

Caerphilly County Borough
Community Infrastructure Levy

Guidance Note 2 Draft Instalment Policy

March 2013

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Caerphilly County Borough Council
Community Infrastructure Levy

**Guidance Note 2:
Draft Instalment Policy**

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Guidance Note 2 – Draft Instalment Policy

In accordance with Regulation 69B of the Community Infrastructure Levy Regulations 2010 (as amended) Caerphilly County Borough Council will operate a policy that makes provision for developments to make payments of CIL by instalments, in accordance with the following table:

Caerphilly County Borough Instalment Policy		
Total CIL Liability	No Of Instalments	Payment Period
Up to and including £10,000	1	Full amount within 60 days of the commencement date.
Greater than £10,000 and up to and including £40,000	2 (equal instalments)	Instalment 1 - within 60 days of the commencement date Instalment 2 – within 180 days of commencement date
Greater than £40,000 and up to and including £100,000	4 (equal instalments)	Instalment 1 - within 60 days of the commencement date Instalment 2 – within 180 days of commencement date Instalment 3 – within 360 days of commencement date Instalment 4 – within 540 days of commencement date.
Greater than £100,000 and up to and including £200,000	5 (equal instalments)	Instalment 1 - within 60 days of the commencement date Instalment 2 – within 180 days of commencement date Instalment 3 – within 360 days of commencement date Instalment 4 – within 540 days of commencement date. Instalment 5 - within 720 days of commencement
Greater than £200,000	6 (equal instalments)	Instalment 1 - within 60 days of the commencement date Instalment 2 – within 180 days of commencement date Instalment 3 – within 360 days of commencement date Instalment 4 – within 540 days of commencement date. Instalment 5 - within 720 days of commencement date Instalment 6 – within 900 days of commencement date

The Instalment Policy will only be applied in cases where the persons liable for paying CIL have complied with all the relevant requirements of the Regulations, which are set out in the Guidance Note on the next page.

Where the persons liable for paying CIL have not complied with **all** of the requirements the full amount of CIL will become payable within 60 days of commencement of the development.

When Will The Instalment Policy be Applicable?

Regulation 70 of the Community Infrastructure Levy Regulations 2010 (as amended) sets out the requirements that must be complied with in order to benefit from the CIL Instalment Policy and states

- “70. (1) This regulation applies where—
- (a) a person has assumed liability to pay CIL in respect of a chargeable development (D);
 - (b) the collecting authority has received a commencement notice in respect of D; and
 - (c) the collecting authority has not determined a deemed commencement date for D.”

In essence, therefore, the instalment policy can be applied to any chargeable development, where:

- 1 The total CIL Charge exceeds £10,000 (as provision for only one payment is made for developments with total CIL amounting up to and including £10,000)
- 2 A person, or persons, has assumed liability for the chargeable development
- 3 The Council has received a commencement notice in respect of the chargeable development prior to the commencement, or deemed commencement, of the development

In order to apply the Instalment Policy a development will need to comply with **all** three criteria throughout the development period. If the development fails to meet any of the criteria prior to any instalment payments being made, the total CIL Charge becomes liable for payment by the 60th day from the commencement date. Where a development fails one or more of the criteria whilst an instalment policy is operating, the instalment policy will cease to be applied and the remaining unpaid balance of the CIL Charge will be come liable to be paid by the 60th day from the issue of a Demand Notice by the council. It should be noted that any development that does not meet the criteria might also be subject of surcharges in respect of the late submission of the CIL Assumption of Liability Form and / or the CIL Commencement Notice to the council.

In addition Regulation 70 also requires that payment of the instalments are made in accordance with the due dates for payments, as set out in the Instalment Policy. Where an amount payable in accordance with the Policy is not paid on or before the due date set out in the policy, the Instalment Policy is no longer applied and:

- 1 The unpaid balance of the instalment, whose payment was not made on or before the due date, becomes payable immediately
- 2 The remaining unpaid balance of the total CIL Charge becomes payable on the 60th day from the council issuing a Demand Notice.

Commencement of Development

Regulation 69B sets out the provisions for the council to prepare and use an instalment policy. Paragraph 69B (2) sets out the required content of the instalment policy, with Paragraph 69B (2) (d) stating “*the time (to be calculated from the date the development is commenced) that the first instalment payment is due, and the time that any subsequent instalment payments are due*” This paragraph identifies that the starting point for any instalment policy to take effect is the commencement of development.

To determine when a development has commenced the council will use the definitions provided by CIL Regulation 7 and Paragraph 56 of the Town and Country Planning Act 1990 (as amended), which state:

CIL Regulations (As Amended)

7 Commencement of development

- (1) This regulation has effect for determining when development is to be treated as commencing for the purposes of Part 11 of PA 2008.
- (2) Development is to be treated as commencing on the earliest date on which any material operation begins to be carried out on the relevant land.
- (3) Paragraph (2) is subject to the following provisions of this regulation.
- (4) Development is to be treated as commencing on the day planning permission is granted for that development if planning permission had previously been granted for that development for a limited period.
- (5) Development for which planning permission is—
 - (a) granted under section 73A of TCPA (planning permission for development already carried out); or
 - (b) granted or modified under section 177(1) of TCPA 1990 (grant or modification of planning permission on appeals against enforcement notices), is to be treated as commencing on the day planning permission for that development is granted or modified (as the case may be).
- (6) In this regulation “material operation” has the same meaning as in section 56(4) of TCPA 1990(d) (time when development begun).

Town & Country Planning Act 1990 (as amended)

56 *Time when development begun.*

- (1) Subject to the following provisions of this section, for the purposes of this Act development of land shall be taken to be initiated—
 - (a) If the development consists of the carrying out of operations, at the time when those operations are begun;
 - (b) if the development consists of a change in use, at the time when the new use is instituted;
 - (c) if the development consists both of the carrying out of operations and of a change in use, at the earlier of the times mentioned in paragraphs (a) and (b).
- (2) For the purposes of the provisions of this Part mentioned in subsection (3) development shall be taken to be begun on the earliest date on which any material operation comprised in the development begins to be carried out.
- (3) The provisions referred to in subsection (2) are sections 85(2), 86(6), 87(4), [F189] 91, 92 and 94.
- (4) In subsection (2) “material operation” means—
 - (a) any work of construction in the course of the erection of a building; [any work of demolition of a building;]
 - (b) the digging of a trench which is to contain the foundations, or part of the foundations, of a building;
 - (c) the laying of any underground main or pipe to the foundations, or part of the foundations, of a building or to any such trench as is mentioned in paragraph (b);
 - (d) any operation in the course of laying out or constructing a road or part of a road;
 - (e) any change in the use of any land which constitutes material development.
- (5) In subsection (4)(e) “material development” means any development other than—
 - (a) development for which planning permission is granted by a general development order for the time being in force and which is carried out so as to comply with any condition or limitation subject to which planning permission is so granted;
 - (b) development of a class specified in paragraph 1 or 2 of Schedule 3;] and
 - (c) development of any class prescribed for the purposes of this subsection.
- (6) In subsection (5) “general development order” means a development order (within the meaning of section 59) made as a general order applicable (subject to such exceptions as may be specified in it) to all land in England and Wales.