



<u>Committee & Date</u>
Shropshire Council Cabinet
10 June 2015
12.30 pm

<u>Item</u>
10
<u>Public</u>

COMMUNITY INFRASTRUCTURE LEVY (CIL): BROGYNTYN HALL (14/03184/FUL) - EXCEPTIONAL CIRCUMSTANCES RELIEF

Responsible Officer: Andy Evans, Head of Economic Growth and Prosperity
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1. Summary

- 1.1. Exceptional Circumstances Relief is sought to grant relief for the majority of the CIL Liability associated with application number 14/03184/FUL for conservation work to the Grade 2* listed Brogyntyn Hall, the conversion of associated buildings into 11 residential units; and enabling development of 50 dwellings within the grounds of the hall. Exceptional circumstances are defined within Regulations 55 to 57 of the National CIL Regulations (as amended); and the Shropshire Notification of CIL Relief. Exceptional Circumstances Relief can only be granted where all of the eligibility criteria are fulfilled.

2. Recommendations

- 2.1. It is recommended that, subject to final completion of an appropriate S106 legal agreement (currently agreed in principle) the Cabinet approves:
- i. 100% Exceptional Circumstances Relief from CIL for restoration works to Brogyntyn Hall;
 - ii. Exceptional Circumstances Relief from CIL for all but £10,000 for enabling development associated with the above scheme.

Reasons for decision:

- 2.2. A viability assessment has been provided by the applicant and endorsed by an independent professional. It is clear from the viability assessment submitted that the imposition of the full CIL liability for this application (value £874,278.14) would make the scheme financially unviable. A detailed assessment and determination of the application for Exceptional Circumstances Relief against the relevant criteria has been completed and is attached as Appendix 1 to this report. It is clear that the applicant has already assumed a lower level of profit than that which would normally be commercial for a scheme of this nature, even assuming that no CIL is paid. Whilst any further financial contribution will further undermine the viability of the scheme, the applicant has indicated that they are prepared to pay £10,000 in CIL as a contribution to the delivery of identified local community infrastructure priorities.
- 2.3. In recognition of the fact that the refurbishment of the Hall requires urgent action and that this element of the scheme actually makes a loss, Cabinet is recommended to grant that element of the scheme 100% relief from CIL (value £222,998.57) to allow

it to proceed without delay. The remaining CIL liability (value £651,279.57) is associated with the enabling development of new housing and, recognising that any financial contribution will further undermine the viability of the overall scheme, Cabinet it is recommended to grant Exceptional Circumstances Relief to reduce this liability to payment of £10,000, paid in accordance with normal phasing arrangements for a project of this scale.

REPORT

3. Risk Assessment and Opportunities Appraisal

- 3.1. It is clear from the viability assessment submitted that the imposition of the full CIL liability for this application would make the scheme financially unviable and the scheme would therefore not proceed. No contribution would therefore be received towards local community infrastructure priorities and the conservation of Brogyntyn Hall as a Grade 2* listed building would not occur. However, granting full relief from CIL without the delivery of any identifiable community benefit would fail the criteria established for Exceptional Circumstances Relief in national regulations and Shropshire Council's Notification of CIL Relief.
- 3.2. Following extensive negotiations including independent advice from Historic England's senior quantity surveyor, it has become apparent that the scheme will not deliver any identified community benefits 'in kind' which are consistent with the local priorities identified in the relevant Place Plan. A pragmatic position has therefore been agreed by both parties which would provide a modest financial contribution towards local community infrastructure priorities to meet regulatory requirements without making the scheme unviable.
- 3.3. As the development results in the formation of private dwellings which would be sold on the open market, the proposed relief could be considered a form of state aid. However, the applicant has commissioned a state aid appraisal which indicates that granting relief would not be considered state aid. This assessment has been reviewed with support from BIS and an expert from Historic England who conclude that there is no direct grant funding that would require state aid certification. Granting relief would therefore not constitute a notifiable state aid.

4. Financial Implications

- 4.1. Exceptional Circumstances Relief is a discretionary form of relief from CIL which allows a Charging Authority to offer financial relief to a development, where exceptional circumstances exist which impact on the viability of the development, and where offering relief from some or all of the CIL contribution may make the development viable.
- 4.2. Equally however, where development is offered relief from CIL, this also reduces the amount of potential funds available for infrastructure delivery (albeit that one of the eligibility criteria for Exceptional Circumstances Relief is that the development should contribute to community infrastructure priorities).

5. Background

5.1. Exceptional circumstances are defined within Regulations 55 to 57 of the National CIL Regulations (as amended); and the Shropshire Notification of CIL Relief. Exceptional Circumstances Relief can only be granted where all of the eligibility criteria are fulfilled. Shropshire Council has recently (24th April 2015 Portfolio Holder Decision) decided to withdraw Exceptional Circumstances Relief due the availability of alternative mechanisms which deliver similar outcomes. However, this application for relief was lodged before that decision was taken and is therefore still eligible.

5.2. The National eligibility criteria are:

- The Council has made exceptional circumstances relief available in its area;
- The claimant owns a material interest in the relevant land;
- A Section 106 Agreement has been entered into in respect of the planning permission which permits the chargeable development;
- The Charging Authority considers that:
 - Requiring payment of the charge would have an unacceptable impact on the economic viability of the chargeable development; and
 - Granting relief would not constitute a notifiable state aid.
- An exceptional circumstances claim has not already been previously granted to bring the development back into viability;
- The independent person undertaking the viability assessment has suitable qualifications and has been appointed by the claimant with the agreement of the Council.

5.3. The local eligibility criterion is:

- “Shropshire Council will consider whether relief from the Levy, or a reduction in the section 106 contribution, is appropriate in light of community priorities and the circumstances of the case”. In order to demonstrate compliance with this criterion, development must contribute to the delivery of identified community priorities from within the relevant Place Plan document.

5.4 The assessment and determination of the application for Exceptional Circumstances Relief attached as Appendix 1 summarises the evidence of compliance with the relevant National and Local eligibility criteria.

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

n/a

Key Decision: Yes

Included within Forward Plan: No

If a Key Decision and not included in the Forward Plan have the General Exception or Special Urgency Procedures been complied with: Yes

Name and Portfolio of Executive Member responsible for this area of responsibility:

Mal Price, Portfolio Holder Planning Housing and Commissioning (Central)

Local Member:

Applies across Shropshire.

Appendices:

1. Determination: Application for Exceptional Circumstances Relief.