

## **CIL Guidance Note**

### **Exceptional Circumstances Relief**

1.0 The Council has published a statement giving notice that relief for exceptional circumstances is available in its area. Relief for exceptional circumstances will be available from the day the CIL Charging Schedule comes into effect, 1<sup>st</sup> April 2014.

1.1 Anyone wishing to claim relief for exceptional circumstances must follow the procedure set down in Regulation 57 of The Community Infrastructure Levy Regulations 2010, as amended, and any relief given must be in accordance with the procedures in the Regulations and must not constitute state aid.

1.2 It should be noted that the Council has undertaken viability assessments of different types of development to consider the level at which the proposed CIL charges have been set, taking into account the provision of affordable housing and possible development specific s106 obligations. In view of this, it is important to note that the circumstances under which it is made available are expected to be genuinely exceptional.

#### **Circumstances under which Exceptional Circumstances Relief may be granted.**

1.3 Exceptional Circumstances relief of part or all of the Levy due may be available at the Council's discretion. It may only be granted if the procedures have been followed.

1.4 This note explains the steps that the applicant has to follow to claim relief after planning permission is granted but before development is commenced. These steps include funding the appointment of an independent person with appropriate qualifications and experience to undertake a viability study who, before appointment, must be agreed as an appropriate person by the Council. The exemption does not remain indefinitely, it ceases to apply if the development is not implemented within one year and in some other circumstances.

1.5 This note is not intended to be a definitive interpretation of the legislation or CIL Regulations and applicants are advised to seek professional advice as appropriate.

1.6 In summary the procedures require:-

- That a planning obligation has been entered into in respect of the planning permission which permits the chargeable development
- The claim to be submitted in writing on the appropriate form, this must also be sent to any other owners or holders of a material interest in the land
- An assessment to be carried out by an independent person is one who appropriate qualifications and experience and who is appointed by the claimant with the agreement of the Council.
- An explanation of why, in the opinion of the claimant, payable of the chargeable amount would have an unacceptable impact on the economic viability of that development
- Other required information about apportionment assessment if appropriate and declarations as required by the regulations.

1.7 The exemption is discretionary and the Council considers that to be able to assess whether the payment of the levy would clearly have an “unacceptable impact on the economic viability” of the development that the person carrying out the study will need to meet certain experience criteria, to demonstrate that they are “independent” and that any viability study will need to be in an agreed format clearly setting out evidenced assumptions.

1.8 In particular such applications will need to address the following points:-

- The independent person to be appointed to carry out the Viability Appraisal will need to demonstrate that they have appropriate qualifications and experience by submitting appropriate examples of previous viability appraisal work carried out of adequate quality before appointment.
- Within a firm the specific team intended to carry out the Viability Appraisal should be identified (the examples should relate to work carried out by that team).
- There must not be a client relationship between the independent person appointed to undertake the Viability Appraisal and the land owner / developer seeking the exemption other than that created by the commissioning of the Viability Appraisal.
- The Viability Appraisal will need to be set out in a format of recognised Viability Appraisal Tool such as Argos Developer or HCA Economic Appraisal Tool.
- The assumptions included in the Viability Appraisal will need to be clearly set out and evidenced, to inform the Council’s understanding.

- The results need to clearly indicate an unacceptable impact on the economic viability, that is not marginal and that is not likely to alter in the foreseeable future if sales values increase.

For further information regarding CIL Regulations please contact the CIL Team

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For further information regarding the Viability Appraisal please contact Tracey Barrett

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### **When will a decision be made?**

1.9 As soon as practical after receiving a claim for relief the Council will notify the claimant in writing of the decision and, where relief is granted, the amount of relief granted. There is no right of appeal.

### **Circumstances that may result in the development ceasing to be eligible for relief**

#### 1.10 Eligibility ceases

- In the event of disposal of a material interest in the land.
- At the end of 12 months of the date of a decision on a claim if the development has not bene commenced.
- Subsequent to the granting of social or charitable housing relief.

In these cases the owner must notify the Council and the full chargeable amount (i.e. the levy that would have been payable if the exemption has not been applied) becomes payable.

NOTE: This Guidance Note does not set out the Community Infrastructure Levy regulations in detail and is simply a summary of the relevant provisions. You should seek your own advice if you are in any doubt as regards how the Community Infrastructure Levy operates or affects your own position