

DRAFT Discretionary Exceptional Circumstances Relief Policy

Oxford City Council has determined to make relief for exceptional circumstances available, in accordance with Regulations 55 and 56 of the Community Infrastructure Levy Regulations 2010 (as amended).

This Relief is discretionary and will be introduced from 1st June 2019 until further notice.

Oxford City Council will consider each application received individually and will at its own discretion decide whether to grant relief or not. Regulation 56 allows for the withdrawal of this relief at any time.

Discretionary relief for exceptional circumstances must be claimed for and approved prior to the commencement of the chargeable development. 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.

Process for exceptional circumstances relief

Exceptional circumstances relief can be applied for after planning permission has been granted but before development commences.

Anyone wishing to claim exceptional circumstances relief must do so by following the procedures set out in Regulation 57 of the CIL Regulations 2010 (as amended) <https://www.legislation.gov.uk/ukdsi/2010/9780111492390/regulation/57> .

In order to qualify for the relief, all of the following criteria must apply:

- a Section 106 agreement has been entered into in respect of the planning permission which permits the chargeable development; and

Oxford City Council considers that:

- requiring payment of the Community Infrastructure Levy charged by the Council would have an unacceptable impact on the economic viability of the chargeable development; and
- granting relief would not constitute state aid.

The application must be accompanied by:

- an assessment carried out by an independent person of the cost of complying with the planning obligation mentioned in Regulation 55(3)(b);
- an assessment carried out by an independent person of the economic viability of the chargeable development;
- an explanation of why in the opinion of the claimant, payment of the chargeable amount would have an unacceptable impact on the economic viability of that development;
- an apportionment assessment where there is more than material interest in the land; and
- a declaration that the claimant has complied with paragraph 6 of Regulation 57.

As set out in the regulations 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.

Subject to the requirements of the Community Infrastructure Levy Regulations 2010 (as amended), Oxford City Council will decide the amount of any relief to be granted in individual cases. The development must also commence within 12 months of any relief being granted.

For further information about making a claim for discretionary relief for exceptional circumstances please see Regulations 55 and 57 of the Community Infrastructure Levy 2010 (as amended).

The onus is on the applicant to demonstrate they qualify for this relief and appropriate evidence must be submitted with any application. It should be noted that Oxford City Council has undertaken viability assessments on various types of development to verify the level at which the CIL charges have been set, therefore, any applications received under this regulation are expected to be genuinely exceptional.

Timescales

Decisions under this policy will be delegated to the Head of Planning after consultation with the Planning portfolio holder.

The Council will notify the applicant as soon as practicable after receiving the claim for relief in writing of its decision on the claim.

A claim for relief will lapse if the development commences prior to the Council notifying the applicant of its decision.

Disqualifying events

The Council must be notified in writing within 14 days of a disqualifying event and the full chargeable amount will become payable. Failure to do so will amount in a surcharge equal to 20% of the chargeable amount or £2,500, whichever is the lesser being applied to the payable amount.

Disqualifying events (within a 7 year period from commencement) include:

- change of purpose: the owner of the interest in the land in which relief was given ceases to be eligible for charitable relief (i.e. the owner ceases to be a charitable institution or uses the building for an ineligible use),
- change of ownership: the whole of the interest in the land in which relief was given is transferred to a person who is not eligible for charitable relief, or
- change of leasehold: the lease under which the interest in the land is held is terminated, and the owner of the reversion is not eligible for charitable relief
- development does not commence within 12 months of the relief being granted