

Worthing Borough Council
CIL Surcharges and Enforcement Policy
May 2021



WORTHING BOROUGH
C O U N C I L

What is the Community Infrastructure Levy (CIL)?

The Community Infrastructure Levy (CIL) is a fixed rate charge per square metre of qualifying development, which was introduced by Worthing Borough Council (WBC) in October 2015 to offset the infrastructure impacts that arise from development in an area. CIL is charged in £ per square metre and is levied on the gross internal area (GIA) of the liable development. The CIL charge depends on the size, type and location of the development proposed.

For more information on CIL in Worthing, please see the Council's website;

www.adur-worthing.gov.uk/planning-policy/worthing/worthing-developer-contributions/worthing-cil/

What is this document?

When there are problems in collecting the CIL payment, or the correct procedures are not followed, Worthing Borough Council, as the CIL charging authority, has the means to penalise the liable party through the use of surcharges. These will be applied in accordance with the CIL Regulations 2010 (as amended).

Failure to comply with the CIL requirements may result in enforcement action being taken by the Council. In cases of persistent non-compliance, the CIL Regulations allow Worthing Borough Council to consider more direct action such as: issuing of a CIL Warning Notice; serving a CIL Stop Notice; applying to a magistrates' court for a liability order; or applying to the courts for seizure of assets to pay the outstanding monies. Ultimately developers could face time in prison should the payment not be made. CIL is registered as a local land charge and the charge can be enforced if payment is not received (Regulation 107).

It is possible to appeal to the Planning Inspectorate against a surcharge or enforcement action taken in relation to the non-payment of CIL. More information on this can be found in the Appeals and Enforcement section of the Council's CIL webpage:

www.adur-worthing.gov.uk/planning-policy/worthing/worthing-developer-contributions/worthing-cil/#further-information

The table below is provided as a summary of the Surcharges which can be applied by the Council. Please see the CIL Regulations 2010 (as amended) for more detailed information.

Surcharge	Amount	CIL Reg.
Failure to assume liability - where no one has assumed liability and the chargeable development has commenced	£50 on each person liable to pay CIL	80
Apportionment of liability - where the Council is required to apportion liability for CIL between those with a material interest in the land	£500 in respect of each of those material interests	81
Failure to submit notice of chargeable development (Form 5) - i.e. development has taken place under general consent	20% of the chargeable amount or £2500, whichever is lower	82
Failure to submit a commencement notice - prior to development starting	20% of the chargeable amount or £2500, whichever is lower	83
Disqualifying events - where a person fails to notify the Council of a disqualifying event before the end of the period of 14 days with the day being the date on which the disqualifying event occurs	20% of the chargeable amount or £2500, whichever is lower	84
Late payment - Payment not received within 30 days of due date	5% of the outstanding chargeable amount or £200, whichever is greater. If the sum is not paid in full within 6 months a further surcharge of 5% or of the unpaid amount or £200 whichever is the greater, the same surcharge can be applied at 12 months.	85
Failure to comply with an Information Notice - before the end of the period of 14 days beginning with the day on which the notice is served.	20% of the relevant amount or £1000, whichever is lower	86
Late Payment Interest - when the CIL liability is not received (in whole or in part) on the day payment is due, late payment interest will become payable on the unpaid amount	Late payment interest is calculated for the period starting on the day after the day payment was due and ending on the day the unpaid amount is received at an annual rate of 2.5 percentage points above the Bank of England base rate	87

Appendix I - Definitions

Commencement = commencing development is considered to be defined as development which commences from the earliest date on which any material operations begin to be carried out on the site. In accordance with section 56 (4) of the Town and Country Planning Act 1990 (as amended), a material operation includes:

- Any work of construction in the course of the erection of a building
- Any work of demolition of a building
- The digging of a trench which is to contain the foundations, or parts of the foundations, of a building or to any such trench as is mentioned above
- Any operation in the course of laying out or constructing a road or part of a road
- Any change in the use of any land which constitutes material development

Disqualifying Event (Self Build Relief) = this can occur within the 3 year 'clawback period' (beginning on the day the completion certificate is issued) and includes letting the dwelling, or sale of the dwelling. Failure to submit Self-Build Exemption Claim Form: Part 2 within 6 months of the date of the completion certificate also counts as a disqualifying event. In this case, an amount of CIL equal to the amount that would have been payable had the exemption not been granted is to be paid

Disqualifying Event (Social Housing) = this can occur within the 7 year 'clawback period' (beginning on the day the completion certificate is issued) and includes renting the dwelling at market rate, not through a local authority or Private Registered Provider, or sale of the dwelling. In this case, an amount of CIL equal to the amount that would have been payable had the exemption not been granted is to be paid