

Arun District Council, Civic Centre, Maltravers Rd, Littlehampton, West Sussex, BN17 5LF

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From: Julie Grieves

Sent: 30 May 2022 13:36

To: Jonathan Stackhouse [REDACTED]

Subject: RE: M/54/22/HH - Clover Cottage

Hi,

The appeal decision referred to there only being living area, bathroom and bedroom. No kitchen and therefore not self-contained. Your proposal shows bedroom, bathroom, kitchenette and living room and therefore can be used independently from the dwelling house.

I have attached notes on how I concluded that the above was CIL Liable (Point 4.15 of our notes explains annexes) but

“When is a residential annex liable for CIL?”

CIL liability is determined by whether a proposal is considered (in planning terms) to be an **ancillary dwelling** or an **annex**. An ancillary dwelling is treated like a new dwelling and therefore the 100 sqm threshold does not apply, whereas an annex is treated like an extension to the main house and is therefore subject to the 100 sqm threshold.

Ancillary dwelling

An ancillary dwelling is defined as self-contained accommodation (new build or conversion) that is capable of being occupied independently from the main house (has its own entrance and facilities, eg kitchen/bathroom), whether it is attached or detached from the main house. It is treated as a new dwelling and needs full planning permission.

Annex

An annex is defined as an extension to an existing dwelling with a physical connection and with an internal connection (eg doors) and with reliance on the main house for facilities (eg kitchen and/or

bathroom) or it can be detached from the main house, but the accommodation is limited and not capable of being occupied independently of the main dwelling. It is treated as a householder extension"

As previously stated, you can apply for relief and CIL would not be payable. However, as you have stated on a document that it won't be self-contained, I shall record as Not CIL Liabile.

Regards,

Julie

Julie Grieves

Community Infrastructure Levy Officer

T: 01903 737500 ext.37448

E: julie.grieves@arun.gov.uk



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From: Jonathan Stackhouse [REDACTED]
Sent: 30 May 2022 13:01
To: Julie Grieves <julie.grieves@arun.gov.uk>
Subject: RE: M/54/22/HH - Clover Cottage

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Dear Julie,

I'm not sure I follow how you conclude the appeal proposal was 'not fully self-contained' but the Clover Cottage proposal is. You also refer to the Clover Cottage proposal as 'could be used as a dwelling'.

Paragraph 9 of the appeal decision is quite clear in saying that the approved drawings in that case showed a separate access and included a living area, bedroom and bathroom. This is the same as the Clover Cottage proposal. Paragraph 9 of the appeal decision also refers to the collecting authority as considering there was 'clear scope for the outbuilding to function as a separate unit of accommodation', which is the same argument you appear to applying by saying the ancillary annexe could be used as a dwelling.

However at paragraph 12 of the decision letter it is clearly concluded that there is no reference in the CIL Regs to accommodation that has the scope to be used as a separate dwelling. So a proposal cannot become CIL liable on the basis of what it 'could' be used for. It is either a dwelling or it is not. I can only reiterate the Clover Cottage proposal is not a dwelling.

Can you please now confirm that the proposal is not CIL liable.

Kind regards,
Jonathan.

Jonathan Stackhouse
Head of Planning



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From: Julie Grieves <Julie.Grieves@arun.gov.uk>

Sent: 30 May 2022 09:56

To: Jonathan Stackhouse [REDACTED]

Subject: RE: M/54/22/HH - Clover Cottage

Dear Jonathan,

Thank you for email.

Annexes are CIL Liable if they are self-contained, having both a kitchen and bathroom and able to be used as a separate form of accommodation. From reading the attached appeal decision, it indicates that the proposal was not fully self contained. The proposal at Clover Cottage is self contained and could be used as a dwelling and therefore CIL Liable.

You are able to apply for Residential Annex Relief and this will reduce the CIL Liability to zero.

I hope this helps,
Julie

Julie Grieves
Community Infrastructure Levy Officer

T: 01903 737500 ext.37448

E: julie.grieves@arun.gov.uk



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From: Jonathan Stackhouse [REDACTED]

Sent: 27 May 2022 12:31

To: Julie Grieves <Julie.Grieves@arun.gov.uk>

Subject: RE: M/54/22/HH - Clover Cottage

CAUTION: This email originated from outside of the organisation. You should take extra care when clicking links or opening attachments - if you are unsure the content is safe contact the IT Helpdesk before clicking or opening.

Dear Julie,

Thanks for your email. Can I just respectfully clarify your reasons for saying the proposal is CIL liable? Clearly the proposal is less than 100m2 gross internal floor area. So I can only presume you are relying on the proposal being an annex.

As you will be aware, the CIL reg's define an annex as being wholly within the curtilage of the main dwelling and comprising one new dwelling. So to be an annex in terms of CIL liability the development must be a dwelling; if it is not a dwelling it cannot be considered an annexe.

What is proposed here, as explained in the covering letter to the application, is an ancillary annex outbuilding for a dependent relative. No separate self-contained accommodation is proposed. The proposal would remain wholly ancillary to and dependent on the main house. Therefore it is not a new dwelling. We apply for many such ancillary or incidental annexes across the country and have not before had them treated as a new dwelling and CIL liable.

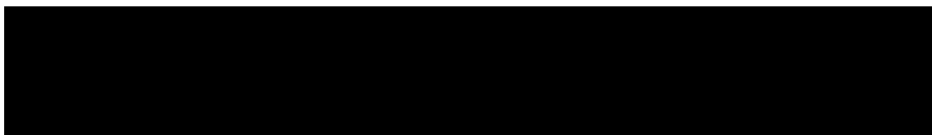
A quick Google search found the enclosed document which is an appeal decision relating to the same issue. As you will see, in that case it was found that an ancillary annex is not, as a matter of fact, a new dwelling and is therefore CIL exempt at less than 100m2.

Kind regards,
Jonathan.

Jonathan Stackhouse
Head of Planning



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From: Julie Grieves <Julie.Grieves@arun.gov.uk>

Sent: 27 May 2022 10:31

To: Jonathan Stackhouse [REDACTED]

Subject: M/54/22/HH - Clover Cottage

Dear Mr Stackhouse,

I am emailing you today with regards to the above application and CIL.

The development is CIL Liable. Unfortunately the forms submitted are incorreced. I believe Q4B should be 'Yes' and the rest of the form completed. Please forward an amended Form 1 Additional Information form. If the applicant proposes to apply for relief, they should complete the relevant relief form and a Form 2 Assumption of Liability.

I look forward to hearing from you.

Kind regards,
Julie

Julie Grieves
Community Infrastructure Levy Officer

T: 01903 737500 ext.37448

E: julie.grieves@arun.gov.uk



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Arun District Council

Community Infrastructure Levy (CIL)

Frequently Asked Questions for Applicants and Developers

January 2021

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1. About CIL

1.1 When will CIL come into effect?

Subject to the Council's decision at Full Council on 15 January 2020, it is intended that the CIL Charging Schedule will come into effect on 1 April 2020.

1.2 What is CIL and who will collect it?

CIL is a new charge on development that will be collected by the District Council to provide funding for infrastructure projects needed to support development in the district. The infrastructure projects that the council intends to fund will be set out in an Annual Infrastructure Funding Statement which the Council will publish no later than 31 December each year (starting from 31 December 2020).

CIL is charged per square metre of additional floorspace of new development and is non-negotiable.

1.3 What are the CIL rates for development?

The Arun CIL Charging Schedule can be found on Arun's CIL webpage. The Council's CIL rates are found in Table 6.1. Once the CIL Charging Schedule comes into effect, these rates will be non-negotiable

1.4 What type of development is CIL Liable?

Development will potentially be liable for CIL if it:

- Contains at least 100 square metres of new floor space (for a definition of floor space see paragraph 4.1 below)
- Is less than 100 square metres but results in the creation of a new dwelling
- Involves change of use to residential where the existing floorspace has not been in use for six months of the previous three years (the floorspace has not been in 'lawful use')
- Includes development permitted by a 'general consent' (e.g. permitted development) commenced on or after CIL is implemented.

Development will potentially not be liable for CIL, or not charged if it:

- Is less than 100 square metres of new floor space and does not result in the creation of a new dwelling e.g. a residential extension under 100 square metres, which are not part of a development which creates a new dwelling
- Is for a use which has a zero CIL charge (£0/sqm) set out in the CIL Charging Schedule;
- Involves only conversion or change of use with no additional floorspace
- Involves Mezzanine floors inserted into an existing building, unless they form part of a wider development (e.g. external alterations, changes or use etc.)
- Involves subdivision of a dwelling which is in lawful use
- Is for a building into which people do not normally go or go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.
- If the chargeable amount is less than £50 CIL will not be charged

1.5 Is Permitted Development (under the General Permitted Development Order) CIL Liable?

Yes, **if** the development meets the basic criteria for CIL liable development as set out above.

It is the developer's responsibility to issue a Notice of Chargeable Development to the Collecting Authority before the commencement of the development.

If you have a general consent before CIL comes into effect, you must still issue a Notice of Chargeable Development before you commence if you are due to commence after CIL comes into effect.

https://www.planningportal.co.uk/info/200126/applications/70/community_infrastructure_levy/3

1.6 Will CIL replace Section 106 obligations?

S106 will be scaled back with the introduction of CIL, but s106 agreements will continue to fund affordable housing and essential on site specific infrastructure.

For more information on this matter, please see Appendix 2 of the Arun CIL Charging Schedule

1.7 CIL is non-negotiable but can I apply for relief or an exemption from paying CIL?

In some specific cases, yes. However, relief and exemptions are not automatic. You must apply for them. For further details on this, please see section 5 below.

2. CIL Process for Applicants/Developers

- 2.1 CIL involves a number of different stages, which are legal processes that must be complied with in order to administer CIL effectively. If the stages are not complied with, for example, you fail to assume liability or submit a Commencement Notice, you may be subject to financial penalties as required by the CIL Regulations. The following chart provides an overview of the stages which must be met to comply.

SUBMIT WITH PLANNING APPLICATION:

It is recommended that the following forms are submitted alongside a planning application, where possible. This saves time and reduces any risk of not adhering to the CIL Regulations

- CIL Form 1 Additional Information Request Form
- Plans/information that will allow us to calculate CIL accurately (ideally annotated plans)
- Evidence of any floorspace in 'continued lawful use'
- CIL Form 2 'Assumption of Liability'

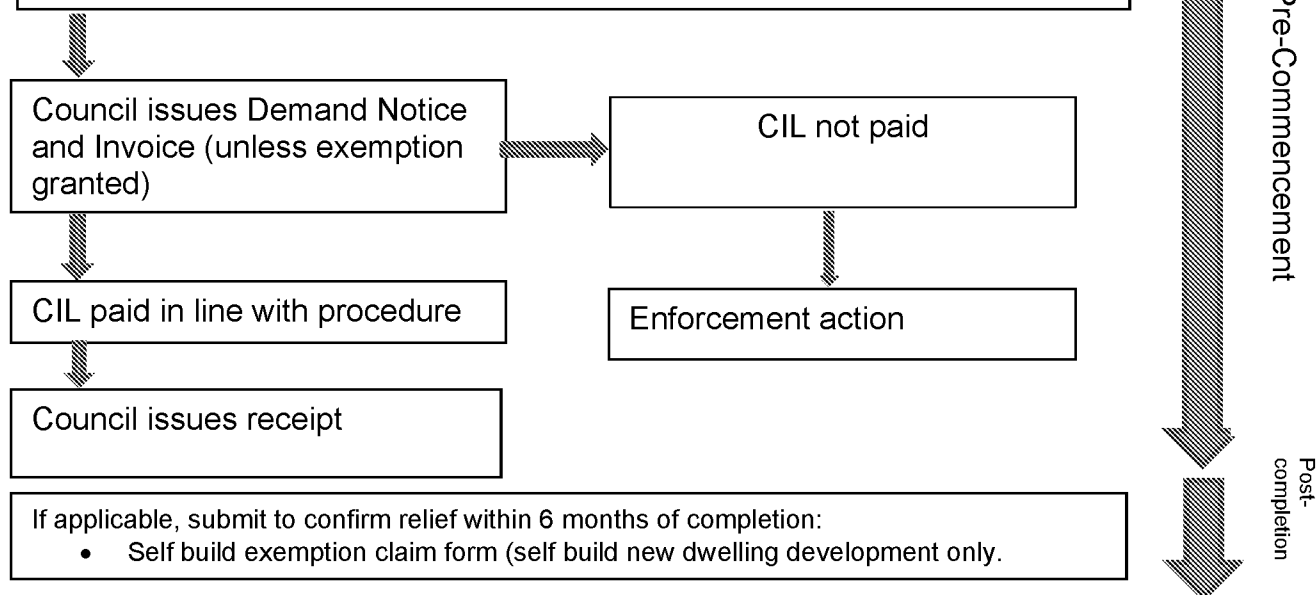
If applicable, submit relevant form to claim relief:

- Social Housing or Charitable Relief Form
- Self Build Annex or Extension Claim Form
- Self Build Exemption Claim Form

If planning permission granted, Council issues a Liability Notice to parties that have assumed liability and/or landowners.

SUBMIT BEFORE DEVELOPMENT (INC. PERMITTED DEVELOPMENT) COMMENCES

- Commencement Notice for applications with planning permission
- Notice of Chargeable Development for permitted development



3. Transition to CIL

- 3.1 Will a development be liable to pay CIL if there was a resolution to grant planning permission (e.g. subject to a s106 agreement or pending planning appeal) before CIL comes into effect, but the formal grant of planning permission is made on or after CIL comes into effect?**

Yes. This is because any resolution to grant planning permission by Development Control Committee does not formally grant planning permission as a decision notice can not be issued until, for example, a s106 obligation has been signed.

- 3.2 Will a development be liable to pay CIL if there was an outline planning permission before CIL is in effect, but the approval of reserved matters/phases is made on or after CIL is effective?**

No, the CIL Guidance states that:

“Where an outline permission has been granted before a charging schedule is in effect, but reserved matters are not approved until after a charging schedule has come into effect, the development should not be subject to the levy.”

(Paragraph: 112 Reference ID: 25-112-20190901)

- 3.3 Will a development be liable to pay CIL if there was a full planning permission before CIL comes into effect, but the approval of pre commencement conditions is made on or after CIL is effective?**

No, the approval of pre-commencement conditions does not trigger a liability to pay CIL.

- 3.4 Will a development be liable to pay CIL if there was a refusal of planning permission before CIL came into effect, but an approval of planning permission on appeal is made on or after CIL comes into effect?**

Yes.

- 3.5 Will a development be liable to pay CIL if there was a planning permission before CIL comes into effect, but an approval of a S73 application to vary or remove conditions of that planning permission is made on or after CIL is in effect?**

The amount of CIL to be paid where an approval of a s73 application occurs after CIL comes into effect must be calculated in accordance with Part 4 of Schedule 1 (of the 2019 amendments to the CIL Regulations)

<http://www.legislation.gov.uk/uksi/2019/1103/schedule/1/made>

- 3.6 Will a development be liable to pay CIL if there was a planning permission before CIL came into effect, but a different planning permission is granted on the same site when CIL is in effect?**

Yes. Whilst a planning permission is granted prior to CIL coming into effect it can be implemented in its current form without incurring CIL. However, if a new planning application was submitted and granted once CIL is in effect, that planning permission would be liable to pay CIL. The exception to this would be if it was a s.73 application, then the chargeable amount would be calculated as set out in Part 4 Schedule 1 of the CIL Regulations 2010.

3.7 Will a development with permitted development rights be liable to pay CIL if it has not commenced before CIL comes into effect?

If you have not commenced your development with permitted development rights before CIL comes into effect, you must submit a Notice of Chargeable Development to the Council. Failure to do so will result in a surcharge.

3.8 What is the definition of ‘commencement’ in relation to change of use?

Section 56 (1)(b) of the Town and Country Planning Act 1990 states that development of land shall be taken to be initiated if the development consists of a change of use, at the time when the new use is instituted.

4. CIL Calculations

4.1 What is included as CIL chargeable floorspace?

CIL is charged on the 'gross internal area' (GIA) of the development for which planning permission is granted. This includes:

- All new floor space within the external walls of the building
- Circulation and service space such as corridors, storage, toilets, lift etc.
- Loft space that is used as rooms, with stairs.
- Accessible storage areas
- Enclosed attached or detached outbuildings e.g. garages. Generally, any structure with three or more walls and a roof is considered to be 'internal' floor space and therefore chargeable.
- CIL is chargeable on existing floorspace of a building if a change of use is proposed, and where the floorspace has not been in 'lawful use'.

For further detail, please refer to the Royal Institute of Chartered Surveyors (RICS) Property Measurement 2nd Edition January (this is to be used for measuring new residential and office development). For all building classes other than residential and office uses, refer to the RICS Code of Measuring Practice 6th Addition, May 2015.

A list is provided in Appendix 1 of types of floorspace which are covered by GIA.

4.2 Is CIL chargeable for subdividing a house into two or more homes?

No, unless additional new build floorspace is provided as part of the scheme in which case the additional floorspace may be liable.

4.3 Is CIL chargeable on a barn conversion?

Potentially, but a change of use from a barn to a residential use should not result in CIL liability as long as the barn is a permanent useable building in lawful use. To be useable such buildings should be weathertight with four complete walls, floor and a roof. Any additional new floorspace proposed as part of the application, extending the barn, or providing a garage for example would be charged CIL.

4.4 What does "in lawful use" mean?

The building must be a 'relevant building' – this means it must exist on the land shown with in the red edge location plan submitted with the planning permission on the day that the permission first permits the development (for reserved matters applications this is the final approval of the last reserved matter) **and** the existing building must have been 'in use' for a continuous period of six months within a three year period prior to planning permission first permitting development. The onus to prove lawful use is on the applicant. See 4.8 below

4.5 How is CIL calculated?

The CIL Regulations, as amended in 2019 include Schedule 1, which explains how to calculate the chargeable amount. The main calculation is as follows:

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

Where:

A = the net area chargeable at rate R

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

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

The value of A is calculated using a formula which takes into account the GIA of the building and the retained parts of in-use buildings. This ensures that parts of the development which are in lawful use can be 'netted off' the total CIL amount.

4.6 What is the CIL index rate?

The CIL regulations (Regulation 40) require that collecting authorities apply an index of inflation to keep the levy rate responsive to market conditions. The index figure is referred to as the "BCIS All-in Tender Price Index".

From 2020, the TPI is the figure from 1st November of the preceding calendar year and will be published annually on the Royal Institute of Chartered Surveyors (RICS) website: <https://www.rics.org/uk/products/data-products/rics-community-infrastructure-levy-index/>

For Arun District, the CIL Rate will be as follows, for 2021:

$$\frac{R \times I_y}{I_c}$$

Where:

- R is the relevant rate as shown in the Table 1 above;
- I_y is the index figure for the calendar year (for the year 2021, this is 333); and
- I_c is the index figure for the calendar year in which the charging schedule containing R took effect (for the year 2020, when CIL came into effect, this is 334).

Year in which permission first permitted development for CIL purposes	Index Figure (I_y) (for year 1st January to 31st December)
2020 (year in which Arun's Charging Schedule took effect)	334 (fixed baseline for I _c)
2021	333

4.7 There are buildings on the application site that will be demolished as part of the development proposal. Will this reduce my CIL liability?

Deductions in respect of demolition of buildings before completion of the chargeable development will only apply where:

- there is an existing building that has been in '*continuous lawful use*' for at least six months of the three years prior to 'planning permission first permitting the development'
- the building is a permanent building into which people normally go
- the building is not demolished before prior to planning application approval

4.8 How can ADC define in lawful use on outbuildings/sheds etc?

An 'in use building' is defined as a relevant building which 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.

A 'relevant building' means a building which is situated on the relevant land on the day planning permission first permits the chargeable development. This definition includes buildings on the land other than the main building being developed.

4.9 What evidence do I need to supply to show building on my site have been in 'continued lawful use'?

It is your responsibility to provide evidence to the council to prove that the building is in lawful use and that the building, or part of the building, has been in use for at least six months, without a break, in the three years ending on the day planning permission first permits your development

Information that could be submitted to demonstrate 'continued lawful use' can include the combination of the following:

- Copies of leases
- Sworn statements of people who can confirm the use claimed
- Electricity/gas bills for the 6 month period
- Business rate/council tax bills and payments. Note: The Local Planning Authority does not have access to this information as it is data protected
- Environmental Health Licensing
- Where an informal arrangement exists, redacted bank statements to show rent/rates have been paid
- Confirmation from a letting agent/solicitor advising of the period of occupancy

If the use is unclear, the council may ask for more evidence of the use if this is not clear. If there is not enough information to prove the building(s) are lawful in-use buildings we may not count the floorspace of the building(s) as a deduction from your CIL charge

4.10 What types of structures/buildings can be included

The CIL Regulations were made under the Planning Act 2008 which refers back to the definition of building in the TCPA 1990 as including any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building, sheds or greenhouses

However, note that, in accordance with the CIL Regulations, a building in which people go only intermittently or for the purpose of maintaining or inspecting machinery will not count towards the off-set.

4.11 When is the chargeable amount calculated?

The chargeable amount is calculated using the charging schedule rates which are in effect at the time planning permission first permits the chargeable development.

4.12 Under the CIL regulations, when does planning permission first permit the chargeable development?

The table below sets out when 'planning permission first permits the development' for the purposes of the CIL Regulations (this does not include planning permissions granted before CIL has been implemented. For those instances, please refer to transitional to CIL in section 3 above):

Application Type	Phasing	Conditions	Date that 'planning permission first permits the development'
Full Planning Application	No Phasing	N/A	Date of Decision Notice approving the permission
Full Planning Application	Phased	No pre-commencement conditions	Date of Decision Notice approving the permission
Full Planning Application	Phased	With pre-commencement conditions	Date of approval of final pre-commencement condition for that phase
Outline planning application	No Phasing	N/A	Date of Decision Notice approving the last reserved matter
Outline Planning application	Phased	No pre-commencement conditions	Date of Decision Notice approving the Reserved Matters for that phase
Outline Planning Application	Phased	With pre-commencement conditions	Date of approval of final pre-commencement condition for that phase
Permitted development	N/A	N/A	Date of Notification of Commencement to the Charging Authority OR Date that the District Council serves the Notice of Chargeable Development

4.13 When is a building in use?

A building is in use for CIL purposes when the lawful use is being actively carried on. This follows the High Court judgement of *R(Hourhope Ltd) v Shropshire Council* [2015] EWHC 818 Admin which said that the building must actually be used for its lawful use not just that the building has a lawful use which could be carried on.

Whether a building is in use at any time depends on all the information and evidence of what activities take place and what the intentions of the persons using the building are.

The amount of activity that you must prove will depend on the type of use and whether the use has stopped depends on the length of time, and reasons for, the break in use and the intentions of the property users.

4.14 The development I propose is permitted development so what do I need to do?

In cases where permitted development rights are exercised and planning permission is not required but where you are creating a new dwelling, such as a prior approval application for the conversion of offices or an agricultural barn to residential use, or are adding over 100m² as CIL liable development, the CIL process will apply. You are required to submit Form 5: Notice of Chargeable Development (preferably with your prior approval application)

This must be accompanied by a plan which identifies the following.

1. The land to which the notice relates
2. Any buildings in use on that land which are to be demolished before the completion of the chargeable development
3. Any buildings in use on that land which will be part of the chargeable development
4. The development which is subject of the notice

You must also submit evidence if you are claiming lawful use over a six month continuous period during the past three years.

If the permitted development is CIL liable no work should commence until the relevant notices have been served on the Council (Form 5: Notice of Chargeable Development & Form 6: Commencement Notice)

If you commence work without notifying the Council, you could forfeit any rights you have to appeal or pay instalments, and you may also incur fines and surcharges.

4.15 I want to build a residential annex in my garden. Will this be CIL Liable?

The annex will be CIL Liable if it is self contained, ie, it has it's own kitchen AND bathroom. You may be able to complete a Residential Annex Relief Form (Form 9) but please note that your residential annex will become liable if within 3 years the annex is used for any purpose other than as an annex **or** the annex is let **or** either the main residence **or** annex is sold separately from each other. Further notes below on when is a residential annex liable for CIL:-

CIL liability is determined by whether a proposal is considered (in planning terms) to be an **ancillary dwelling** or an **annex**. An ancillary dwelling is treated like a new dwelling and therefore the 100 sqm threshold does not apply, whereas an annex is treated like an extension to the main house and is therefore subject to the 100 sqm threshold.

Ancillary dwelling

An ancillary dwelling is defined as self-contained accommodation (new build or conversion) that is capable of being occupied independently from the main house (has its own entrance and facilities, eg kitchen/bathroom), whether it is attached or detached from the main house. It is treated as a new dwelling and needs full planning permission

Annex

An annex is defined as an extension to an existing dwelling with a physical connection and with an internal connection (eg doors) and with reliance on the main house for facilities (eg kitchen and/or bathroom) or it can be detached from the main house, but the accommodation is limited and not capable of being occupied independently of the main dwelling. It is treated as a householder extension.

5. Relief and Exemptions

5.1 What reliefs and exemptions are available?

Relief and exemptions can be obtained for:

- social / affordable housing
- charitable developments
- self build - whole houses
- self build - residential extensions / annexes

Relief and exemptions are *not automatic*, and you must apply for them *before development commences*.

5.2 How do I apply for relief?

The claim for relief must be made on the appropriate form

https://www.planningportal.co.uk/info/200126/applications/70/community_infrastructure Levy/5 by a land owner who has assumed liability to pay CIL (using CIL Form 2: 'Assumption of Liability').

You must make your claim before commencing development or we will be unable to accept your claim and a Demand Notice for the full CIL Liability will be issued.

Appendix 2 provides a list of CIL forms and further explanation on which one to use.

As soon as possible after receiving the claim, we will assess it and notify you of our decision, reasons and the amount of relief they qualify for. *Do not commence development before you have received a response to your claim* or it may become invalid.

The amount of relief is shown in the Liability Notice – if needed we will issue a revised Liability Notice.

5.3 What evidence will I need to provide if I am claiming self-build relief for a new property?

Within six months of *completion* of your self-build, you will need to provide the following evidence, and submit it along with CIL Form 7: 'Self Build Exemption Claim Form: Part 2':

1. A compliance certificate, Title deeds or Council Tax certificate
2. A utility bill, bank statement or local electoral roll registration
3. One of the following:
 - a. An approved claim from HM Revenue and Customs under VAT431 NB: VAT refunds for DIY housebuilders
 - b. Proof of a specialist Self Build or Custom Build Warranty
 - c. Proof of an approved Self Build or Custom Build Mortgage from a bank or building society

Please ensure that you can meet these requirements before the initial claim for self-build exemption is made.

5.5 Are there any circumstances where I might be asked to repay the relief?

Yes – if relief is granted and a reduced CIL paid, but circumstances change within a set period of time, the relief will be disqualified and the outstanding CIL must be paid.

Type of Relief	Clawback period
Social/affordable housing relief	7 years
Charitable purposes	7 years
Self build	3 years
Residential annex	3 years
Residential extension	N/A

- **Social housing relief** has a clawback period of 7 years. Disqualifying events include any change that results in a qualifying dwelling no longer being a qualifying dwelling within the clawback period.
- **Charitable relief** has a clawback period of 7 years. Disqualifying events include sale or letting of the property, or if the owner ceases to be a charity.
- **Self-build (whole house) exemption** has a clawback period of 3 years. Disqualifying events include sale or letting of the property, or the development ceases to meet any of the self-build criteria, within the clawback period.
- **Self-build residential annex exemption** has a clawback period of 3 years. Disqualifying events include letting of the annex, or selling of the annex separate to the main dwelling, within the clawback period.
- **Self-build residential extension exemption** does not have a clawback period or any disqualifying events.

In addition, if a CIL Form 6: Commencement Notice is not received by Arun District Council before the relevant development commences, then any relief granted may be withdrawn (this does not apply to Residential Extension Exemption).

5.6 What are the criteria for obtaining an exemption for a residential annex or residential extension?

People who extend their own homes or erect residential annexes within the grounds of their own homes are exempt from the levy, provided that they meet the criteria laid down in regulations 42A and 42B (inserted by the 2014 Regulations and amended by the 2019 Regulations):

- the main dwelling must be the person's principal residence, and they must have a material interest in it (as defined in regulation 4(2));
- residential annexes are exempt from the levy if they are built within the curtilage of the principal residence and comprise one new dwelling; and
- residential extensions are exempt from the levy if they enlarge the principal residence and do not comprise an additional dwelling.

There is no requirement for the occupier of the annex to be related to the owner of the main dwelling, or to commit to staying there for a specified period. But letting the residential annex, or selling it separately from the main dwelling, within the 3-year claw-back period which commences from the date of the compliance certificate relating to the residential annex, will result in the exemption being withdrawn.

Residential extensions under 100 square metres, which are not part of a development which creates a new dwelling, are already exempt from the levy under the minor development exemption

5.7 Will I lose my relief if I don't submit my Form 6 Commencement Notice before commencement?

No, you will not lose your relief providing you have submitted the relevant relief form and Form 2 Assumption of Liability notice and it was accepted however, you will be liable for surcharges of up to £2500 and lose your ability to pay in instalments (if any)

6. Making a CIL Payment

6.1 How much will I have to pay?

Eligible development that receive planning permission from the date of CIL implementation will be charged in accordance with the rates set out in the CIL Charging Schedule. The amount payable is calculated when planning permission is granted, and set out in the Liability Notice which will be sent to you.

6.2 When does payment become due?

Payment is due on commencement of development and is payable within 60 days or in accordance with our instalment policy. *Before you commence* the development you must send us CIL Form 6: 'Commencement Notice'.

We will send you a Demand Notice, and a separate invoice including details of how to make a payment.

WARNING – if you commencement works before decision and/or before submitting Form 6: Commencement Notice payment becomes payable immediately & include surcharges of up to a maximum of £2500

6.3 What constitutes commencement?

Commencement is any work carried out, including: erecting a building, demolition, digging a trench, laying underground pipes or mains, any operation to construct a road, or any change in the use of land that is classed as material development. In the case of change of use, commencement occurs once the change of use is instituted.

6.4 Can I pay in instalments?

Yes - we offer an Instalment Policy that allows payments to be spread over longer periods. We will automatically apply the Instalment Policy where applicable.

6.5 Who is liable to pay?

Landowners are ultimately liable to pay CIL, but anyone involved in a development may take on the liability to pay. In order to benefit from payment in instalments, someone must assume liability using CIL Form 2: 'Assumption of Liability' prior to commencement.

Where no one has assumed liability to pay the levy, the liability will automatically default to the landowners and payment becomes due as soon as development commences. Liability to pay the levy can also default to the landowners where we have been unable to recover the levy from the party that assumed liability for the levy, despite making all reasonable efforts.

6.6 If a site was cleared for redevelopment before planning permission was granted, will the previous floorspace be taken into account in calculating the CIL charge?

No. The floorspace will only be taken into account if the existing building is still standing on the day that planning permission is granted, and:

- in the three years preceding the grant of planning permission, at least part of the building was in lawful use for a continuous six month period, and
- the existing building is demolished before completion of the development

6.7 We have been affected financially by Covid-19. Do we still have to pay?

Yes. We will be continuing to issue Liability Notices and Demand Notices to applications that are CIL Liable that have commenced after 1st April 2020 when we became a CIL charging authority. The Community Infrastructure Levy (Coronavirus) Regulations came into force on the 22nd July 2020. This enables the developer to delay instalments for six months if they have been impacted financially by Covid-19. See the Deferral of CIL Notes and Deferral of CIL Payment Form on our website.

7 Appealing against a CIL charge

7.1 I think the CIL for my development has been calculated incorrectly, what can I do?

If you think that the CIL charge for your development has been calculated incorrectly, you can apply to us and ask us to review how your CIL was calculated (Reg 113).

7.2 In what other circumstances can I appeal against CIL?

Once a Charging Schedule is adopted, the rate of the levy is non-negotiable and we are not required to justify its application on a case-by-case basis. Appeals under the CIL Regulations are overwhelmingly about matters of fact (e.g. did the Council make a mistake in calculating the liability? Did the development actually commence on the deemed commencement date?).

7.3 How do I submit an appeal?

All appeals must be made using the forms that are published by the Secretary of State available on the Planning Portal. You can submit an appeal based on any of the following grounds:

- An appeal of the calculation of the chargeable amount (following a review).
- If an owner of a material interest in land disagrees with an authority who has apportioned liability to pay the charge, then that person may appeal. The appeal must be made within 28 days.
- A relevant person can appeal any of the surcharges covered set out above. It can be appealed on the basis that it was calculated incorrectly, that a liability notice was not served or if the breach simply did not occur. The appeal must be made within 28 days.
- A relevant person can appeal a deemed commencement date if that person considers that the date has been determined incorrectly. An appeal must be made within 28 days.
- A relevant person can appeal against a stop notice. They can do so if a warning notice was not issued or the development has not yet commenced. An appeal must be made within 60 days.
- A person aggrieved by the levy of, or an attempt to levy, distress (whereby a bailiff will levy the amount, in goods, due) can appeal to the Magistrates Court. The Court must consider the case and can order the authority to pay compensation.

Please see Regulation 113-117 of the Community Infrastructure Levy Regulations 2010 as amended

8 Enforcement of CIL

8.1 What happens if I fail to submit Form 6: 'Commencement Notice' before I commence my development?

Failure to submit a valid Commencement Notice before development commences *may* result in imposing a surcharge of 20% of the CIL amount due, up to a maximum of £2,500. In addition payments *will not* be permitted to be made in line with the Instalment policy. Payment will be due in full on the day that the council believes the development to have commenced.

8.2 What happens CIL is not paid?

Failure to pay CIL on time will result in the imposition of late payment interest at 2.5% above the Bank of England base rate.

Continued failure to pay CIL may result in additional late payment surcharges:

- Five per cent of the outstanding amount where payment is still overdue after 30 days, subject to a £200 minimum
- Further five per cent of the outstanding amount where payment is still overdue after six months, subject to a £200 minimum
- Further five per cent of the outstanding amount where payment is still overdue after 12 months, subject to a £200 minimum

If CIL remains unpaid the council may take actions, in order to recover the debt, as based on the CIL Regulations

Appendix 1 - Details and Examples of CIL Calculations

Calculation of the CIL chargeable area

Floorspace within the chargeable development is measured as gross internal floorspace (GIA) in square metres. This could include:

- Areas occupied by internal walls and partitions
- Columns, piers, chimney breasts, stairwells, liftwells, other internal projections, vertical ducts
- Atria and entrance halls, with clear height above, measured at base level only
- Internal open sided balconies, walkways
- Structural, raked or stepped floors are property to be treated as a level floor measured horizontally
- Corridors of a permanent essential nature (e.g. fire corridors, smoke lobbies)
- Mezzanine floor areas with permanent access (subject to exclusion)
- Lift rooms, plant rooms, fuel stores, tank rooms which are housed in a covered structure of a permanent nature, whether or not above the main roof level
- Service accommodation such as toilets, toilet lobbies, bathrooms, showers, changing rooms, cleaner's rooms
- Voids over stairwells and lift shafts on upper floors
- Loading bays
- Areas with a headroom of 1.5m and higher that is easily accessible (i.e. from a fixed staircase) and usable as habitable living accommodation
- Pavement vaults
- Garages and other ancillary buildings
- Conservatories

When measuring the GIA the following is excluded:

- Perimeter wall thicknesses and external projections
- External open sided balconies, covered ways and fire escapes
- Canopies
- Areas with a headroom of less than 1.5m, except under stairways, that is not easily accessible and usable as a room