



PART B: RECOMMENDATIONS TO COUNCIL

REPORT TO: PLANNING COMMITTEE

DATE: 30 JULY 2014

**REPORT OF THE: HEAD OF PLANNING AND HOUSING
GARY HOUSDEN**

**TITLE OF REPORT: RYEDALE COMMUNITY INFRASTRUCTURE LEVY.
DISCRETIONARY RELIEF AND PAYMENT INSTALMENT
POLICIES.**

**WARDS AFFECTED: ALL WARDS EXCLUDING THE AREA OF THOSE WARDS
FALLING WITHIN THE NORTH YORK MOORS NATIONAL
PARK.**

EXECUTIVE SUMMARY

1.0 PURPOSE OF REPORT

1.1 For Members to consider and agree the circumstances under which discretionary relief from CIL will be given and the use of a CIL payment instalment policy.

2.0 RECOMMENDATION(S)

2.1 That Council is recommended to agree in principle to the:

- (i) Circumstances under which the Council, as charging authority will offer Discretionary Relief from CIL as outlined in paragraphs 6.12-6.16 and
- (ii) Use of a CIL Instalment Policy

3.0 REASON FOR RECOMMENDATION

3.1 To assist the transparent implementation of CIL in accordance with the regulations.

4.0 SIGNIFICANT RISKS

4.1 There are no significant risks associated with this report.

5.0 POLICY CONTEXT AND CONSULTATION

5.1 Members are aware that the Council has agreed to progress the use of the

Community Infrastructure Levy (CIL). The CIL will be an important means of delivering objectives of the Council Plan and the Development Plan policies.

REPORT

6.0 REPORT DETAILS

- 6.1 Members are aware that the CIL Draft Charging Schedule (DCS) was agreed by this Committee on the 7 May 2014 and by Council on 15th May 2014. The DCS has been formally published and officers are currently preparing to submit it for independent examination.
- 6.2 The CIL Regulations 2010 (as amended) include provisions which give charging authorities the discretion to offer relief from CIL under specific circumstances. (CIL relief can mean either an exemption or reduction in liability to pay the levy.) These discretionary powers are in addition to the mandatory relief or exemptions which apply to specific types of development. If a Charging Authority resolves to use these discretionary powers it must give the relevant notice and state its policy on the matter.
- 6.3 The Regulations also provide a Charging Authority with the ability to allow CIL to be paid in instalments. In order for a Charging Authority to do this, it must publish an instalment policy on its web-site.
- 6.4 It is not necessary that the Council has these policies in place in order for the Draft Charging Schedule to progress through the examination. However, it is considered that an agreed position on both of these matters would ensure that the Council is entirely transparent over how it intends to implement CIL as the Draft Charging Schedule is examined.

Community Infrastructure Levy Relief

- 6.5 Members are aware that there are some types of development which will not be liable to pay CIL. Examples include:
- Buildings into which people do not normally go
 - Buildings into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery
 - Structures which are not buildings such as pylons and wind turbines
 - Development which are Charging Authority has decided should be zero rated and specified as such in a Charging Schedule
 - Vacant buildings brought back into the same use
 - Development of less than 100 square metres of gross internal floorspace which does not involve the creation of a new dwelling
 - The change of use, conversion or subdivision of a building that does not involve an increase in floorspace
 - Temporary development for a limited time period
 - The creation of a mezzanine floor within a building of less than 200 square metres
 - Houses, flats, residential annexes and residential extensions which are built by self builders (defined in the regulations)
 - Affordable housing that meets the relief criteria set out in the regulations
 - Charitable development that meets the relief criteria set out in the regulations

- 6.6 Additionally, it should be noted that where the Levy liability is calculated to be less than the £50, the chargeable amount is deemed to be zero.

Discretionary Relief/Exemption

- 6.7 The Regulations allow charging authorities to offer three forms of relief at their discretion, providing that if charging authority resolves to do so, it is satisfied that this would not breach State aid rules. The forms of discretionary relief are:
- Discretionary charitable relief
 - Exceptional circumstances relief
 - Discretionary social housing relief
- 6.8 Most forms of development by a charitable institution will be exempt for CIL where the development is used wholly or mainly for charitable purposes and subject to a range of specific criteria. However, a Charging Authority can choose to offer discretionary relief to a charitable landowner where the greater part of the chargeable development will be held as an investment from which profits are applied for charitable purposes.
- 6.9 A charging authority may also resolve to offer relief from the levy in exceptional circumstances where a specific scheme cannot afford to pay and it is deemed that the levy would have an unacceptable impact on the economic viability of a development. It should be noted, that this could only be applied in situations where a Section 106 agreement is in place as well as the Levy.
- 6.10 Mandatory Social Housing relief applies to all types of affordable housing provided by a Registered Provider, Registered Social Landlord or Local Housing Authority. A Charging Authority may offer further discretionary relief for affordable housing which does not meet the criteria required for mandatory social housing relief and which is not regulated through the National Rent Regime. This would apply, for example, to developers and private landlords providing intermediate affordable housing types.
- 6.11 Any decision to offer these discretionary forms of relief will impose an additional level of complexity in the administration and management of CIL. For this reason, it is considered that the Council should only introduce discretionary relief where it is confident that there are clear and justifiable reasons for doing so. It should be noted that a Charging Authority can introduce (or remove) discretionary relief at any stage, providing it gives the appropriate statutory notice.

Discretionary Charitable Relief (DCR)

- 6.12 Officers are not aware of any particular trend or examples of development for investment purposes by charities in Ryedale to date. It is considered that those charities which may have the resources to undertake development for investment purposes are likely to be national organisations and in this respect, it should be noted that any relief offered would not necessarily be directly felt by residents of Ryedale. This point is made as it appears that a number of charging authorities that have offered DCR have done so subject to criteria designed to ensure that the charitable investment is used to fund the provision of services to residents in the area. It is considered that this would be a particularly difficult criterion to apply to charities which operate nationwide.

- 6.13 Most of the charitable development which will be experienced in Ryedale will be covered by mandatory exemptions and officers are of the view that there is little evidence to suggest that discretionary charitable relief could be sufficiently justified at this stage. However, it is considered that this is something which the Council will keep under review as CIL is introduced and as it beds in.

Exceptional Circumstances Relief

- 6.14 The Council has prepared its Draft Charging Schedule taking account of economic viability matters and the requirements of the legislation to strike an appropriate balance between the need to fund infrastructure and the potential implications for the economic viability of development in Ryedale. It is considered that the circumstances which would justify exceptional circumstances relief would be very rare, given that the CIL rate is set/ informed by viability evidence. Furthermore, the Local Plan Strategy has been prepared to support the release of the types of sites which should be less challenging in terms of economic viability. For these reasons, together with the fact that such discretionary relief would also impose an additional level of complexity in the administration and management of CIL, it is considered that the Council should not offer this form of relief at this stage. It should be noted however, that such a policy could be introduced at any stage and the position can be kept under review.

Discretionary social housing relief

- 6.15 Members are aware that affordable social housing provided by Registered Social Landlords is exempt from CIL. However, the legislation allows for other intermediate tenures such as shared equity or discounted homes for sale to be exempt from CIL at the discretion of a Charging Authority.
- 6.16 Members are aware that it is this Council's policy to seek a proportion of these forms of affordable housing as developer contributions. It is considered that in order to ensure that the viability of affordable homes is maintained and that these forms of affordable housing can continue to be delivered, there is a need to ensure that all forms of affordable housing qualify for relief from CIL. If Members endorse this position a detailed policy statement will be prepared, notice given and the policy would be made available on the web-site, once the Council is in a position to introduce CIL.

Proposed Instalment Policy

- 6.17 The CIL legislation allows CIL Charging Authorities to introduce a policy which would allow CIL to be paid in instalments by developers. Normally, developers would be liable to pay CIL on commencement of development. An instalment policy would allow payments to be phased and would assist developers in terms of development finances and scheme viability. For this reason, it is considered that an instalment policy should be supported in principle. Once the draft CIL charge has progressed through examination and the Council is in a position to introduce the charge, Members will be asked to formally adopt the CIL at a future meeting.

7.0 IMPLICATIONS

- 7.1 The following implications have been identified:
- a) Financial

Discretionary Social Housing Relief is unlikely to result in the loss of CIL as without the discretionary relief policy in place it is very unlikely that the relevant types of affordable housing will be delivered as they are not likely to be viable against the CIL charge. A CIL instalment policy will influence the time taken to collect CIL from developments and this may have implications for the delivery and prioritisation of infrastructure projects which will be funded through the use of CIL.

- b) Legal
No direct implications identified
- c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)
No other implications identified

8.0 NEXT STEPS

- 8.1 After the CIL examination and once the Council is in a position to introduce the CIL charge, the Council will give notice of its intention to introduce any policy relating to discretionary relief and will publish details on its web-site. Members will be asked to agree the details of a proposed instalment policy when they consider /agree to the introduction of the charge, following the examination.

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Background Papers:

CIL Report - Planning Committee 7 May 2014
Community Infrastructure Levy Guidance DCLG February 2014

Background Papers are available for inspection at:

www.ryedale.gov.uk
www.gov.uk/dclg