

Self Build Relief: Guidance for claimants

July 2021

This guidance note has been produced by Bradford Council to assist in the Self Build Relief process. However it must be understood that the responsibility to ensure the CIL process and Regulations are complied with is that of the claimant and not Bradford Council's. Therefore, Bradford Council will not accept responsibility if the Self Build Relief process is not followed correctly by a claimant.

INTRODUCTION

The CIL process is governed by The Community Infrastructure Levy Regulations 2010 (as amended). These are known as the CIL regulations.

This guidance note explains the Self Build Relief process. However it must be noted that the Council and all claimants must follow the process as set out in the CIL Regulations. Therefore, claimants are strongly advised to consult the CIL Regulations for full details.

It is important to note CIL Self Build Relief does not exempt a development from CIL, rather it provides a monetary relief against the need to pay CIL for a chargeable development. This relief can either be a full relief or a partial relief. There is a formal process that needs to be complied with following the grant of any CIL relief. If this process is not followed correctly the ability to apply for the relief may be lost, and for cases where the relief has been granted, it may be withdrawn and/or a financial penalty imposed.

What is a chargeable development?

A chargeable development is one which is liable to pay CIL. For example, in the Bradford District all new residential developments, large supermarkets and retail warehousing within Bradford City Centre are chargeable. If CIL relief has been granted to chargeable development, this does not mean it is CIL exempt, but that the charge has been reduced and is dependent on the CIL Regulations being complied with correctly.

In order to claim a Self Build Relief, the person who will reside in the self build dwelling upon its completion, has to assume liability for CIL. This means that person becomes the responsible party for any payments arising from the chargeable development, which may include payments that become due at a later date.

What is CIL Liability?

The Community Infrastructure Levy (CIL) is a planning charge introduced by the Planning Act 2008 and can be used by local authorities in England and Wales to help deliver infrastructure. Development may be liable for a charge under CIL if the planning authority has identified that type of development as a chargeable development. CIL Liability is the amount the chargeable development will have to pay when works commence.

When Self Build Relief is granted, the CIL Liability (the amount that would be payable without the Relief) is reduced to nil/£0.00 for the Self Build Dwelling. However, even where a Liability Notice and/or Demand Notice has been issued for the amount of £0.00, this does not mean no CIL will ever be payable. If a Disqualifying Event occurs, then some or all the CIL and/or penalties imposed will become payable.

What are disqualifying events for Self Build Relief?

- Not assuming liability. In these cases the request for a Self Build Relief will not be pursued by the Council and the full CIL will be due for payment when the development commences.
- Not submitting a Commencement Notice prior to the chargeable development commencing. In these cases a surcharge of 20% of the CIL liability will be imposed or the entire Self Build Relief withdrawn if the Liability Notice was issued prior to September 2019 CIL Regulation amendments.
- Not submitting Self Build Claim Form part 2 and the supporting evidence within 6 months of the date of the completion certificate for the new dwelling.

Before assuming liability for CIL, claimants may wish to seek independent advice on the implications of assuming liability.

Where there is a CIL liability to be paid, be that due to a disqualifying event or a development only being part self build, the Council will pursue the liable party for the payment. Liability may not always run with the land however in certain circumstances liability can default to the land owner and in these instances the Council do have the right to pursue the land owner.

Claimants for Self Build Relief should be aware that following the completion of the Self Build dwelling, they are required to submit evidence of eligibility. It may be easier to collate and retain this evidence before or during the construction of the Self Build dwelling.

If the person who benefits from the Self Build Relief are not able to fulfil all the requirements, then the Self Build Relief can be removed at a later date and the relevant CIL liability will then become due for payment.

In some cases, more than one person can assume liability for a chargeable development. This may be the case where a chargeable development is for more than one dwelling. In these cases, all persons who have assumed liability for a chargeable development are jointly liable for CIL payments arising. As such, a liable party may become liable for a CIL payment following actions taken from another liable party or even a third party. One example of this would be if works commence prior to a commencement notice being submitted.

How do I claim Self Build Relief?

There are four steps to making a claim for Self Build Relief. These must be carried out in order.

Regulation 54B sets out the procedure for claiming self build relief. If the process is not followed correctly, the development may cease to become eligible for Self Build Relief and the CIL liability may become payable.

The claim for Self Build Relief has to be made by the person who:

- Intends to build, or commission the building of, a new dwelling and who intends to occupy it as the sole or main residence for the duration of the clawback period, and
- Has assumed liability to pay CIL in respect of the new dwelling, whether or not they have also assumed liability to pay CIL in respect of another dwelling.

The four steps to making a claim for Self Build Relief are as follows:

STEP 1: ASSUME LIABILITY

The Self Build claimant must Assume Liability for the development. To Assume Liability 'CIL Form 2: Assumption of Liability' must be submitted

https://ecab.planningportal.co.uk/uploads/1app/forms/form_2_assumption_of_liability.pdf

STEP 2: MAKE A CLAIM FOR SELF-BUILD RELIEF

A person wishing to claim Self Build Relief must complete and return 'CIL Form 7: Self Build Exemption Form Part 1'. In completing Form 7 Part 1, the claimant must provide their details and certify that:

- The project is a "self build project" as set out in CIL regulation 54B.
- They occupy the residence as their sole or main

residence for a minimum of three years from completion (i.e. during the clawback period).

- They will provide the supporting documentation following completion of the Self Build dwelling (see *step 4*), and understand that the failure to do so will result in the CIL becoming payable.
- The amount of de minimis State Aid received by the applicant in the last three years prior to the submission of the application for relief is less than 200,000 Euro.

More information on State Aid can be found here:

<https://www.gov.uk/guidance/community-infrastructure-levy#state-aid>

Please note that a chargeable development will cease to be eligible for relief from CIL if the chargeable development commences and Self Build Relief has not been claimed and granted prior to commencement. Any pending claim for Self Build Relief will lapse when the chargeable development commences.

CIL Form 7: Part 1 can be found here:

https://ecab.planningportal.co.uk/uploads/1app/forms/form_7_self_build_part_1_exemption_claim.pdf

STEP 3: COMMENCEMENT NOTICE

A valid '*CIL Form 6: Commencement Notice*' must be submitted at least one working day before works to the chargeable development commence. If an invalid Commencement Notice is submitted prior to commencement, then it will be treated as if a Commencement Notice has not been submitted.

A valid Commencement Notice must include, amongst other things, the following:

- **The Liability Notice reference**
- **The date of Commencement**

The date of commencement must include day, month and year. For example, 1st December 2021 and not just December 2021.

The claimant is responsible for ensuring the Council has received the commencement notice before they commence work.

The Council advises claimants to wait for confirmation that the Commencement Notice is valid before starting works. If this confirmation has not been received the claimant should contact the Council for confirmation and not assume the Commencement Notice submitted is valid.

If a Self Build Relief **has** been granted but a valid Commencement Notice is not submitted prior to

works commencing, then one of the following will apply (these options are in line with changes introduced in the 2019 CIL Regulations amendments):

1. For Liability Notices issued before 1st September 2019 the Self Build Relief will be withdrawn, the full CIL Liability will become due for immediate payment and a surcharge may also be applied. (The surcharge will be equal to 20% of the CIL Liability of £2,500 whichever is the lower amount).

2. For Liability Notices issued on, or after, the 1st September 2019 the Self Build Relief will not be withdrawn but a surcharge of 20% of the amount that would have been charged if Self Build Relief had not been granted or £2,500 whichever is the lower amount, will be charged.

If Self Build Relief **has not** been granted and a valid commencement notice is not submitted prior to commencing a chargeable development, then the ability to claim Self Build Relief will be lost, the full CIL Liability will become due for immediate payment and a surcharge may be applied. The surcharge will be equal to 20% of the chargeable amount or £2,500, whichever is the lower amount.

CIL Form 6: Commencement Notice: https://ecab.planningportal.co.uk/uploads/1app/forms/form_6_commencement_notice.pdf

STEP 4: SUBMITTING SUPPORTING EVIDENCE

Following completion of the self build dwelling a completion certificate will be issued. Within six months of the date of this certificate the claimant is required to submit '*CIL Form 7: Self Build Exemption Form Part 2*' and all of the required supporting documentation.

If the claimant is not able to submit all of the supporting documentation, then they should discuss this with the Council as soon as possible within the six month period.

If '*CIL Form 7 Part 2*' and all the required supporting evidence is not submitted within six months of the completion of the self build dwelling, and the claimant has not advised the Council of the inability to provide all the supporting evidence, then the Self Build Relief will be withdrawn.

Alongside '*CIL Form 7 Part 2*', the claimant is required to submit various pieces of evidence. This includes one of the three pieces of evidence specified in Paragraph 3 of Part B. These are:

(a) An approved claim from HM Revenue and Customs under 'VAT431NB: VAT refunds for DIY housebuilders'

(b) Proof of a specialist Self-Build or Custom Build Warranty, or

(c) Proof of an approved Self Build or Custom Build Mortgage.

Self Build or Custom Build Warranty

A Self-Build or Custom Build Warranty is a warranty and certificate of approval issued by a warranty provider which provides a latent defects insurance policy and which is accompanied by a certified Stage Completion Certificate (SCC) issued to the owner /occupier of the home.

Please note that a custom build or self-build warranty is not the same as an Architect Certificate and Bradford Council will not accept an Architect's certificate in place of a custom build or self-build warranty as this does not provide assurance that the dwelling is a self-build.

There are a number of companies which provide Structural or Self Build Warranties, the council does not endorse any particular company. If you intend to obtain a self-build or custom build warranty, then it is advisable to look at this before commencing your dwelling as inspections are made throughout the build process.

A Self Build or Custom Build Mortgage

A Self-Build or Custom Build mortgage is described as "*an approved mortgage arranged to purchase land and or fund the cost of erecting a home where the loan funds are paid to the owner/ occupier in stages as the building works progress to completion.*"

As required by the CIL Regulations, the Council will give 28 days' notice of its intention to withdraw Self Build Relief. If Form 7 Part 2 and all the required evidence is submitted within the 28 day notice period, then Self Build Relief will not be withdrawn. Otherwise, the Relief will be withdrawn following the expiry of the 28 day notice period and the full CIL Liability will become payable.

Withdrawal of Self Build Relief in other circumstance

Self Build Relief will be withdrawn if a disqualifying event occurs within the clawback period.

What is clawback period?

Clawback period is the period of three years beginning with the date of the completion certificate issued by the Building Inspector. This is the minimum time period the self build dwelling must be lived in as the sole or main residence by the claimant.

One disqualifying event is the failure to submit 'CIL Form 7 Part 2'. Other disqualifying events may include:

- Change in status of the self build dwelling which causes the dwelling and/or claimant to be ineligible for relief.
- The letting out of a self build dwelling.
- The sale of a self build dwelling.

Other than in the case of a disqualifying event arising in connection with 'CIL Form 7 Part 2', the claimant must notify the Council of a disqualifying event in writing within 14 days of the disqualifying event taking place.

The disqualifying event will result in the Self Build Relief being withdrawn and the full CIL liability becoming due for immediate payment.

If the Council is not notified of a relevant disqualifying event within 14 days, then a surcharge may be imposed which will be equal to 20% of the CIL liability of £2,500 whichever is the lower amount.