

West Berkshire CIL Guidance - CIL Appeals Process

Introduction

The Community Infrastructure Levy Regulations 2010 (as amended) ('the Regulations') provide that in certain circumstances, an appeal can be made against the levy and enforcement system.

When can an appeal be made?

An appeal can be made where the applicant can demonstrate that:

- The Council incorrectly calculated the amount of CIL
- The Council incorrectly apportioned liability between landowners
- The Council incorrectly determined Charitable Relief
- The Council incorrectly determined the Residential Annex exemption
- The Council incorrectly determined the Self-Build exemption
- The Council incorrectly applied surcharges
- The Council deemed the development to have commenced when it did not
- The Council incorrectly issued a stop notice for non-payment

There are no other grounds for appeal under the CIL regulations.

The Process

The table below sets out the process which must be followed for each of the appeal grounds, as set out in the regulations.

Appeal Grounds	Time restrictions which apply
<p>Calculation of the chargeable amount (R114) Prior to an appeal, the applicant must first ask the Council for a formal review to be undertaken in accordance with the procedures set out in Regulation 113.</p> <p>Following the outcome of this review, should the applicant still have grounds to believe that the Council has incorrectly calculated their CIL liability, an appeal can be made to the Valuations Office Agency ('VOA').</p> <p>VOA can only accept an appeal where the applicant has first asked the Council for a review under Regulation 113. An appeal to VOA can only be made on the grounds that the chargeable amount has been calculated incorrectly.</p>	<p>Development must not have commenced.</p> <p>The first review to the Council must be made within 28 days of the date of the Liability Notice.</p> <p>The appeal to VOA must be made within 60 days of the date when the original Liability Notice was issued.</p> <p>An appeal to VOA cannot be made until at least 14 days after the collecting authority has been asked for a review.</p>
<p>Apportionment of liability (R115) An appeal can be made directly to VOA. The appeal to VOA can only be made by the owner of a material interest (defined in Regulation 4(2)), in the</p>	<p>Within 28 days of the date when the demand notice, stating the amount payable by the appellant, was issued</p>

Appeal Grounds	Time restrictions which apply
relevant land (defined in Regulation 2). An appeal to VOA can only be made against an apportionment of the liability made under Regulation 34.	
<p>Charitable Relief (R116) An appeal can be made directly to VOA. The appeal to VOA can only be made by an interested person (defined in Regulation 112(2)(b)). An appeal can be made to VOA only if it is considered that the Council has incorrectly determined the value of the interest in land used in an apportionment assessment.</p>	<p>Development must not have commenced</p> <p>Within 28 days of the Council's decision on the claim for Charitable Relief</p>
<p>Residential Annexe Exemption (R116A) An appeal can be made directly to VOA. The appeal can only be made by the person who was granted the exemption. An appeal can only be made if it is considered that the Council has incorrectly determined that the annexe is not wholly within the grounds of the dwelling.</p>	<p>Development must not have commenced</p> <p>Within 28 days of the Council's decision on the claim for an exemption</p>
<p>Self-Build Exemption (Regulation 116B) An appeal can be made directly to VOA. The appeal can only be made by the person who was granted the exemption for self-build housing, on the grounds that the Council has incorrectly determined the value of the exemption allowed.</p>	<p>Development must not have commenced</p> <p>Within 28 days of the Council's decision on the claim for an exemption</p>
<p>Surcharges (R117) An appeal against surcharges must be made to the Planning Inspectorate. The appeal can be made by a person who is aggrieved at a decision of the Council to impose a surcharge.</p>	<p>Within 28 days of the surcharge being imposed</p>
<p>Commencement of development (R118) An appeal can be made to the 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.</p>	<p>Within 28 days of the date the demand notice was issued</p>
<p>Issuing a stop notice (R119) An appeal can be made to the Planning Inspectorate. An appeal can be made by a person who is aggrieved at a decision of the Council to impose a levy stop notice.</p>	<p>Within 60 days of the date when the stop notice takes effect</p>

Further details

More information on appeals to the Valuations Office Agency can be found on their Website:

<http://www.voa.gov.uk/cil/index.html>

More information on appeals to the Planning Inspectorate can be found on the Planning Portal Website:

<https://www.planningportal.gov.uk/planning/appeals/otherappealscasework/cilguidance>