GUIDANCE NOTE 7

Community Infrastructure Levy (CIL)

Exceptional Circumstances Relief Policy

(CIL Regulation 55)

Norwich City Council has determined to make relief for exceptional circumstances available within its area, in accordance with Regulations 55 to 57 of the Community Infrastructure Levy Regulations 2010 (as amended).

Relief for exceptional circumstances will be available from 1st July 2019 until further notice.

Exceptional Circumstances Relief (ECR) will be considered where individual sites with specific and exceptional cost burdens would not be economically viable due to the payment of the CIL Charge (see CIL Regulations 55 to 57). The Regulations state that the Council may grant relief from liability to pay CIL if it appears to the Council that there are exceptional circumstances which justify doing so and the Council considers it expedient to do so. Each case will be considered individually by the Council, which retains the discretion to make judgements about the viability of the scheme and whether exceptional circumstances exist.

In addition Norwich City Council may make a judgement in individual cases that exceptional circumstances are not solely based on economic viability. Even where the CIL may give rise to an unacceptable impact on the economic viability of the chargeable development, the Council may also require a demonstration of wider community and regeneration benefits including the delivery of affordable homes and community facilities and/or the need for the applicant to show that a particular site has to be brought forward imminently in order to achieve wider benefits.

The Regulations require that there must be a planning obligation in place in relation to the planning permission which permits the chargeable development. A person claiming relief must be an owner of a material interest in the relevant land. Any claim for relief must be submitted in writing, using the appropriate form, and must be received and approved by Norwich City Council before commencement of the chargeable development[1]. Any claim must be accompanied by:

a) an assessment carried out by an independent person[2] , of the economic viability of the chargeable development and the cost of complying with the planning obligation,
b) an explanation of why payment of the chargeable amount would have an unacceptable impact on the economic viability of that development
c) an apportionment assessment (if there is more than one material interest in the relevant land) ; and
d) A declaration that the claimant has sent a copy of the completed claim form to the owners of the other material interest in the relevant land (if any).

The chargeable development can cease to be eligible for exceptional circumstances relief if:

a) before the chargeable development is commenced, charitable or social housing relief is granted; or
b) the site (or part of the site) is sold; or
c) the chargeable development is not commenced within 12 months from the date on which the charging authority issues its decision on the claim

Before granting exceptional circumstances relief for an individual scheme, the Council also must be satisfied that the relief would not constitute notifiable state aid.

[1] A chargeable development ceases to be eligible for relief for exceptional circumstance if before the chargeable development is commenced there is a disqualifying event. This is where the development is granted charitable or social housing relief, is disposed of, or has not been commenced within 12 months.

[2] For the purposes of the above paragraph, an independent person is a person who is appointed by the claimant with the agreement of the charging authority and has appropriate qualifications and experience.