

LEEDS CITY COUNCIL

COMMUNITY INFRASTRUCTURE LEVY – EXCEPTIONAL CIRCUMSTANCES POLICY

Regulations 55 to 58 allow charging authorities to set discretionary relief for exceptional circumstances. Use of an exceptional circumstances policy enables the charging authority to avoid rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arise. It is a mechanism to enable growth and deliver development where CIL and S106 conflict. Before granting relief, the Council will need to be satisfied that ~~the costs relating to the section 106 agreement are greater than those related to the Community Infrastructure Levy, and that the relief would not constitute notifiable State Aid as set out further below.~~

Leeds City Council intends to have an Exceptions Policy for exceptional circumstances which will be set and agreed by Development Plans Panel.

The Council will have to comply with notification requirements and publish a statement confirming that relief for exceptional circumstances is available in Leeds from a specified date. The process would then be that a landowner would have to submit a claim in accordance with the Regulations. The Council may grant relief from liability to pay CIL if (a) it appears to the Council that there are exceptional circumstances which justify doing so; and (b) the Council considers it expedient to do so. The Regulations specify the requirements that must be met in making this assessment, and these are set out below:-

Reg 55(3) A charging authority may grant relief for exceptional circumstances if –

- (a) It has made relief for exceptional circumstances available in its area;
- (b) A planning obligation under S106 of TCPA 1990 has been entered into in respect of the planning permission which permits the chargeable development; and
- (c) The charging authority-
 - ~~(i) Considers that the cost of complying with the planning obligation is greater than the chargeable amount payable in respect of the chargeable development,~~
 - (ii) Considers that to require payment of the CIL charged by it in respect of the chargeable development would have an unacceptable impact on the economic viability of the chargeable development, and
 - (iii) Is satisfied that to grant relief would not constitute a State aid which is required to be notified to and approved by the European Commission.

The person claiming relief must be an owner of a material interest in the relevant land. A claim for relief must be submitted in writing and be received before commencement of the chargeable development. It must be accompanied by an assessment carried out by an independent person of the cost of complying with the planning obligation, the economic viability of the chargeable development, an explanation of why payment of the chargeable amount would have an unacceptable impact on the economic viability of that development, an apportionment assessment (if there is more than one material interest in the relevant land), and a declaration that the claimant has sent a copy of the completed claim form to the owners of the other material interests in the relevant land (if any).

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.

A chargeable development ceases to be eligible for relief for exceptional circumstances 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.