

Worthing Borough Council

Community Infrastructure Levy (CIL)

Appeals Guidance

September 2019

Introduction

Appeals can be made against a range of aspects of the CIL collection and enforcement. This note sets out the procedure for making such appeals, including how to make an appeal, when to make an appeal by and who to make the appeal to.

Appeals are only possible on the following grounds, that the Council:

- Incorrectly calculated the amount of CIL (before making the appeal, the developer must first request an internal review by the council)
- Incorrectly apportioned liability between landowners
- Incorrectly determined charitable relief
- Incorrectly determined that the residential annexe is not wholly within the curtilage of the main dwelling
- Incorrectly determined the value of the exemption of the self-build scheme
- Incorrectly applied surcharges
- Deemed the development to have commenced when it did not
- Incorrectly issued a stop notice for non-payment

There are two exceptions where an appeal system does not exist; social housing relief and exceptional circumstances relief. Appendix 1 provides a summary of the appeals available, who should be contacted, who may appeal and any time restrictions on appealing.

Please note: The information relating to CIL contained in this Guidance is intended to assist developers to understand and determine their CIL liability. It should not be regarded as definitive advice. If in doubt, developers are advised to contact the Council and/or seek their own professional advice.

Reviews to the Charging Authority

Provided that the development has not commenced and you feel that the amount of CIL set out in your liability notice has been calculated incorrectly, you can ask the Council to review the calculation.

Requests for a review must be made within 28 days of the date on which the liability notice was issued. This must be made in writing to the Planning Department, along with any evidence you feel is appropriate to support your request.

Once the Council receives your request to review the amount, it will ensure that the person conducting the review is senior to the one who carried out the original calculation. The Council will notify you of the outcome of the review within 14 days of receiving your formal request, including the reasons for the decision.

However, where the development has commenced before the Council has given notification of the review decision, the review will lapse and the original amount will become due for payment in the manner set out in the liability notice or demand notice.

Appeals to the Valuation Office Agency (VOA) can be made against the following:

1. Calculation of CIL chargeable amount (Regulation 114)

If you are dissatisfied with the decision of the Council's review of the CIL chargeable amount or have not been notified within 14 days of the review start date, you may appeal to the VOA. This appeal must be made no later than 60 days after the day on which the liability notice was issued.

Where an appeal is allowed, the person appointed to review the appeal, will calculate a revised chargeable amount.

2. Apportionment of liability (Regulation 115)

You may also appeal to the VOA against any apportionment of liability carried out by the Council. Such appeal must be made within 28 days from the day on which the demand notice is issued by the Council. Where an appeal is allowed, any demand notices relating to the development will cease to have effect and the appointed person will re-apportion liability between each material interest in the land.

3. Charitable Relief (Regulation 116)

If you consider that the Council has incorrectly determined the value of the Charitable Relief on the CIL chargeable development, you may appeal to the VOA. An appeal must be submitted within 28 days of the date on which the Council made its decision on the claim for CIL relief.

4. Residential annexe exemption (Regulation 116A)

If you consider that the Council has incorrectly determined that a residential annexe is not wholly within the grounds of the main dwelling, you may appeal to the VOA. An appeal must be submitted within 28 days of the date on which the Council made its decision on the claim for exemption.

5. Self-build exemption (Regulation 116B)

If you consider that the Council has incorrectly determined the value of the exemption allowed for self-build housing, you may appeal to the VOA. An appeal must be made within 28 days of the date on which the Council made its decision on the claim for exemption.

Appeals to the Planning Inspectorate, can be made against the following:

If you feel that any CIL enforcement action is unwarranted or has been taken in error, you are encouraged in the first instance to contact the Council. This is because it may be a lot quicker and easier to resolve the issue by contacting the Council first, before taking more formal action. However, a formal appeal can be lodged no later than 28 days after the date of your notification by the Council of any of the circumstances below.

1. Surcharges (Regulation 117)

You may appeal against a surcharge imposed by the Council, to the Planning Inspectorate within 28 days of the surcharge being imposed. Appeals against a surcharge will suspend its effect until the Planning Inspectorate has decided the appeal in question, who may confirm, quash or re-calculate the surcharge.

2. Commencement of development (Regulation 118)

You may appeal against a deemed commencement date made by the Council. The appeal must be made to the Planning Inspectorate within 28 days from the day the demand notice is issued. Where an appeal is made, any enforcement decisions relating to the deemed date of commencement, including the imposition of any surcharges, will be suspended pending the outcome of the appeal.

3. Issuing of a CIL stop notice (Regulation 119)

You may appeal against any decision made by the Council to issue a CIL stop notice. The appeal must be made to the Planning Inspectorate on the basis that the development has not commenced or that no warning notice was given. This appeal must be made within 60 days from the date on which the stop notice takes effect. The CIL stop notice continues to have effect while the appeal is outstanding.

Can an appeal be made if development has already started?

A request to review a liability notice, or lodging an appeal, must be done before development begins. The appeal will lapse if development is commenced before the appeal decision is received.

However, in some circumstances this may not be possible. For example, if an apportionment of liability has been made after the development has commenced, or where planning permission is sought retrospectively, the liability notice can only be issued once the scheme has commenced or is completed. In such circumstances, relevant people may still request a review or appeal. This applies to appeals lodged under Regulation 114 in respect of retrospective planning permissions, and Regulation 115.

How to apply

Appeals to the Valuation Office Agency should be submitted on a form provided by the agency. For more information see:

<https://www.gov.uk/guidance/community-infrastructure-levy-how-to-make-an-appeal>

For information on appeals to the Planning Inspectorate, see:

<https://www.gov.uk/guidance/appeal-a-community-infrastructure-levy-enforcement-notice>

Useful Information

Appeal decision notices issued by the Valuation Office Agency are published in redacted form [here](#).

Appeal decision notices issued by the Planning Inspectorate will be published in redacted form [here](#).

Contact us

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Appendix 1: Appeals Summary Table

Type of Appeal	Who should appellants contact?	Who may appeal, and on what grounds?	What time restrictions apply?
<p>Calculation of chargeable amount (Regulation 114)</p>	<p>First: ask the collecting authority for a review, in accordance with the procedures in Regulation 113.</p> <p>Second: appeal to the Valuation Office Agency.</p>	<p>The VOA can only accept an appeal from the person who asked the collecting authority to review the chargeable amount under Regulation 113.</p> <p>An appeal to the VOA can only be made on the ground that the chargeable amount has been calculated incorrectly.</p>	<p>Development must not have commenced (with the exception of retrospective planning applications). An appeal under this regulation will lapse if development is commenced before the appointed person has notified the appellant of the decision on their appeal.</p> <p>The first review to the charging authority must be made within 28 days of the liability notice being issued.</p> <p>A subsequent appeal to the VOA must be made within 60 days of the date when the original liability notice was issued. An appeal to the VOA cannot be made until at least 14 days after the collecting authority has been asked for a review.</p>
<p>Apportionment of liability (Regulation 115)</p>	<p>First: ask the collecting authority for a review.</p> <p>Second: appeal to the Valuation Office Agency.</p>	<p>The appeal can only be made by the 'owner of a material interest' (defined in Regulation 4(2)) in the 'relevant land' (defined in Regulation 2).</p> <p>An appeal to the VOA can only be made against an apportionment of liability made under Regulation 34.</p>	<p>Within 28 days of the date of the demand notice stating the amount payable by the appellant being issued.</p>

<p>Charitable relief (Regulation 116)</p>	<p>First: ask the collecting authority for a review. Second: appeal to the Valuation Office Agency.</p>	<p>The appeal can only be made by an 'interested person' (defined in Regulation 112(2)(b)). An appeal can be made to the VOA only if it is considered that the collecting authority has incorrectly determined the value of the interest in land used in an apportionment assessment.</p>	<p>Within 28 days of the collecting authority's decision on the claim for charitable relief. Development must not have commenced. An appeal under this regulation will lapse if development is commenced before the appointed person has notified the appellant of the decision on their appeal.</p>
<p>Residential annexe exemption (Regulation 116A, inserted by the 2014 Regulations)</p>	<p>Appeals can be lodged directly with the Valuation Office Agency.</p>	<p>The appeal can only be made by the person who was granted the exemption. An appeal can be made to the VOA only if it is considered that the collecting authority has incorrectly determined that the annexe is not wholly within the grounds of the main dwelling (as defined under regulation 42A).</p>	<p>Within 28 days of the collecting authority's decision on the claim for an exemption. Development must not have commenced. An appeal under this regulation will lapse if development is commenced before the appointed person has notified the appellant of the decision on their appeal.</p>
<p>Self build exemption (Regulation 116B, inserted by the 2014 Regulations)</p>	<p>Appeals can be lodged directly with the Valuation Office Agency.</p>	<p>The appeal can only be made by the person who was granted the exemption for self-build housing, on the grounds that the collecting authority has incorrectly determined the value of the exemption allowed.</p>	<p>Within 28 days of the collecting authority's decision on the claim for an exemption. Development must not have commenced. An appeal under this regulation will lapse if development is commenced before the appointed person has notified the appellant of the decision on their appeal.</p>
<p>Surcharges (Regulation 117)</p>	<p>Planning Inspectorate.</p>	<p>The appeal can be made by a person who is aggrieved at a decision of a collecting authority to impose a surcharge, on any of the following grounds:</p>	<p>Within 28 days of the surcharge being imposed.</p>

		<ul style="list-style-type: none"> • The claimed breach which led to the surcharges did not occur • The collecting authority did not serve a liability notice in respect of the chargeable development to which the surcharge relates • The surcharge has been calculated incorrectly 	No amount is payable in respect of that surcharge while the appeal is outstanding.
Commencement of development (Regulation 118)	Planning Inspectorate.	The appeal can be made by a person on whom a demand notice is served, on the grounds that the date of commencement has been wrongly determined.	Within 28 days of the date the demand notice was issued.
Issuing of a stop notice (Regulation 119)	Planning Inspectorate.	<p>The appeal can be made by a person who is aggrieved at a decision of a collecting authority to impose a levy stop notice, on either (or both) of the following grounds:</p> <ul style="list-style-type: none"> • The collecting authority did not serve a warning notice before imposing the CIL stop notice • The development in respect of which the CIL stop notice was imposed has not commenced 	<p>Within 60 days of the date when the stop notice takes effect.</p> <p>A CIL stop notice which is subject to an appeal continues to have effect while the appeal is outstanding.</p>