

Management Committee

20 September 2016

Community Infrastructure Levy – Exceptional Circumstances Relief

For Decision

Briefholder

Cllr Ray Nowak – Environment and Sustainability

Senior Leadership Team Contact:

S Hill, Strategic Director

Report Author:

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Statutory Authority

The Community Infrastructure Regulations 2010 (as amended).

Purpose of Report

- 1 To explain the reasons for offering Exceptional Circumstances Relief and seek member agreement for officers to implement the relief in accordance with nationally prescribed regulations.

Officer Recommendations

- 2(a) That Exceptional Circumstances Relief from the Weymouth & Portland Community Infrastructure Levy is offered.
- 2(b) That the Head of Planning (Development Management and Building Control) and the Corporate Manager - Planning (Community and Policy Development) be delegated authority to decide when to activate and deactivate the offer of relief in consultation with the Briefholder for Environment and Sustainability.
- 2(c) That the Head of Planning (Development Management and Building Control) and the Corporate Manager - Planning (Community and Policy Development) be delegated authority to consider claims for relief and determine whether or not to grant relief from CIL on a case by case basis in consultation with the Briefholder for Environment and Sustainability.

Reason for Decision

- 3 To enable the charging authority (Weymouth & Portland Borough Council) to consider claims for financial relief from the Community Infrastructure Levy.

Background and Reason Decision Needed

- 4 Full Council approved the CIL Charging Schedule on the 15 October 2015 and the Levy came into effect in relation to relevant chargeable development on the 18 July 2016. The charging schedule and associated guidance as implemented does not include a process for offering discretionary financial relief from CIL in exceptional circumstances.
- 5 The CIL charge is non-negotiable so it is important that the council has tools to consider exceptional circumstances particularly where long-standing planning consents with S106 agreements are affected financially by the transition to the CIL regime.
- 6 The CIL regulations state that the council may only grant relief from payment of a developments CIL charge where a planning obligation under S106 of the Town and Country Planning Act 1990 has been entered into and where the development has not commenced. The council must also:
 - a. consider it expedient to do so.
 - b. consider that to require payment of the CIL charge would have an unacceptable impact on the economic viability of the development and;
 - c. be satisfied that to grant relief would not constitute state aid which is required to be notified to and approved by the European Commission.
- 7 The CIL regulations (provisions 55-57) allow charging authorities to offer discretionary relief for exceptional circumstances and sets out the procedure to be followed if they do so. This process is set out below.
 - The charging authority (the council) must issue a statement on its website to say that it is making the relief available and publish the date the charging authority will begin to accept claims. This statement must also be placed on deposit at its main offices.
 - Once the relief is available, the developer/landowner applies for relief and submits viability evidence. The person claiming relief must be an owner of a material interest in the relevant land.
 - The viability evidence is independently checked by a person with appropriate qualifications and experience. The choice of assessor is agreed by the Council.
 - Claim(s) for relief are considered on a case by case basis.

- The charging authority issues a revised liability notice setting out the revised CIL charge (reduced/waived).
 - Regulations allow the charging authority to withdraw the availability of Exceptional Circumstances Relief at any time on giving 14 days notice on its website.
- 8 The payment of CIL is not necessary in order to make a development acceptable in planning terms, unlike a planning obligation. Therefore the decision as to whether a landowner or developer is offered exceptional relief is one purely based upon the financial viability of a development scheme. There are no planning merits as such to consider. Therefore the process of making judgements on applications for exceptional circumstances relief is not a function within the remit of the Planning Committee. It is proposed that these applications for relief be considered and determined on a case by case basis by the Head of Planning (Development Management and Building Control) and the Corporate Manager - Planning (Community and Policy Development) in consultation with the Briefholder for Environment and Sustainability.
- 9 The decision as to whether a landowner or developer is offered exceptional circumstances relief will be based upon the findings of a financial viability assessment which the applicant will have to provide. The viability assessment will be independently checked where necessary, for example by the District Valuer in order to inform the charging authorities decision and the cost of the independent assessment will be charged to the applicant. This process will ensure that the applications are considered in accordance with national legislative requirements.

Implications

Corporate Plan

- 10 Offering exceptional circumstances relief will help secure the delivery of infrastructure needed to support people and employers to work in the borough, it will therefore meet the objective 'Building a Stronger Local Economy'.

Financial

- 11 The Head of Planning (Development Management and Building Control) and the Corporate Manager - Planning (Community and Policy Development) would have delegated authority to make decisions on whether or not grant relief from CIL on a case by case basis, in consultation with the Briefholder for Environment and Sustainability..
- 12 This will only apply in circumstances where the applicant has already entered into a S106 agreement and has produced robust evidence to show that to pay the CIL charge in addition would have an unacceptable impact on the viability of the development.

- 13 The financial impact of granting exceptional relief is to reduce the level of CIL receipts that the council has available to fund future infrastructure projects. This loss will be offset by the delivery of on/off-site infrastructure required by the S106 agreement.

Economic Development

- 14 While the loss of CIL receipts will have negative implications, the relief from CIL will help ensure that development, infrastructure and commitments made through S106 can be secured in those instances where the CIL charge would have an unacceptable impact on the viability of development.

Risk Management (including Health & Safety)

- 15 It is envisaged that the opportunity for financial relief will be opened to provide a sufficient 'window' for long-standing planning consents with S106 agreements to apply for relief. The proposed delegation arrangements would provide flexibility to offer (and then withdraw) the relief for a longer period, if necessary.
- 16 An authority can only grant relief where a S106 agreement has been entered into for the development/application that the relief application relates to. This would limit the number of development proposals that could potentially seek relief.

Human Resources

- 17 The Community Infrastructure Levy is administered by the Community Infrastructure Levy Officer, part of the Implementation Team.
- 18 The Head of Planning (Development Management and Building Control) and the Corporate Manager - Planning (Community and Policy Development) would make decisions on when to activate and deactivate the offer of relief in consultation with the Briefholder for Environment and Sustainability.
- 19 The Head of Planning (Development Management and Building Control) and the Corporate Manager - Planning (Community and Policy Development) would consider and determine claims for relief on a case by case basis in consultation with the Briefholder for Environment and Sustainability.

Consultation and Engagement

- 20 None

Appendices

- 21 None

Background Papers

- 22 Weymouth & Portland Community Infrastructure Levy Charging schedule
https://www.dorsetforyou.gov.uk/media/209465/Adopted-CIL-Charging-Schedule-WPBC/pdf/ACG_fn_CIL_Charging_Schedule_WPBC_151021.pdf
- 23 West Dorset, Weymouth & Portland CIL Guidance Note
https://www.dorsetforyou.gov.uk/media/212557/CIL---WDWP-CIL-Guidance-Note/pdf/ACG_fn_CIL_Guidance_Note_FINAL_Web_160419.pdf

Footnote

Issues relating to financial, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.

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