



Community Infrastructure Levy (CIL) Guidance note on 'Continuous Lawful Use'

The CIL regulations allow for the deduction of existing and/or demolished floorspace when calculating the CIL charge. Please note that this floorspace is not taken into account when determining whether the development is CIL liable or not.

The existing and/or demolished floorspace can only be taken into account if the existing building has been 'in continuous lawful use' which means

- It is a building which is situated on the relevant land on the day planning permission first permits the chargeable development
- It 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.

It is the applicant's responsibility to provide evidence to demonstrate continuous lawful use. This information needs to be submitted to the Council after which the applicant can request a review of the chargeable amount under regulation 113. **Such request must be made within 28 days of the issue date of your liability notice.** Note that you can already submit evidence before your application has been determined.

We will not consider the existing floor space as deductible floor space unless the applicant demonstrates the continuous lawful use to the Council's satisfaction. Below you can find a list of evidence that can be submitted, please contact us if you have any other type of evidence you would like to submit.

- Copies of leases
- Utility bills for the 6 month period showing consumption commensurate with the use
- Business rate or council tax bills
- Confirmation from a letting agent or solicitor advising of the period of occupancy
- A statutory declaration or affidavit (see note below)

If the property has been in residential use, the Council can check continuous lawful use with the Council Tax department **but will only do so on request of the agent/applicant.** Please also see the note on ancillary outbuildings below.

Photographs are not on the list of information to evidence use. This is because they only evidence that the building was in use at the moment in time that the photograph was taken. However they can support other evidence, providing they are digitally date stamped.

Note that the Council requires floorplans of the existing building to measure the gross internal area (GIA) of the existing and/or demolished floorspace. Without sufficiently accurate floorplans no reduction can be given.

Statutory declarations or affidavits

These are written statements that are sworn or affirmed to be true by a solicitor, notary public or other judicial officer. A solicitor will charge a small fee to swear or affirm a document. Swearing or affirming a document is a serious matter, as you are stating that the entire contents of the document are true. If it is later discovered that any part of that statement is false, you could be held in contempt of court and sent to prison.

Converting ancillary residential outbuildings into independent dwellings

If the main dwelling to which the outbuilding is ancillary was in use, the applicant or agent can ask the CIL team to check if the dwelling was in continuous lawful use with the Council Tax team. Additionally the applicant or agent will need to submit date stamped photographs which clearly show that the outbuilding has been in use.