

Thursday, 8 July 2021

## Report of the Portfolio Holder for Regulatory & Community Safety

### CIL Discretionary Social Housing Relief

#### Exempt Information

None.

#### Purpose

Approval is sought for an update to the Community Infrastructure Levy local policies to introduce discretionary relief for qualifying social housing.

#### Recommendations

It is recommended that:

1. The Council make discretionary social housing relief available from 09 July 2021.

#### Executive Summary

The Council adopted a Community Infrastructure Levy (CIL) in August 2018 and published, alongside the Charging Schedule, a number of local CIL policies.

The CIL Regulations provide for mandatory relief from CIL in some instances, including for certain types of affordable housing, however in some other circumstances relief is only available at the Charging Authority's discretion.

Discount market sales were introduced in the July 2018 update to the National Planning Policy Framework (NPPF) but were not provided mandatory relief from CIL through a corresponding change to the CIL regulations leading to a discrepancy between different types of affordable housing on the same development.

It is recommended that the Council make available discretionary social housing relief to bring this type of affordable housing in line with the other types already eligible for relief.

#### Options Considered

The alternative option would be not to introduce the discretionary relief for social housing which would result in eligible dwellings still being liable for CIL. With discounted market sales now being encouraged by national planning policy, it is likely that proposals including this type of affordable dwelling will increase over time. This could lead to issues with viability and developers seeking to reduce the CIL liability through the existing exceptional circumstances relief or reduce the number of affordable dwellings being provided. It is therefore considered that it would be appropriate to make the discretionary relief available in order to bring this type of affordable housing in line with other types of affordable housing.

#### Resource Implications

The relief would need to be applied for by developers and their application assessed by officers in the planning team. This would be done as part of the existing administration of CIL and would not generate any significant additional workload for the team.

Offering the additional relief may reduce income from CIL by not requiring it to be paid on some dwellings where it otherwise might have been. However, due to the type of affordable housing being required by the NPPF, it is likely that developers will seek to reduce their liability through a different means or reduce the amount of affordable housing provided on site if those dwellings remain liable for the full amount of CIL.

The proposed approach would therefore not result in any significant additional resource implications.

### **Legal/Risk Implications Background**

The relevant legislation and guidance is included in the Community Infrastructure Levy Regulations 2010 (as amended) and the National Planning Policy Framework; specifically regulations 49A and 49B, and paragraph 64 of the NPPF.

Regulation 49A sets out the type of development that is eligible for discretionary social housing relief and regulation 49B sets out the procedure to be followed where a charging authority wishes to make the relief available in its area.

The regulations allow for the granting of the proposed relief and the revised document included at appendix A would meet the requirements of the regulations to be able to make the relief available. There are therefore no legal or risk implications associated with the proposal.

### **Equalities Implications**

None.

### **Sustainability Implications**

The proposals set out relate to the delivery of infrastructure to support the sustainable development of Tamworth in line with the objectives of the Local Plan. There are no additional sustainability implications as a result of the proposals set out in this report.

### **Background Information**

The Council adopted the Community Infrastructure Levy charging schedule in August 2018 and published alongside it local policies relating to payment instalments and exceptional circumstances relief but did not make discretionary social housing relief available at the time.

The type of affordable housing covered by the discretionary relief, discounted market sale, was not commonly used at the time and was not included within local plan policy HG4 as a type of affordable housing that the Council were seeking to deliver in Tamworth.

However, around the same time that the Council adopted CIL (July 2018), the Government published an updated version of the NPPF which included the new paragraph 64 stating:

*“Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership [...].”*

Affordable home ownership is defined in the NPPF as *“that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices.”*

As a statement of national planning policy, this is a material consideration in the determination of planning applications and means that developments of 10 or more dwellings may now seek to provide discounted market sale dwellings as part of their overall affordable housing contribution.

This change to planning policy was not accompanied by a corresponding change to the CIL regulations, meaning that some types of affordable housing are currently given mandatory CIL relief whilst others are not eligible for relief. This has the potential to impact on the viability of some sites and lead developers to seek to reduce costs through reducing other contributions or through reducing the amount of affordable housing being provided.

It is therefore recommended that the Council make available discretionary social housing relief to bring this type of affordable housing in line with the other types already eligible for relief.

In order to help ensure that the discounted homes are available for those who need them, it is proposed to set eligibility criteria for the relief as follows.

- Purchasers of the dwelling should have a household income not exceeding two times the median gross annual workplace-based earnings for Tamworth published by Office for National Statistics (or any replacement of that dataset if that ceases to be published)
- The dwelling should be purchased with a mortgage for at least 75% of the purchase price

The eligibility criteria will be secured as part of a S106 agreement. In the event that someone meeting the criteria can't be found within a reasonable period (usually defined as four months), then the eligibility criteria can be set aside and the property can be sold to any buyer, still at a price 20% below market value. A clause will usually be required to prohibit renting or restrict rent to 80% of market value.

For the avoidance of doubt, the CIL charging schedule itself (the actual price per square metre charge for the different types of development) can only be amended following a consultation exercise and an examination in public and will therefore remain unaltered by these proposals. Although the CIL charging schedule is included within the draft updated document in Appendix A, the amendments only relate to the local CIL policies that are included within the same document.

#### **Report Author**

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#### **List of Background Papers**

None.

#### **Appendices**

Appendix A – Draft 'CIL charging schedule and local policies' document with updated local policies.