



## COMMUNITY INFRASTRUCTURE LEVY (CIL) GUIDANCE NOTES V2

### CIL Form 1: Determination of CIL Liability

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This section requires the applicant(s) to identify the number of existing buildings located within the application site boundary that are to be demolished, converted or undergo a change of use. If relevant, this section requires the applicant(s) to:

- Confirm the current lawful use of the building that is to be converted or demolished.
- Confirm whether this building has been in its lawful use for 6 continuous months in the last 3 years.
- Confirm when the building was last in its lawful use.
- Confirm whether the building is to be converted or demolished.

- Confirm the gross internal floorspace of the existing building(s).
- Provide a total area of each of the buildings (if more than one building is to be demolished or converted).

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

It is the applicant’s responsibility to provide evidence to the effect that buildings were in a use that is “lawful”, and that the building(s), or part of the building, have been in use for a “continuous period of at least six months within the period of three years ending on the day planning permission first permits the chargeable development”. **If no or insufficient evidence is provided, Shropshire Council cannot deduct the floor space. In such instances, a CIL Liability Notice will be issued shortly after permission is granted with no deductions for existing buildings included.**

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

**Please Note:**

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

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

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

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

**Guidance of acceptable evidence for an existing building to be demolished or converted**

It is the responsibility of the liable party to provide sufficient evidence for an existing building to be demolished or converted as part of the development. The CIL Team can only determine a CIL liability based on the information provided. The building(s) must have been

actively used for their lawful purposes, not just available for use (e.g. an existing dwelling must have been actively 'lived-in,' rather than just paying council tax as unoccupied dwellings will still be paying council tax).

### **Use class order**

Aside from storage in connection with class B8, it would be expected that more robust evidence than photographs would be available to demonstrate a building has been in lawful use for the required timescales.

The development description would usually identify the use class (e.g. class B2) of the existing building.

Photographs can still be used to determine if the structure is a relevant building.

<b>Use</b>	<b>Potential evidence</b>
<b>Class B2 – general industrial</b> (excluding incineration purposes, chemical treatment or landfill and hazardous waste)	<ul style="list-style-type: none"> <li>• Business rates documents</li> <li>• Evidence of payment of rent</li> </ul>
<b>Class B8 – storage or distribution</b>	<ul style="list-style-type: none"> <li>• if a commercial storage facility, Shropshire Council would expect evidence such as business rates, evidence of payment of rent or accounts showing payments were made for the storage of items.</li> </ul>
<b>Class C1 – hotels</b> (hotels, boarding and guest houses where no significant element of care is provided (excludes hostels))	<ul style="list-style-type: none"> <li>• Reviews from customers over the required timescales (eg. TripAdvisor, Airbnb).</li> <li>• Food and drink sales</li> <li>• Documents showing monies being paid for accommodation</li> </ul>
<b>Class C2 - Residential institutions</b> (Residential care homes, hospitals, nursing homes, boarding schools, residential colleges, and training centres)	<ul style="list-style-type: none"> <li>• Inspection reports from the Care Quality Commission (CQC – for care homes and nursing homes)</li> <li>• Inspection report from the relevant agency for hospitals, boarding schools, residential colleges and training centres</li> <li>• Incident reports</li> <li>• Invoices for care or accommodation costs</li> </ul>
<b>Class C2A - Secure Residential Institutions</b> (Use for a provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short term holding centre, secure hospital, secure local authority accommodation or use as a military barracks)	<ul style="list-style-type: none"> <li>• See above for class C2. Inspection reports would be from the relevant agency for that use</li> </ul>
<b>Class C4 - Houses in multiple occupation</b> (Small shared houses occupied by between three and six unrelated individuals, as their only or main	<ul style="list-style-type: none"> <li>• Rent statements</li> <li>• Utility bills</li> <li>• Council tax</li> </ul>

residence, who share basic amenities such as a kitchen or bathroom.)	
<b>Class E(a) - Display or retail sale of goods, other than hot food</b>	<ul style="list-style-type: none"> <li>• Rent statements</li> <li>• Business rates</li> <li>• Confirmation of sales of goods</li> </ul>
<b>Class E(b) - Sale of food and drink for consumption (mostly) on the premises</b>	<ul style="list-style-type: none"> <li>• Food and drink sales</li> <li>• Business rates</li> <li>• Information from Companies House</li> <li>• Online reviews</li> </ul>
<b>Class E(c) – Provision of financial services, professional services or other appropriate services in a commercial, business or service locality</b>	<ul style="list-style-type: none"> <li>• Business rates documents</li> <li>• Evidence of payment of rent</li> </ul>
<b>Class E(d) - Indoor sport, recreation or fitness</b> (not involving motorised vehicles or firearms or use as a swimming pool or skating rink,)	<ul style="list-style-type: none"> <li>• Evidence of sports fixtures taking place in building</li> <li>• Business rates</li> <li>• Evidence of payment of rent</li> </ul>
<b>Class E(e) Provision of medical or health services</b>	<ul style="list-style-type: none"> <li>• See above for class C2. Inspection reports would be from the relevant agency for that use</li> </ul>
<b>Class E(f) Creche, day nursery or day centre</b> (not including a residential use)	<ul style="list-style-type: none"> <li>• See above for class C2. Inspection reports would be from the relevant agency for that use</li> </ul>
<b>Class E(g)(i) Offices to carry out any operational or administrative functions</b>	<ul style="list-style-type: none"> <li>• Rent statements.</li> <li>• Business rates</li> <li>• Lease</li> <li>• Info on Companies House</li> <li>• Online reviews</li> </ul>
<b>Class F1(a) Provision of education</b>	<ul style="list-style-type: none"> <li>• See above for class C2. Inspection reports would be from Ofsted for that use.</li> <li>• School websites</li> </ul>
<b>Class F1(d) Public libraries or public reading rooms</b>	<ul style="list-style-type: none"> <li>• Council website for that library</li> <li>• Online reviews</li> <li>• Evidence of books being checked in and out.</li> <li>• Events held in these buildings</li> </ul>
<b>Class F1(f) Public worship or religious instruction (or in connection with such use)</b>	<ul style="list-style-type: none"> <li>• Schedule of church services and other forms of worship</li> <li>• Accounts for that place of worship</li> <li>• Information from the diocese (in the case of churches) or corresponding organisation for other religions</li> </ul>
<b>Class F2(a) - Shops (mostly) selling essential goods, including food, where the shop's premises do not exceed 280 square metres and there is no other such facility within 1000 metres</b>	<ul style="list-style-type: none"> <li>• Rent statements.</li> <li>• Business rates</li> <li>• Confirmation of sales of goods</li> </ul>
<b>Class F2(b) - Halls or meeting places for the principal use of the local community</b> (village halls etc.)	<ul style="list-style-type: none"> <li>• Online reviews</li> <li>• Confirmation of events taking place in the building</li> </ul>

## Suis Generis

Use	Potential evidence
<b>Fuel stations</b>	<ul style="list-style-type: none"> <li>• Evidence of fuel sales</li> <li>• If there is a shop – evidence of sales of goods (food, drink etc.)</li> </ul>
<b>Public houses, wine bars etc.</b>	<ul style="list-style-type: none"> <li>• Evidence of food and drink sales</li> <li>• Evidence of rent being paid.</li> <li>• Confirmation of wages being paid to bar and kitchen staff.</li> </ul>
<b>Hot food takeaways</b>	<ul style="list-style-type: none"> <li>• Evidence of food sales</li> <li>• Confirmation of wages paid to staff.</li> <li>• Rent</li> </ul>
<p><b>Agriculture</b> (keeping of livestock, growing crops (arable) and agricultural storage)</p> <p>Section 336 of the Town and Country Planning Act 1990 defines agriculture as...</p> <p><i>“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;</i></p>	<ul style="list-style-type: none"> <li>• Photographs of interior of building showing livestock and/or agricultural equipment being stored.</li> <li>• Photos can also show crops being stored, show livestock feed.</li> <li>• Evidence of the wider farm operating – ie. animal passports, account documents showing sale of livestock and crops, other documents relating to the farm business</li> </ul> <p><i>NOTE – not enough if any evidence shows the building is for keeping of horses or equine equipment (horse boxes etc.). Equine is separate from agriculture since equine use is recreational when agriculture is commercial.</i></p>
<b>Equine</b> (keeping of horses and storage of equine equipment)	<ul style="list-style-type: none"> <li>• Photographs of interior of building showing horses being kept.</li> <li>• Storage of equine equipment such as horse boxes</li> </ul>

## **Question 8: Proposed Residential Floorspace**

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

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

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

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

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

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

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

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

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

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

**Please note:** *It is an offence for a person to knowingly or recklessly supply information which is false or misleading in a material respect to Shropshire Council, as the CIL charging authority in response to a requirement under the Community Infrastructure Levy Regulations (2010) as amended (regulation 110, SI 2010/948). A person guilty of an offence under this regulation may face unlimited fines, two years imprisonment, or both.*

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

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