# **Community Infrastructure Levy- Frequently Asked Questions**

The following seeks to provide general answers to questions that may arise on CIL. However, please see the Charging Schedule, which is available at [www.torbay.gov.uk/CIL](http://www.torbay.gov.uk/CIL) for a formal statement of Torbay Council’s CIL.

# What is CIL?

CIL is a non-negotiable charge on certain types of development. It is charged at different rates dependent on the proposal and its location within Torbay. Torbay will be charging CIL for the following development:

1. Open market residential dwellings – where there is a gain of floorspace. It is charged on gross new internal floorspace. But any demolished floor space may be counted against CIL (so long as it has been in lawful use for more than 6 continuous months over the last 3 years).
2. Retail development – outside of the town centres, St Marychurch and Preston (as defined on the Local Plan Policies Map) on development of over 300 square metres.

# Who pays CIL?

CIL is payable on qualifying developments whether they require planning permission or are permitted under the General Permitted Development Order (as amended), Prior Approval or Local Development Orders (LDOs).

# Does a re-submission of an expired/lapsed planning permission have to pay CIL?

Yes, providing that the development is of the type referred to in ‘What is CIL?’ above.

# Does an application for a change of use have to pay CIL?

A change of use to residential which does not propose a net increase in floorspace would not have to pay CIL. However if the building has not been in lawful use for more than 6 continuous months during the last three years, then CIL is payable.

# What are the CIL rates in Torbay?

Retail and food and drink development (Use Classes A1, A3, A4 and A5) of over 300 square metres attracts a rate of CIL at £120 per square metre. Mezzanine floors are not subject to CIL.

There are three CIL Charging Zones for residential development in Torbay. Within these zones there are differing CIL rates dependent on the number of dwellings proposed. Rates are £ per square metre - see the table below.

|  |  |  |  |
| --- | --- | --- | --- |
| No of Dwellings on site | 1-3  | 4-14 | 15+ |
| Charging Zone |
| 1 Built up areas within top 20% deprivation | £0 | £30 | £30 |
| 2 Elsewhere in the built up area | £0 | £70 | £70 |
| 3 Outside of the built up area | £70 | £70 | £0 |

Maps of the CIL charging zones are available online at [www.torbay.gov.uk/cil](http://www.torbay.gov.uk/cil). These or Torbay Council’s ‘Find My Nearest’ interactive tool (<http://www.torbay.gov.uk/Gis/FindMyNearest/>) can be used to locate your site and the related charging zone.

# When does CIL come into force in Torbay?

We will charge CIL on applications granted permission on or after Thursday 1st June 2017. If your application was submitted before this date, but is granted permission on or after this date, it will still be CIL liable. It is the same for those applications subject to an appeal, because planning permission is not granted until the appeal is resolved. Reserved matters consents do not attract CIL if the outline permission was granted before CIL came into effect (and the reserved matters do not result in an increase in chargeable floorspace).

# How is CIL calculated?

Put simply, the chargeable amount is calculated as:

*CIL Rate (£ per sq m) x increase in floorspace (chargeable area) x inflation measure*

If the chargeable amount comes to less than £50, it is not collected.

## The ‘chargeable area’ is the gross internal floorspace of new development, minus the floorspace of any demolished buildings (if applicable – so long as these have been in lawful use for at least six months out of the last three years). CIL only applies to places where people usually go, so some exceptions may apply (e.g. pump rooms).

## Exemptions

The main exemptions which apply are;

* Self build/custom build housing (as defined in the CIL Regulations)
* Charities (so long as the development is for charitable purposes).
* Social housing (as defined in the CIL Regulations)
* Exceptional Circumstances Relief. This may be offered at this discretion of the Council and is intended to be exceptional, and subject to conditions.

***Exemptions can only be claimed before development is commenced*** *(via the relevant form – see ‘Which forms need to be completed?’)*

# Can CIL be paid in instalments?

Providing liability for CIL has been assumed (using Form 1: Assumption of Liability – see below) and a Commencement Notice (Form 6) has been received by the Local Authority, CIL may be paid in instalments as follows;

* Where CIL is less than £5,000:
	+ 100% within three calendar months of commencement of development
* Where CIL is between £5,000 and £10,000:
	+ 50% within three calendar months of commencement of development
	+ 50% within six calendar months of commencement of development
* Where CIL is between £10,001 and £20,000:
	+ 34% within three calendar months of commencement of development
	+ 33% within six calendar months of commencement of development
	+ 33% within nine calendar months of commencement of development
* Where CIL is between £20,001- £100,000
	+ 25% within three calendar months of commencement of development
	+ 25% within six calendar months of commencement of development
	+ 25% within nine calendar months of commencement of development
	+ 25% within twelve calendar months (one year) of commencement of development
* Where CIL is more than £100,001:
	+ 25% within six calendar months of commencement of development
	+ 25% within twelve calendar months of commencement of development
	+ 25% within eighteen calendar months of commencement of development
	+ 25% within twenty four calendar months (two years) of commencement of development

# Which forms need to be completed?

All CIL forms are available on the Planning Portal at <https://www.planningportal.co.uk/info/200126/applications/70/community_infrastructure_levy/5>

The [Additional Information Requirements Form](https://ecab.planningportal.co.uk/uploads/1app/forms/cil_questions.pdf) should be submitted with all non-householder planning applications. Even if you believe that your development is not CIL liable, this form still needs to be submitted, completing sections 1-6 and the declaration at section 8 (see the [Additional Information Requirements Guidance](https://ecab.planningportal.co.uk/uploads/1app/cil_guidance.pdf) for further advice).

If you are submitting an application for development permitted by ‘general consent’ (including permitted development where this involves a new residential dwelling with floorspace of over 100 square metres), [Form 5: Notice of Chargeable Development](https://ecab.planningportal.co.uk/uploads/1app/forms/form_5_notice_of_chargeable_development.pdf) should be submitted instead of the Additional Information Requirements Form.

[Form 1: Assumption of Liability](https://ecab.planningportal.co.uk/uploads/1app/forms/form_1_assumption_of_liability.pdf) should be submitted as soon as possible.

[Form 2: Claiming Exemption or Relief](https://ecab.planningportal.co.uk/uploads/1app/forms/form_2_claiming_exemption_and_or_relief.pdf) Must be submitted prior to commencement, (if exemption is to be claimed).

If you wish to transfer or withdraw assumption of liability use [Form 3: Withdrawal of Assumption of Liability](https://ecab.planningportal.co.uk/uploads/1app/forms/form_3_withdrawal_of_assumption_of_liability.pdf) or [Form 4: Transfer of Assumed Liability](https://ecab.planningportal.co.uk/uploads/1app/forms/form_4_transfer_of_assumed_liability.pdf)

Prior to commencing your development, [Form 6: Commencement Notice](https://ecab.planningportal.co.uk/uploads/1app/forms/form_6_commencement_notice.pdf) must be received by Torbay Council Planning department. Failure to do this will result in you losing the ability to pay in instalments and you may also have to pay a surcharge.

If you are undertaking a self build, [Form 7: Self Build Exemption Claim Form Part 1](https://ecab.planningportal.co.uk/uploads/1app/forms/form_7_self_build_part_1_exemption_claim.pdf) and [Part 2](https://ecab.planningportal.co.uk/uploads/1app/forms/form_7_self_build_part_2_exemption_claim.pdf) need to be completed.

# When should a Commencement Notice be submitted?

In CIL terms, ‘commencement’ is when any ‘material operation’ begins to be carried out on the land subject to the CIL charge. The Commencement Notice should be submitted to Torbay Council (at the latest) the day before ‘material operations’ commence. Failure to do this could forfeit the right to pay in instalments and may result in having to pay a surcharge. Please see the CIL Charging Schedule for further details.

# How is CIL spent?

Money raised from CIL will be used to help fund major infrastructure projects named on the ‘Regulation 123 List’ (Available at [www.torbay.gov.uk/CIL](http://www.torbay.gov.uk/CIL)).

A ‘neighbourhood portion’ of CIL must be spent in the neighbourhood in which CIL arises. When Neighbourhood Plans have been ‘made’ (ie. adopted), this will be 25%. Until the Neighbourhood Plans are in place (“made”), the proportion will be 15%.

# Will the CIL rates or Regulation 123 List change?

CIL rates will be kept under review. If there are significant changes to development viability, CIL will be revised in accordance with the CIL Regulations. The Regulation 123 List can be revised in accordance with the CIL Regulations, should other projects arise that need to be funded through CIL.

*See the CIL webpage at* [*www.torbay.gov.uk/cil*](http://www.torbay.gov.uk/cil) *for further information. Please note that these notes are provided for guidance, and in the event of any conflict with the Charging Schedule, then the Charging Schedule is the document that carries weight.*