3) A building for which planning permission is granted for a limited period.
  - 4) The change of use of any building previously used as a single dwelling house to use as two or more separate dwelling houses.
- For ‘Full’ planning applications or Householder applications this is the date planning permission is awarded (where subject to a S106 agreement, the date the agreement is finalised).
  - For Outline Permission, CIL will be calculated on the date of the last Reserved Matter, however should the outline permission be granted prior to CIL coming into effect, the proposal will not be liable to pay that CIL
  - For sites not requiring express planning permission by the Council – such as those classified as ‘Permitted Development’ under the General

Permitted Development Order – the date the proposal is implemented is deemed for the purposes of CIL to be the date planning consent is awarded,

- Amendments to existing planning permissions may also incur a CIL charge, this is covered in Part 10 of this report

### **Existing Buildings and Demolition**

2.2 The CIL Regulations permit existing floor space that is in lawful use for a continuous a period of at least six months within the three years prior to the award of planning permission, which will either be reused or demolished as part of the development, to be credited against the calculation of the 'Chargeable Area.

2.3 In short, should the proposal contain the demolition of a qualifying building, the Chargeable Area will be on the net increase in floor space. Likewise, should the proposal contain the change of use of a qualifying building, the chargeable area would be calculated on the additional floor space – i.e. any extensions proposed to the building.

2.4 Please note that the credit for an existing building does not alter the exemption for development under 100m<sup>2</sup>. For example if a new development for 110 sqm<sup>2</sup> is proposed, and 50 sq. metres is proposed for demolition, the chargeable amount will be based on 60 sq. metres (110 sq. metres proposed – 50 sq. metres demolished = 60 sq. metres chargeable area).

### **Self-build Homes, Annexes and Residential Extensions over 100m<sup>2</sup>**

2.5 The current CIL regulations permit homeowners developing an extension or annex of 100 sq metres or more to apply for a 100% exemption (or relief) to pay CIL. Please note the development is still liable and the exemption may include provisions to pay the liability should the building be sold in a set period or fail to operate as ancillary to the main dwelling.

2.6 The regulations also allow for exemption to pay CIL for those who are proposing to self-build a new home, however evidence needs to be supplied to support this claim.

2.7 It is essential that anyone wishing to claim such an exemption or relief follow the set procedure in the regulations, otherwise the Council may not be able to award the relief / exemption – more information can be found in Part 8 of this guidance.

### **Development by Charities**

2.8 The CIL Regulations permit charitable institutions to claim 100% exemption to pay CIL where the development will be used wholly or mainly for a charitable purpose where occupied by (or under the control of) that charitable institution. Please note that the exemption applies to the claimant and only for their proportion of the operational development for the charitable purpose. A charitable exemption must be claimed in line with the set procedures, and may be required to be paid in future if there is a change of owner or the development ceases its charitable function. – More information can be found in Part 7 of this Guidance.

### **Affordable Housing**

2.9 The CIL Regulations permit 100% relief on floor space propose for use as Affordable Housing – including communal areas associated with the use of Affordable Housing. The amount of relief is calculated after the Chargeable Amount has been determined and is subject to restrictions on the continued use of the floor space for affordable Housing – more details can be found in Part 6 of this guidance

### **Amending an existing planning application**

2.10 If a planning application is amended prior to implementation, the Council will revise the CIL Liability noticed on the new floor space, However, where an amendment is proposed after the development has commenced,

the regulations operate an 'abatement' process – that's is the revised proposal becoming the new chargeable amount with the payment on the previous payment being credited towards it.. More details can be found in part 10 of this guidance.

### **Who is liable?**

2.11 The standard assumption is that the existing landowner(s) is the liable party/parties for liability to pay CIL - at their material interest in the land. The CIL liability will be registered as a Local Land Charge and will be enforceable on all future parties with an interest in the land. Failure to pay CIL is an offence, which can result in a fine, cessation of the development or potentially commitment to prison.

2.12 The CIL regulations require that the interested party / parties identify themselves prior to commencement of development – through the submission of a 'Assumption of Liability Form'. Failure to submit this form may invalidate any claims for relief or exemption. The liability to pay CIL can be amended in future through the submission of a 'transfer of Liability Form'. Information that needs to be supplied to the Council is outlined in Pat 3 of this guidance

### 3) WHAT YOU WILL NEED TO SUPPLY AND WHEN?

#### As part of the Planning Application

3.1 A Form 1 – 'CIL Additional Information' must be supplied. Failure to supply a completed form may result in the Council refusing to 'validate' the planning application and not progress to a decision. This form enables the Council to determine whether an application is liable to pay CIL – it should be completed even if you consider that the proposal is not liable for CIL.

3.2 It is further recommended that an 'Assumption of Liability' form (Form 2: Assumption of Liability) is supplied at this stage - this will enable the Council to confirm early on whether the proposal qualifies for any relief claims; where there is more than one liable party, this will also allow the Council to determine the proportion of liability.

#### Following award of Planning Permission by the Council

The Council will aim to issue a liability notice' as soon as possible – this will set out the amount payable for the development. Should you envisage starting commencement but have yet to receive a liability notice, you must immediately notify the Council. Liability notices can be amended prior to implementation in light of revised details.

#### Prior to commencement

3.3 Any claim for relief or exemption must submit the necessary form prior to the commencement of development, failure to supply this information may void any claims for exemption or relief, and may also incur a surcharge

**Note:** *All development with a CIL Liability MUST submit a Form 6 'Commencement Notice' prior to commencement, irrespective of whether they propose to claim any relief or exemption – failure to do so will result in a surcharge.*

Form 2: Assumption of Liability – where not supplied as part of the Planning application

Form 3: Withdrawal of Assumption of Liability – where the party / parties previously assumed liability now wish to withdraw that assumption

Form 4: Transfer of Assumed Liability – where the liable parties have changed since the award of planning permission

Form 5: Notice of Chargeable Development – Developments proposed under a government order – such as those under the General Permitted Development Order – are still liable to pay CIL and must submit to the Council this form outlining the proposed development – this should be supported with a completed 'Form 1 – 'CIL Additional Information' and (Form 2: Assumption of Liability) prior to commencing development.

**Form 6: Commencement Notice – A CIL Liabile development must notify the Council of the date they propose to implement the scheme – failure to do so will result in a surcharge being applied equal to 20% of the chargeable amount or £2,500, whichever is the lower amount .**

Form 7: Self Build Exemption Claim - Part 1 – Those seeking to claim exemption as 'self-build proposals must complete this form. A further form with supporting evidence must also be submitted following completion – more information can be found in part 8 of this guidance

Form 8: Residential Annex Exemption Claim - Those seeking to claim exemption as a residential annex , ancillary to the main dwelling, must complete this form.

Form 9: Residential Extension Exemption Claim- Those seeking to claim exemption as 'a large extension to an existing dwelling must complete this form

Form 10: Charitable and/or Social Housing Relief Claim – claims for Charitable Development and Affordable Housing. The Council may require supporting information to confirm this claim More information can be found in parts 5 and 6 of this guidance.

Following receipt of a commencement notice by the Council

The Council will issue a CIL 'Demand Notice' - This will set out the amount of CIL payable inclusive of any valid Claims for relief and how and when to pay

**After Commencement**

3.4 Form 7: Self Build Exemption Claim - Part 2 – Where the Council has approved the submission of Part 1 prior to commencing, the form must then be submitted within 6 months of the completion of the self-build dwelling. Further details on the claim procedure is outlined Part 8 of this guidance

**It is the claimant's responsibility to supply the Council with accurate and up-to-date information. The requirement to complete the above forms is set out in nationally prescribed regulations. The Council does not have discretion on this, and failure to supply the relevant forms will result in claims being voided**

All relevant forms are available on the Planning Portal at:

[https://www.planningportal.co.uk/info/200136/policy\\_and\\_legislation/70/commUnity\\_infrastructure\\_levy/5](https://www.planningportal.co.uk/info/200136/policy_and_legislation/70/commUnity_infrastructure_levy/5)

#### 4) CALCULATING THE CHARGEABLE AREA

##### The formula

4.1 In order to calculate the amount CIL (the 'Chargeable Amount'), the amount of floor space for each chargeable use must be calculated. The CIL Regulations set out in Schedule 1 part 1 of the CIL Regulations the following formula:

$$G_R - K_R - \left( \frac{G_R \times E}{G} \right)$$

where—

G = the gross internal area of the chargeable development;

G<sub>R</sub> = the gross internal area of the part of the chargeable development chargeable at rate R;

K<sub>R</sub> = the aggregate of the gross internal areas of the following—

- (i) retained parts of in-use buildings; and
- (ii) for other relevant buildings, retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development;

E = the aggregate of the following—

- (i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development; and
- (ii) for the second and subsequent phases of a phased planning permission, the value E<sub>x</sub> (as determined under sub-paragraph (7)), unless E<sub>x</sub> is negative, provided that no part of any building may be taken into account under both of paragraphs (i) and (ii) above.

4.2 In essence, the CIL formula apportions the Chargeable Area at the relevant CIL rates, with a proportionate credit for demolished floor space across the proposed uses, while retained floor space is credited against the specific use. For the purpose of the following examples, it is assumed that the development is delivered without 'phases' (which is covered further in Part 11 of this guidance).

## Worked Examples

4.3 In order to aid practical interpretation, the following are examples of how the Chargeable Area is calculated:

Example 1 – The development of a new 2 storey house on a cleared site			
	<i>KR: Retained in-use buildings (sqm)</i>	<i>E: In-use buildings to be demolished (sqm)</i>	<i>GR: Total GIA of the chargeable development (sqm)</i>
<i>Residential</i>	0	0	300
<i>Shared living</i>	0		0
<i>Retail Warehouse</i>	0		0
<i>Supermarket</i>	0		0
<i>Other</i>	0		0
<i>Total</i>	0		<b>G = 300</b>
Residential Total = $300 - 0 - (300 \times 0 / 300) = 300 \text{ sqm}$			

Example 2 – The development of a supermarket with 20 flats on a cleared site			
	<i>KR: Retained in-use buildings (sqm)</i>	<i>E: In-use buildings to be demolished (sqm)</i>	<i>GR: Total GIA of the chargeable development (sqm)</i>
<i>Residential</i>	0	0	2000
<i>Shared living</i>	0		0
<i>Warehousing</i>	0		0
<i>Supermarket</i>	0		1500
<i>Other</i>	0		0
<i>Total</i>	0		<b>G = 3500</b>
Supermarket Total = $1500 - 0 - (1500 \times 0 / 3500) = 1500 \text{ sqm}$			
Residential Total = $2000 - 0 - (2000 \times 0 / 3500) = 2000 \text{ sqm}$			

Example 3 – Demolition of an existing dwelling and construction of a new property

	<b>KR: Retained in-use buildings (sqm)</b>	<b>E: In-use buildings to be demolished (sqm)</b>	<b>GR: Total GIA of the chargeable development (sqm)</b>
<b>Residential</b>	0	200	300
<b>Shared living</b>	0		0
<b>Warehousing</b>	0		0
<b>Supermarket</b>	0		0
<b>Other</b>	0		0
<b>Total</b>	0		<b>G = 300</b>

Residential Total =  $300 - 0 - (300 \times 200 / 300) = 100 \text{ sqm}$

Example 4 – Demolition of an existing office building and the construction of a retail warehouse and 2 houses

	<b>KR: Retained in-use buildings (sqm)</b>	<b>E: In-use buildings to be demolished (sqm)</b>	<b>GR: Total GIA of the chargeable development (sqm)</b>
<b>Residential</b>	0	150	400
<b>Shared living</b>	0		0
<b>Warehousing</b>	0		2000
<b>Supermarket</b>	0		0
<b>Other</b>	0		0
<b>Total</b>	0		<b>G = 2400</b>

Warehouse Total =  $2000 - 0 - (2000 \times 150 / 2400) = 1875 \text{ sqm}$

Residential Total =  $400 - 0 - (400 \times 150 / 2400) = 375 \text{ sqm}$

Example 5 – Conversion and extension of a single storey shop into a two-storey building with 6 flats

	<b>KR: Retained in-use buildings (sqm)</b>	<b>E: In-use buildings to be demolished (sqm)</b>	<b>GR: Total GIA of the chargeable development (sqm)</b>
<b>Residential</b>	0	0	500
<b>Shared living</b>	0		0
<b>Warehousing</b>	0		0
<b>Supermarket</b>	0		0
<b>Other</b>	175		0
<b>Total</b>	175		<b>G = 500</b>

Residential Total =  $500 - 175 [100\% \text{ of } 175] - (500 \times 0 / 500) = 325 \text{ sqm}$

Example 6 – Change of use and extension of a 3 storey office building into a retail unit and 9 flats (80% of the retained building will be used for residential, 20% used for retail)

	<b>KR: Retained in-use buildings (sqm)</b>	<b>E: In-use buildings to be demolished (sqm)</b>	<b>GR: Total GIA of the chargeable development (sqm)</b>
<b>Residential</b>	0	<b>0</b>	<b>800</b>
<b>Shared living</b>	0		<b>0</b>
<b>Warehousing</b>	0		<b>0</b>
<b>Supermarket</b>	0		<b>0</b>
<b>Other</b>	700		<b>200</b>
<b>Total</b>	<b>700</b>		<b>G = 1000</b>

Residential Total =  $800 - 560 [80\% \text{ of } 700] - (800 \times 0 / 1000) = 240 \text{ sqm}$

Retail Total =  $200 - 140 [20\% \text{ of } 700] - (200 \times 0 / 1000) = 60 \text{ sqm}$

Example 7 – Change of use and partial demolition of existing supermarket and construction of an office block

	<b>KR: Retained in-use buildings (sqm)</b>	<b>E: In-use buildings to be demolished (sqm)</b>	<b>GR: Total GIA of the chargeable development (sqm)</b>
<b>Residential</b>	0	<b>200</b>	<b>0</b>
<b>Shared living</b>	0		<b>0</b>
<b>Warehousing</b>	0		<b>0</b>
<b>Supermarket</b>	300		<b>0</b>
<b>Other</b>	0		<b>1000</b>
<b>Total</b>	<b>300</b>		<b>G = 1000</b>

Office Total =  $1000 - 300 [100\% \text{ of } 300] - (1000 \times 200 / 1000) = 500 \text{ sqm}$

Example 8 – Change of use and partial demolition of multiple shopping units and construction of a 6 storey office & residential block of 12 flats.  
(75% of the retained building will be used residential, 25% used for office)

	<b>KR: Retained in-use buildings (sqm)</b>	<b>E: In-use buildings to be demolished (sqm)</b>	<b>GR: Total GIA of the chargeable development (sqm)</b>
<b>Residential</b>	<b>0</b>	<b>200</b>	<b>1000</b>
<b>Warehousing</b>	<b>0</b>		<b>0</b>
<b>Shared living</b>	<b>0</b>		<b>0</b>
<b>Supermarket</b>	<b>0</b>		<b>0</b>
<b>Other</b>	<b>400</b>		<b>600</b>
<b>Total</b>	<b>400</b>		<b>G = 1600</b>

Residential Total =  $1000 - 300$  [75% of 400] –  $(1000 \times 200 / 1600) = 575$  sqm

Office Total =  $600 - 100$  [25% of 400] –  $(600 \times 200 / 1600) = 425$  sqm

## 5) CHARGEABLE AMOUNT

5.1 The CIL Chargeable amount is based on the floor space calculations for the Chargeable Area (covered in section 4) multiplied by relevant Charging Rate, with the amount indexed. Schedule 1 part 1 of the CIL Regulations the following formula:

$$\frac{R \times A \times I_p}{I_c}$$

where—

A = the deemed net area chargeable at rate R, calculated in accordance with subparagraph (6);

IP = the index figure for the calendar year in which planning permission was granted; and

IC = the index figure for the calendar year in which the charging schedule containing rate R took effect.

### Indexation

5.2 The CIL Chargeable Amount calculation incorporates indexation of the CIL rates from the date the year the rates were adopted to year planning permission is awarded.

### Worked Examples

5.3 Based on the worked examples of Chargeable Area in section 4 of this guidance, the following Chargeable Amounts would be payable. The index at the date of planning permission is assumed as 340 in these examples

Example 1 – The development of a new 2 storey house on a cleared site

Chargeable Area: Residential = 300 sq.m

London Borough of Bromley CIL Rate		Chargeable Area (sq.m)	Permission Index	Schedule index	Sub total	
Residential	£100					300
Shared Living	£150	0	£0			
Retail Warehousing	£100	0	£0			
Supermarket /food store	£100	0	£0			
Other	£0	0	£0			
					<b>LBB CIL</b>	<b>£30,538</b>

Mayor of London CIL Rate		Chargeable Area (sq.m)	Permission Index	Schedule index	Sub total	
All	£60					300
Health and Education	£0	0	£0			
					<b>MoL CIL</b>	<b>£18,214</b>

**Total Chargeable Amount before any claims for relief = £48,752**

Example 2 – The development of a supermarket with 20 flats on a cleared site

Chargeable Area: Supermarket = 1500 sq.m, Residential Total = 2000 sq.m

London Borough of Bromley CIL Rate		Chargeable Area (sq.m)	Permission Index	Schedule index	Sub total
Residential	£100				
Shared Living	£150	0	£0		

Retail Warehousing	£100	0			£0
Supermarket /food store	£100	1500			£152,695
Other	£0	0			£0
					<b>LBB CIL</b>
					<b>£356,287</b>

Mayor of London CIL Rate		Chargeable Area (sq.m)	Permission Index	Schedule index	Sub total
All	£60	3500	340	336	£212,500
Health and Education	£0	0			£0
					<b>MoL CIL</b>
					<b>£212,500</b>

**Total Chargeable Amount before any claims for relief = £568,787**

Example 8 – Change of use and partial demolition of multiple shopping units and construction of a 6 storey office & residential block of 12 flats.

Chargeable Area: Residential Total = 575 sqm, Office Total = = 425 sqm

London Borough of Bromley CIL Rate		Chargeable Area (sq.m)	Permission Index	Schedule index	Sub total
Residential	£100	575	340	334	£58,532
Shared Living	£150	0			£0
Retail Warehousing	£100	0			£0
Supermarket /food store	£100	0			£0
Other	£0	425			£0
					<b>LBB CIL</b>
					<b>£58,532</b>

Mayor of London CIL Rate		x	Chargeable Area (sq.m)	x	Permission Index	÷	Schedule index	=	Sub total
All	£60		1000		340		336		£60,714
Health and Education	£0	0			£0				
						MoL CIL	£60,714		

**Total Chargeable Amount before any claims for relief = £119,247**

## **6) RELIEF FOR AFFORDABLE HOUSING**

### **Background**

6.1 The CIL Regulations allow for relief for paying CIL on floor space that qualifies for 'Social Housing relief', this being:

- A dwelling is let by a local housing authority
- a private registered provider of social housing
- a dwelling by a person who is not a local housing authority or a private registered provider of social housing

6.2 Social Housing relief applies to Social Rent, Affordable Rent, Reduced Market Rent and Shared Ownership. To qualify for relief, the Affordable Housing unit must meet certain criteria, such as the tenancy arrangement and rent levels – the qualify criteria is set out in Regulation 49. Claims for relief can also include communal floor space under regulation 49C. The Council does not currently accept claims for Discretionary Relief under regulation 49A.

### **Approach and Formula**

6.3 Social housing relief is applied after the CIL Chargeable Amount is calculated, the regulations set out the following formula – which requires the qualifying amount to be determined on the qualifying Chargeable Area. A Form 10: Charitable and/or Social Housing Relief Claim must be submitted prior to commencing the development

$$QR - KQR - \frac{QR \times E}{G}$$

where—

G = the gross internal area of the chargeable development;

QR = the gross internal area of the part of the chargeable development which will comprise the qualifying dwellings or qualifying communal development, and in respect of which, but for social housing relief, CIL would be chargeable at rate R; and

KQR = the aggregate of the gross internal areas of the following—

- (i) relevant retained parts of the in-use buildings; and
- (ii) for other relevant buildings, relevant retained parts where the intended use following completion of the chargeable development is a use that is able to be carried on lawfully and permanently without further planning permission in that part on the day before planning permission first permits the chargeable development.

E = the aggregate of the following—

- (i) the gross internal areas of parts of in-use buildings that are to be demolished before completion of the chargeable development; and
- (ii) for the second and subsequent phases of a phased planning permission, the value  $E_x$  (as determined under sub-paragraph (7)), unless  $E_x$  is negative, provided that no part of any building may be taken into account under both of paragraphs (i) and (ii) above.

### **Social Housing Relief: qualifying communal development**

6.4 A claim can be made for relief on floor space that will be communal and used by the occupants of the social housing units – the ‘Qualifying Communal Development’ is set out in regulation 49C. It is the amount of communal development which is for the benefit of the occupants of more than one qualifying dwelling. It must be calculated by applying the following formula—

$$\frac{X \times A}{B}$$

where—

X = the gross internal area of the communal development;

A = the gross internal area of the qualifying dwellings to which the communal development relates; and

B = the gross internal area of the qualifying dwellings and the relevant development, provided that the communal development is for the benefit of those dwellings and that relevant development.

(5) In this regulation, “relevant development” means development which is granted permission by the same planning permission as the qualifying dwellings in question, but which does not include the qualifying dwellings or the communal development.

### Examples of Calculating Affordable Housing relief

6.5 In order to aid practical interpretation, the following are examples of how the Chargeable Area is calculated

Example 2a – The development of a supermarket with 20 flats on a cleared site, 35% of the flats are to be delivered as affordable (7 units), no communal floor space.

	<b><i>KQR:</i></b> <b><i>Retained in-use buildings (sqm)</i></b>	<b><i>E: In-use buildings to be demolished (sqm)</i></b>	<b><i>Total GIA of the chargeable development (sqm)</i></b>	<b><i>QR: Floor space of Affordable Housing and Communal Development</i></b>
<b><i>Residential</i></b>	0	<b>0</b>	<b>2000</b>	
<i>Of which Affordable Housing</i>	N/A		<b>N/A</b>	<b>700</b>
<i>Of which Communal development</i>	N/A		<b>N/A</b>	<b>0</b>
<b><i>Warehousing</i></b>	<b>0</b>		<b>0</b>	<b>N/A</b>
<b><i>Supermarket</i></b>	<b>0</b>		<b>1500</b>	<b>N/A</b>
<b><i>Other</i></b>	<b>0</b>		<b>0</b>	<b>N/A</b>
<b><i>Total</i></b>	<b>0</b>		<b>G = 3500</b>	<b>GR = 700</b>

Total qualifying Affordable Housing floor space =  $700 - 0 - (700 \times 0 / 3500) =$   
**700 sqm**

London Borough of Bromley CIL Rate		x	Total Affordable Housing floor space (sq.m)	x	Permission Index	÷	Schedule index	=	Sub total
Residential	£100		700		340		334		£71,257

Mayor of London CIL Rate		x	Total Affordable Housing floor space (sq.m)	x	Permission Index	÷	Schedule index	=	Sub total
All	£60		700		340		336		£42,500

Total Amount of relief = £113,757

Example 2b - The development of a supermarket with 20 flats on a cleared site, 20% of the flats are to be delivered as Affordable Housing (4 units = 380 sq.m). 100 sq.m of communal development,

	<b>KQR:</b> <i>Retained in-use buildings (sqm)</i>	<b>E:</b> <i>In-use buildings to be demolished (sqm)</i>	<b>Total GIA of the chargeable development (sqm)</b>	<b>QR:</b> <i>Floor space of Affordable Housing and Communal Development</i>
<b>Residential</b>	0	<b>0</b>	<b>2000</b>	
<i>Of which Affordable Housing</i>	N/A		<b>N/A</b>	<b>380</b>
<i>Of which Communal development</i>	N/A		<b>N/A</b>	<b>100</b>
<b>Warehousing</b>	0		<b>0</b>	N/A
<b>Supermarket</b>	0		<b>1500</b>	N/A
<b>Other</b>	0		<b>0</b>	N/A
<b>Total</b>	<b>0</b>		<b>G = 3500</b>	<b>GR = 480</b>

Total qualifying Affordable Housing floor space = 480 – 0 – (480 x 0 / 3500) =

**480 sqm**

London Borough of Bromley CIL Rate		x	Total Affordable Housing floor space (sq.m)	x	Permission Index	÷	Schedule index	=	Sub total
Residential	£100		480		340		334		£48,862

Mayor of London CIL Rate		x	Total Affordable Housing floor space (sq.m)	x	Permission Index	÷	Schedule index	=	Sub total
All	£60		480		340		336		£29,142

Total Amount of relief = £78,004

Example 8a – Change of use and partial demolition of multiple shopping units and construction of a 6 storey office & residential block of 12 flats, 25% of the flats are to be delivered as Affordable Housing (3 units) , no communal development, Affordable units will occupy 100 sq,m of the retained floor space. Not that the formulae will apportion relief based on the credit already given for demolition and for the amount of retained floor space .

	<b>KQR:</b> <i>Retained in-use buildings (sqm)</i>	<b>E:</b> <i>In-use buildings to be demolished (sqm)</i>	<b>Total GIA of the chargeable development (sqm)</b>	<b>QR:</b> <i>Floor space of Affordable Housing and Communal Development</i>
<b>Residential</b>	0	<b>200</b>	<b>1000</b>	
<i>Of which Affordable Housing</i>	N/A		<b>N/A</b>	<b>250</b>
<i>Of which Communal development</i>	N/A		<b>N/A</b>	<b>0</b>
<b>Warehousing</b>	0		<b>0</b>	<b>0</b>
<b>Supermarket</b>	0		<b>0</b>	<b>0</b>
<b>Other</b>	<b>400</b>		<b>600</b>	<b>0</b>
<b>Total</b>	<b>400</b>		<b>G = 1600</b>	<b>GR = 250</b>

Total qualifying Affordable Housing floor space = 250– 100(floor space in the retained building that would have been charged CIL but for social housing relief) – (250 x 200 / 1600) = **118.75 sq.m**

London Borough of Bromley CIL Rate		x	Total Affordable Housing floor space (sq.m)	x	Permission Index	÷	Schedule index	=	Sub total
Residential	£100		118.75		340		334		£12,088

Mayor of London CIL Rate		x	Total Affordable Housing floor space (sq.m)	x	Permission Index	÷	Schedule index	=	Sub total
All	£60		118.75		340		336		£7,209

Total Amount of relief = £19,297

### Disqualify events

6.6 Claims for relief will expire if a ‘disqualifying event occurs within the ‘clawback period’ – which currently is seven years beginning with the date on which the qualifying dwelling is first let, A disqualify event will mean the amount of relief becomes chargeable, this would be any change in relation to a claim to the extent that it ceases to be a affordable housing, including the sale and disposal of the unit (however this may not apply if the proceeds are spent on further affordable housing).

## **7) CHARITABLE RELIEF**

### **Background**

7.1 Regulation 43 allows Charitable Institutions to claim relief for their proportion of liability – the key criteria is:

- The interested party is a charitable institution
- The chargeable development will be used wholly or mainly for charitable purposes
- Relief will only apply to the part of the development used for a charitable purpose
- Relief will not apply if the material interest is jointly with another party that is not a charitable institution

7.2 A claim for charitable relief must be submitted on Form 10: Charitable and/or Social Housing Relief Claim prior to commencing the development – where there is more than one material interest this must be supported with an apportionment assessment. Failure to supply this information before commencing the development can void the claim.

7.3 The Council will then notify the claimant in writing of whether it will award the relief –and the amount of relief that will be applied. The Council does not offer discretionary charitable relief under regulation 44

### **Disqualifying events**

7.4 A successful claim for relief can expire and the awarded amount become payable if:

- owner of a relevant interest ceases to be eligible for charitable relief
- the whole of a relevant interest is transferred to a person who is not eligible for charitable
- Where the relevant interest is a lease and is terminated before the end of its term

The claimant must notify the council in writing if any of these events occur (within 14 of the event occurring).

## **8) SELF-BUILD, RESIDENTIAL ANNEXES AND EXTENSIONS**

### **Self-Build – Background and formula**

8.1 Exemption for self-build housing can be awarded under regulation 54A for parts of a chargeable development with self-build housing or self-build communal development.

### **Self-build – Requirements Prior to Commencing Development**

8.2 In order to claim an exemption in relation to self-build (including communal development), the claimant must assume liability to pay CIL in respect of that development (Form 2) and submit Form 7: Self Build Exemption Claim - Part 1 – prior to commencing the development. The claimant must confirm that the new dwelling will be their sole or main residence. Where there is more than one liable party, the claimant must identify the part of the development that the claim relates to.

8.3 The Council will then confirm in writing whether it considers that the proposal benefits from relief.

### **Self-build – requirements - Completion of Development**

8.4 Within six months of the date of the compliance certificate (a Building Regulations Completion Certificate) the claimant must submit the Form 7: Self Build Exemption Claim - Part 2 to the council. The form must be supplemented with the following evidence documents:

- Title deeds of the property to which the exemption relates
- A Council Tax bill or certificate
- Utility Bill, Bank Statement or Local electoral roll registration

- Proof of a specialist Self Build or Custom Build Warranty for your development / Proof of an approved Self Build or Custom Build Mortgage# from a bank or building society for your development.

### **Self-Build – Disqualify events**

8.5 An award for self-build relief can expire and result in the chargeable amount becoming payable if the required forms are not submitted or where the building ceases to be the main residence or is sold within the clawback period – this being three years beginning with the date of the compliance certificate relating to the relevant dwelling,

### **Self Build – Communal development**

8.6 Where the development with self-build housing also includes communal floor space that is for the benefit of self-build units, a proportionate claim can also be made by the parties who are liability for any CIL attached to the communal floor space. This is calculated under the following formula

$$\frac{X \times A}{B}$$

where—

X = the gross internal area of the self-build communal development;

A = the gross internal area of the dwelling in relation to which P is claiming the exemption for self-build housing; and

B = the gross internal area of the self-build housing and relevant development (development which is authorised by the same planning permission as the self-build housing in question, but which does not include the self-build housing or the self-build communal development) provided that the self-build communal development is for the benefit of that housing and that relevant development.

## **Residential Annexes and Extensions - Background**

8.7 Extensions to existing homes that exceed 100 sq metres are liable to pay CIL, however the owner is able to claim exemption from paying should they occupy the existing dwelling as their sole or main residence. To qualify the residential Annex must be within the curtilage of the main dwelling, while residential extension must not involve the creation of a new dwelling.

## **Residential Annexes and Extensions – Approach**

8.8 Prior to commencing development, the claimant must submit either the 'Form 8: Residential Annex Exemption Claim' or the Form 9: Residential Extension Exemption Claim. The Council will confirm in writing any exemption as soon as practicably possible. Claims for relief can be voided if the correct information is not supplied to the Council.

## **Residential Annexes and Extensions – Disqualifying Event**

8.9 A valid Claim can also be withdrawn where a disqualify event occurs. The claimant must notify the collecting authority in writing of the disqualifying event before the end of the period of 14 days beginning with the day on which the disqualifying event occurs.;

(a) the use of the main dwelling for any purpose other than as a single dwelling;

(b) the letting of the residential annex; or

(c) the sale of the main dwelling or the residential annex unless they are sold at the same time to the same person. prior to commencement.

## **9) DISCRETIONARY RELIEF, PAYMENT IN KIND AND PAYMENT DEFERRAL**

### **Discretionary Reliefs**

9.1 The Council does not offer Exceptional Circumstances Relief or any other Discretionary Relief

### **Payment in Kind**

9.2 In general the Council does not accept payment in kind. Should a developer wish the council to consider allowing payment in kind via the provision of land or infrastructure, this must be discussed as part of the Planning Application.

### **Covid-19 / Coronavirus**

9.3 Amendments to the CIL Regulations (22nd July 2020) permit under regulation 72A for CIL Payments (and any surcharges) to be deferred for no more than six months beginning with the day the council receives the request in writing. This process is available until 31 July 2021, the claimant must satisfy the following:

- The person / company has an annual turnover not exceeding £45,000,000,
- They have been served with a demand notice by a collecting authority
- They can confirm they are experiencing financial difficulties for reasons connected to the effects of coronavirus resulting in difficulty paying that amount

9.4 Please note that the Council is only the collecting authority for the Mayor of London CIL, who will need to determine whether they willing to grant deferral for their charge Should the council award the deferral, a revised

demand notice will be issued. At present an agreement has been made with the MoL to award deferrals for up to three months for each submitted claim.

### **Covid-19 / Coronavirus - Deferral Process and Requirements**

9.5 A deferral request must be submitted to the Council no more than 14 days before the CIL payment is due. The council will write to the claimant confirming its decision as soon as practicable, and in any event before the end of the period of 40 days beginning with the day the Council receives such a request. The Council is permitted to request information to support a deferral claim – initially this should be a supporting letter from (or on behalf of) the claimant to be sent to the Council at [LCIL@bromley.gov.uk](mailto:LCIL@bromley.gov.uk) or registered post to;

CIL Collection Team  
Planning Strategy Team  
London Borough of Bromley  
Civic Centre  
Stockwell Close  
Bromley  
BR1 3UH

9.6 The submission must include:

- A formal declaration from the liable party (where a company, on company headed paper with the details of the role of the employee) stipulating the circumstance for which the claim relates
- A date onto which the liable party proposes to make payment (no more than 90 days from the date of the request is made).

In some circumstances the Council may require additional evidence to support the claim, such as returns to Companies House or clarification of company details should the claim be made by a subsidiary or separate delivery vehicle.

## **10) AMENDING PLANNING APPLICATIONS**

### **Background**

10.1 Where a planning permission is amended prior to commencing development, the Council will issue a revised liability notice reflecting the new floor space. However, where development commences, a change to the permission affecting the amount of CIL chargeable can only be addressed through the following mechanisms

### **Regulation 74A – Abatement for Section 73 applications (Minor Material Amendment)**

10.2 Where CIL has been paid and then an amended planning application is granted consent under Section 74 of the Town and country Planning Act 1990, the Council will issue a revised liability notice to reflect the new floor space. The revised liability notice will become the enforceable liability, and the developer can request that the CIL paid on the previous liability is credited towards the new liability.

### **Regulation 74B - Abatement: implementation of a different planning permission**

10.3 Where a new application is proposed on the same site to replace an existing application that has been commenced, the developer must notify the Council that the previous application will no longer be carried out and the new permission now takes effect. Whoever such a claim must be made prior to the new permission being commenced. The Council can then credit the previous payment against the new permission, however it cannot be credited against any buildings that have been completed. Where demolition has already taken place, the demolished buildings will be credited against the new permission as per the calculation of liability in part 4 of this guidance. Where the amount previously paid exceeds the new liability, the difference is not treated as an overpayment and is not refundable.

## 11) PAYMENT OF CIL

### General

11.1 Upon receipt of a Commencement Notice or a Notice of chargeable development (see part 3 of this guidance ) or where council determines a development has been commenced, a demand notice will be issued to the CIL liable parties. The regulations require CIL to be paid within 60 days of the development being commenced, however should the development adhere to all the notification requirements, payment is permitted to be paid in instalments.

### Instalments

11.2 The Council is proposing to adopt the Instalments policy currently operated by the Mayor of London, this being:

<b>Amount of CIL liability</b>	<b>Number of instalment payments</b>	<b>Amount or proportion of CIL payable in any instalment/time at which payments are due</b>
£100,000 or less	no instalments	total amount payable within 60 days of commencement of development
£100,001 or more	two	- the greater of £100,000 or half the value of the total amount payable within 60 days of commencement of development  - the remainder within 240 days of commencement of development

### Payment in Phases

11.3 CIL is permitted to be paid per 'phase' of development. however this is only if the planning permission is set out to be delivered in phases. This should be considered as part of discussions on the planning application

## **Making Payments to the Council**

11.4 The CIL demand notice will set out the particulars on how to make a CIL payment to the Council. The demand notice will collect both the London Borough of Bromley's CIL and the Mayor of London CIL.

## **12) SPENDING CIL – BOROUGH-WIDE**

12.1 The CIL regulations require CIL to be spent towards “the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area”. This does not include the provision of Affordable Housing.

12.2 The Council will formulate its approach to spending CIL once it begins to receive CIL receipts, further commentary will be provided as part of the Annual ‘Infrastructure Funding Statement’ (see part 14 of this guidance)

### **13) SPENDING LOCAL PROPORTION OF CIL**

13.1 The CIL regulations directs the council to use CIL raised in the local 'neighbourhood' 'towards

(a) the provision, improvement, replacement, operation or maintenance of infrastructure; or

(b) anything else that is concerned with addressing the demands that development places on

13.2 The definition of 'neighbourhood' is not defined in the regulations, however National Planning Policy Guidance directs the council to engage with the communities where development has taken place and agree with them how best to spend the neighbourhood funding. While no set amount is directed, it is suggested that this follows the requirement under the regulations to pass on CIL receipts to Parish Councils under regulation 59A, this being 15% of the receipts raised in the relevant area.

13.3 The Council will develop the proposal for 'neighbourhood' funding – at present this is envisaged to be at ward level geography.

## **14) REPORTING AND MONITORING**

14.1 The Council is required to produce an annual 'Infrastructure Funding Statement' under Schedule 2 of the CIL regulations, setting out the amount of CIL and S106 received, spent and what it proposes to use funds towards.

14.2 As the Council does not yet collect its own CIL, it reports S106 data annually to the Executive, Resources and Contracts Policy Development and Scrutiny Committee – the last report being 3 July 2019

<https://cds.bromley.gov.uk/ieListMeetings.aspx?Committeeld=116>

14.3 Once CIL is adopted an annual Infrastructure Funding Statement will be produced as par of the Annual Monitoring reports, available at:

[https://www.bromley.gov.uk/downloads/download/73/annual\\_monitoring\\_reports\\_and\\_five\\_year\\_housing\\_supply](https://www.bromley.gov.uk/downloads/download/73/annual_monitoring_reports_and_five_year_housing_supply)