

# Trafford Community Infrastructure Levy: Draft Charging Schedule – Consultation Document



May 2013



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## 1. CONSULTATION ON THE DRAFT CHARGING SCHEDULE

- 1.1 Following consultation on the Preliminary Draft Charging Schedule (PDCS) in summer 2012, the Council is now publishing for consultation the Trafford CIL Draft Charging Schedule (DCS) under Regulation 16 of the CIL Regulations 2010, CIL (Amendment) Regulations 2011 and CIL (Amendment) Regulations 2012.
- 1.2 The consultation on the Trafford CIL DCS will run for 6 weeks between the 13 May 2013 and 24 June 2013. The Trafford CIL DCS and all the supporting documentation is available to view on the Strategic Planning pages of the Council's website: <http://www.trafford.gov.uk/cil>.
- 1.3 Please submit your written comments, no later than 24 June 2013 either by post or email to:
- Strategic Planning & Developments  
Waterside House  
Sale Waterside  
Sale  
Greater Manchester, M33 7ZF  
E-mail: [strategic.planning@trafford.gov.uk](mailto:strategic.planning@trafford.gov.uk).
- 1.4 The CIL charges have been informed through the use of appropriate available evidence. If you disagree with any aspect of the charging schedule, please support your written comments with **actual evidence** and **examples**.

## 2. NEXT STEPS

- 2.1 The Council will consider all representations received and, as a result, may make modifications to the schedule before submitting it for independent Examination (Regulation 21), programmed to take place in summer 2013. Where modifications are made, a 'statement of modifications' will be published (and distributed) in line with the requirements set out in Regulations 11 and 19.

## 3. INTRODUCTION

### What is the Community Infrastructure Levy?

- 3.1 The Community Infrastructure Levy (CIL) is a new tariff which will allow funds to be raised from new building projects in the Borough. It is intended to deliver additional funding to charging authorities to enable them to carry out a wide range of infrastructure projects that support growth and benefit the local community. The purpose of the levy is to give developers more certainty over costs and to give local authorities and communities more choice and flexibility in how infrastructure is funded.
- 3.2 The levy cannot be expected to pay for all of the infrastructure requirements of new growth, but it is expected to make a significant contribution. CIL is intended to supplement rather than replace other funding streams and to provide infrastructure alongside residential and commercial development, promoting

sustainable development. Charges are meant to help fund new or to upgrade existing infrastructure to support growth, not to cover the cost of existing deficiencies.

3.3 The money can be used to fund a wide range of infrastructure that is needed as a result of development including transport facilities, flood defences, schools, sports facilities and open spaces. Affordable housing and some works that are directly related to a development will, however, continue to be secured through Section 106 (S106) planning obligations.

### **Scope of CIL**

3.4 In line with national guidance, the following development types will be liable for CIL:

- Development comprising 100 sq. m or more of new build floorspace
- Development of less than 100 sq. m of new build floorspace that results in the creation of one or more dwelling
- The conversion of a building that is no longer in lawful use<sup>1</sup>

### **Exemptions and Relief**

3.5 The CIL Regulations provide for certain types of development to be exempt or eligible for relief, including:

- The conversion of any building previously used as a dwelling house to two or more dwellings (sub division of existing dwelling)
- Development of less than 100 sq. m of new build floorspace, provided that it does not result in the creation of a new dwelling
- The conversion of a building in lawful use, or the creation of additional floor-space within the existing structure of a building in lawful use (Regulation 40(10))
- Development of buildings and structures into which people do not normally go (e.g. pylons, wind turbines, electricity sub stations)
- Development by registered charities for the delivery of their charitable purposes (Regulation 43)
- Those parts of a development which are to be used as social housing (Regulation 49)

3.6 Levy rates are expressed as pounds per square metre, as CIL will be levied on the gross internal floorspace of the net additional liable development. Where planning permission is granted for a new development that involves the extension or demolition of a building in lawful use, the level of CIL payable will be calculated based on the net increase in floorspace. This means that the existing floorspace in the building to be extended or demolished will be deducted from the total floorspace of the new development, when calculating the CIL liability.

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<sup>1</sup> Floorspace subject to demolition or resulting from change of use will only be disregarded where it has been in continuous lawful use for at least six months in the 12 months prior to the development being permitted

Similarly, mezzanine floors are not liable for CIL, and any floorspace created by the addition of a mezzanine floor will be deducted from the net additional gross internal floorspace.

### **Neighbourhood CIL**

- 3.7 The Localism Act 2011 introduced neighbourhood funding. The draft CIL (Amendment) Regulations 2013 state that where there is a neighbourhood development plan in place, or permission was granted by a neighbourhood development order, the charging authority must pass 25% of the CIL funds to the parish or community councils (“local council”) in whose areas the chargeable development takes place. Where there is no neighbourhood development plan this amount is 15% subject to a cap of £100 per household in the parish or community council area per year.
- 3.8 Parish or community councils<sup>2</sup> have the discretion to decide that some or all of the funds should remain with the charging authority. The charging authority is also able to recover funds from a local council in certain circumstances, if a local council has misapplied the CIL by not using it to support the development of its area or by using it for another purpose. When levy receipts are recovered from a local council the charging authority must use those funds to support development in the area of that local council.
- 3.9 Where a chargeable development (or part of a development) takes place in an area for which there is not a parish or community council, the charging authority has wider spending powers in relation to those parts of its area. In this respect the charging authority will decide, in consultation with the local community, what the 25% or 15% neighbourhood funds will be spent on.
- 3.10 Both charging authorities and local councils will have to make clear the level of neighbourhood funds received, spent and retained from the most recent year, and the level retained from previous years.

## **4. WHAT IS THE EVIDENCE FOR THE PROPOSED LEVY?**

4.1 The appropriate available evidence that informs the Trafford CIL DCS and the supporting documentation for the consultation is available on the Council's website [www.trafford.gov.uk/cil](http://www.trafford.gov.uk/cil) and comprises the following documents:

- i. Trafford Local Plan: Core Strategy (adopted January 2012)
- ii. Trafford Local Infrastructure Plan (September 2010)
- iii. Trafford CIL: Economic Viability Study (July 2012)
- iv. Trafford CIL: Economic Viability Study – Addendum Report (March 2013)
- v. Trafford CIL: Infrastructure Note (May 2013)
- vi. Trafford CIL: Infrastructure Funding Gap Statement (May 2013)
- vii. Draft Regulation 123 List (May 2013)
- viii. Statement on CIL and S106 (May 2013)

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<sup>2</sup> These would include Warburton, Dunham Massey, Partington and Carrington in Trafford

- ix. Draft Revised SPD1: Planning Obligations (May 2013)
- x. Trafford CIL: Preliminary Draft Charging Schedule (August 2012)
- xi. PDCS: Summary of Responses (September 2012)
- xii. Statement of Representations Procedure (May 2013)

4.2 In setting the CIL rates, in accordance with Regulation 14(1) of the CIL Regulations 2010, Trafford Council considers that it has struck an appropriate balance between the desirability of funding infrastructure from the levy and the potential effects (taken as a whole) of the imposition of CIL on the economic viability of development across the area.

#### **Justification for introducing CIL**

4.3 The Council has identified an infrastructure funding gap of over £226m at the time of writing this document. Based on the proposed rates set out in this Trafford CIL DCS. It is anticipated that CIL receipts over the Plan period will be approximately £41.5m which equates to £2.7m per year.

4.4 The proposed rates are set between 50% and 70% of the theoretical maximum charge recoverable within Trafford, with evidence to show that they remain viable even if sales values were to fall, which is not expected in Trafford. The base rate, which covers the majority of all other development, is proposed at less than 1% of development costs, it is considered that this would not be the determining factor on whether a development takes place or not. However, the base rate will provide additional capital for the provision of infrastructure to support planned growth.

4.5 As set out in the National Planning Policy Framework (NPPF), the ability to develop, viably, the sites and scale of development identified in the Local Plan should not be threatened. The proposed rates will contribute towards the implementation of the Local Plan and support development of the area by unlocking large development areas through investment in strategic infrastructure. This will be coupled with investment at a local level to bring forward infrastructure that will support future growth in existing communities. This may include investment at local junctions, where the cumulative impact of development has meant the junction is at capacity, but by investing in an improvement scheme, this could open up future development prospect in the local area.

4.6 Comments received to the preliminary draft charging schedule asserted that the Council should be transparent in regard to what developers will need to fund in addition to CIL payments. This issue has been addressed through the production of the supporting infrastructure note, the statement on CIL and S106 and the Draft Revised SPD1: Planning Obligations, which set out the Council's approach to CIL and S106 and clearly demonstrate the intention to significantly reduce the reliance on S106 payments to fund infrastructure.

4.7 Clearly CIL cannot be expected to fund all of the infrastructure required to support future development. It should be considered as one part of a more complex blend of funding, and as such, securing funding from all potential sources will be fundamental in supporting the delivery of infrastructure to enable growth set out in the Local Plan.

## **5. CHANGES TO THE PRELIMINARY DRAFT CHARGING SCHEDULE**

5.1 The CIL rates as proposed have been amended as a result of comments received to the preliminary draft charging schedule (PDCS) and further evidence base work. The main amendments are set out below:

- Differential rates for residential – the CIL guidance states that where charge rates are proposed to vary by reference to viability zones, more fine grained evidence should be produced in order to define the boundaries of those zones. The proposed changes to the boundaries for the residential charging zones are considered to reflect the most appropriate available evidence. In order to address some of the comments received through the consultation on the PDCS, in particular in relation to Altrincham town centre and the Trafford Quays<sup>3</sup> area, further analyses of sales values in Trafford was undertaken. As a result of these analyses a change is proposed to the levy rate covering the Trafford Quays area, but Altrincham town centre remains the same.
- Revision to account for retail types – a number of responses received to the PDCS asserted that the intended use of retail floorspace does not change upon reaching a certain size of development. With reference to the Trafford CIL: Economic Viability Study – Addendum Report, the DCS has been updated with the charges referring to the different intended uses of retail development (Appendix 1). The appropriate available evidence supports these charges being applied across the borough, therefore there are no proposed viability zones.
- Supermarkets – the Council has chosen to take a more cautious approach to charges in relation to supermarkets and has reduced the proposed charge by 10 per cent, even though the appropriate available evidence supports the application of a higher charge.

5.2 The implementation of CIL will be monitored closely and if necessary the Council will progress an early Charging Schedule review where appropriate.

## **6. DRAFT CHARGING SCHEDULE AND MAP**

6.1 Using evidence from the economic viability assessment and feedback from the stakeholder workshop, theoretical maximum possible charge rates were identified for the developments exceeding the benchmark margins. These

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<sup>3</sup> Trafford Quays is a development site within the Trafford Centre Rectangle Strategic Location



figures were then drawn back from the ceiling of viability to ensure that development in the borough is not put at risk. The addendum to the economic viability assessment provides the results of further testing following comments received to the preliminary draft charging schedule. It is considered that the evidence demonstrates that the proposed rates would not threaten delivery of the Local Plan as a whole. Therefore, the resulting rates form the basis of the draft charging schedule as set out below:

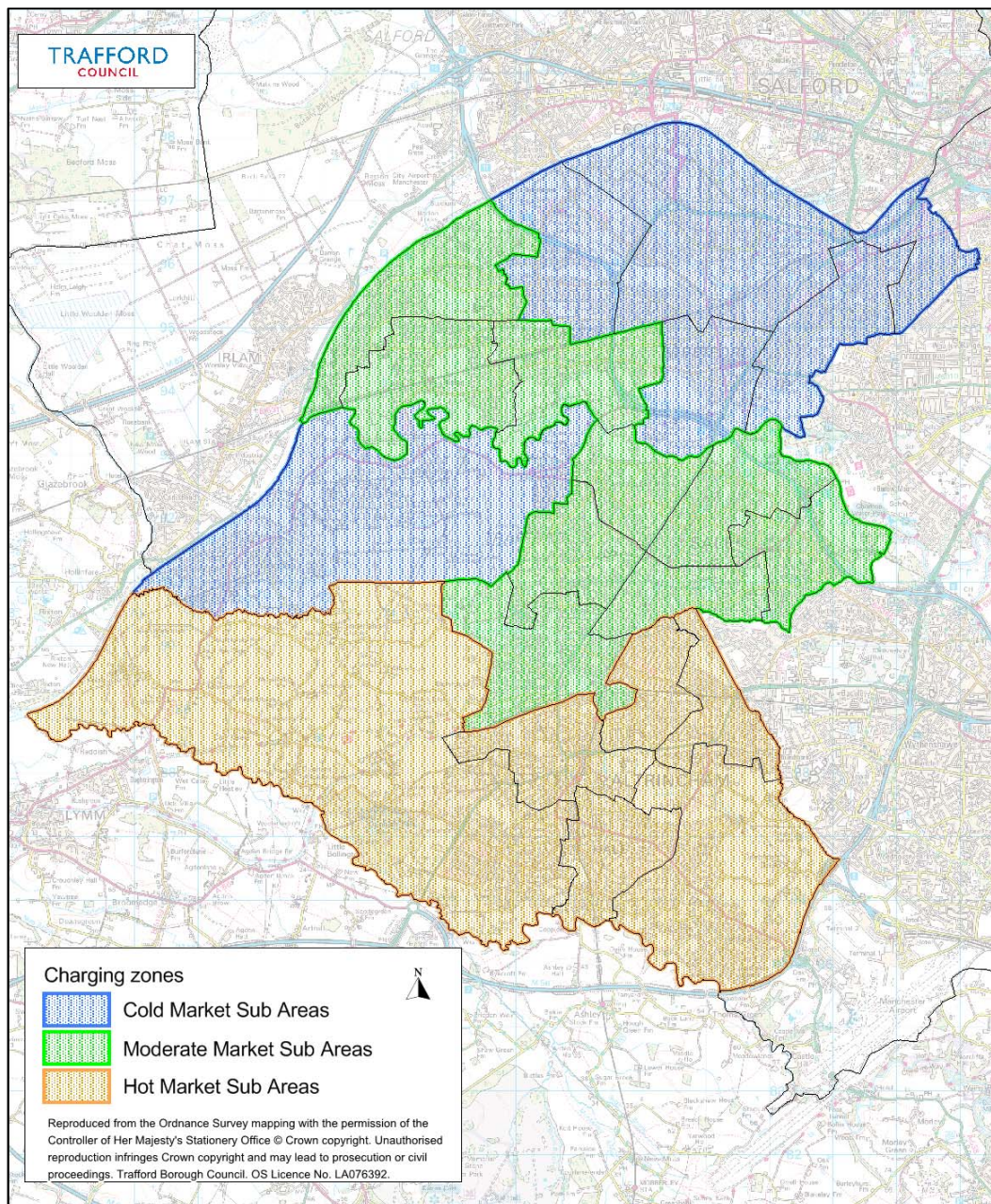
### Levy Rates

| Use  | Proposed CIL charge (per sq.m) |
|--|--------------------------------|
| Private market houses in:  |                                |
| <i>Cold market sub-area</i>  | £20                            |
| <i>Moderate market sub-area</i>  | £40                            |
| <i>Hot market sub-area</i>   | £80                            |
| Apartments in:   |                                |
| <i>Hot market sub-area</i>   | £65                            |
| Retail Warehouses  | £75                            |
| Supermarkets   | £225                           |
| Public/Institutional Facilities as follows:<br>education, health, community & emergency services | £0                             |
| All other chargeable development   | £10                            |

### Charging Zones

6.2 The Draft Charging Schedule Map below identifies the location and boundaries of the charging zones for new residential development only, for the purposes of CIL<sup>4</sup>. These charging zones would set a differential rate for residential development in a hot market sub-area (£80 per sq. m); a moderate market sub-area (£40 per sq. m); and a cold market sub-area (£20 per sq. m). No non-residential uses of development have a geographic differential rate and are therefore not included on the map.

<sup>4</sup> These charging zones do not in any way relate to the areas identified in Policy L2 of the Core Strategy for the provision of affordable housing



### How the chargeable amount will be calculated?

6.3 The Council will calculate the amount of CIL chargeable on a qualifying development utilising the formulae set out in Parts 5 and 6 of the CIL Regulations 2010 and CIL (Amendment) Regulations 2012. Where applicable, a Liability Notice will be issued that states the chargeable amount as soon as possible after the grant of planning permission.

6.4 A summary<sup>5</sup> of how the amount of CIL chargeable will be calculated is as follows:

<sup>5</sup> This summary does not take account of every aspect of the CIL Regulations, which are available to view at [www.legislation.gov.uk](http://www.legislation.gov.uk), alternatively a link is available from [www.trafford.gov.uk/ldf](http://www.trafford.gov.uk/ldf)

|  |
|--|
| $\frac{\text{CIL Rate} \times \text{Chargeable Floor Area} \times \text{BCIS Tender Price Index (P)}}{\text{BCIS Tender Price Index (S)}}$ |
| <p>P = The BCIS Tender Price Index published on 1<sup>st</sup> November of the year preceding the grant of planning permission</p>         |
| <p>S = The BCIS Tender Price Index published on 1<sup>st</sup> November of the year preceding Charging Schedule adoption</p>               |

6.5 The ‘chargeable floor area’ makes allowance for previous development on the site. The net chargeable floor area amounts to the gross internal area of the chargeable development less the gross internal area of any existing buildings that qualify for exemption on the site.

## 7. INSTALMENTS POLICY

7.1 The Council proposes to introduce a CIL Instalments Policy, which would be offered in all cases where the total CIL liability is greater than £50,000<sup>6</sup>. In such cases CIL payments would be accepted by instalment as follows:

| Amount of CIL Liability                                  | Payment Periods and Amounts   |
|--|---|
| Where the chargeable amount is <b>less than £50,000</b>  | <ul style="list-style-type: none"> <li>• Full payment will be required within <b>90 days</b> of the commencement date</li> </ul>  |
| Where the chargeable amount is <b>£50,000 - £100,000</b> | <ul style="list-style-type: none"> <li>• First instalment representing <b>50%</b> of the chargeable amount will be required within <b>90 days</b> of the commencement date</li> <li>• Second instalment representing the remaining <b>50%</b> of the chargeable amount will be required within <b>360 days</b> of the commencement date</li> </ul>  |
| Where chargeable amount is <b>over £100,000</b>          | <ul style="list-style-type: none"> <li>• First instalment representing <b>25%</b> of chargeable amount will be required within <b>90 days</b> of the commencement date</li> <li>• Second instalment representing <b>25%</b> of the chargeable amount will be required within <b>180 days</b> of the commencement date</li> <li>• Third instalment representing <b>25%</b> of the chargeable amount will be required within <b>360 days</b> of the commencement date</li> <li>• The fourth and final instalment representing <b>25%</b> of the chargeable amount will be required within <b>540 days</b> of the commencement date</li> </ul> |

<sup>6</sup> Payments by instalment will be subject to relevant interest charges

7.2 Failure to comply with the instalments policy at any stage will result in the total unpaid balance becoming payable immediately.

## **8. DISCRETIONARY RELIEF FOR EXCEPTIONAL CIRCUMSTANCES**

8.1 Trafford Council is proposing to make available relief for exceptional circumstances.

8.2 Regulations 55 to 58 allow charging authorities to set discretionary relief for exceptional circumstances. Use of such an exceptions' policy enables the avoidance of rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arise. Before granting relief, the charging authority will need to be satisfied that the costs relating to the S106 agreement are greater than those related to CIL, and that the relief would not constitute notifiable State aid. Relief for exceptional circumstances must be claimed in accordance with Regulation 57.

8.3 The relevant parts of the CIL Regulations 2010 setting out the circumstances and procedures by which discretionary relief or exceptional circumstances will apply are set out in Appendix 2.

## APPENDIX 1 – RETAIL DEFINITIONS

**Supermarkets** provide a very wide range of convenience goods, often along with some element of comparison goods also. Most customers use supermarkets for their main weekly shop, using a trolley to buy a large number of different products. The vast majority of custom at supermarkets arrives by car, using the large adjacent car parks provided.

**Neighbourhood convenience stores** tend only to provide a limited range of convenience goods. They largely cater for 'top-up shopping' for a small number of items that can be carried by hand or in a small basket. The vast majority of custom will access the store on foot and as such there are no large adjacent car parks.

**Retail warehouses** are usually large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods. They can be stand-alone units, but are also often developed as part of retail parks. In either case, they are usually located outside of existing town centres and cater mainly for car-borne customers. As such, they usually have large adjacent, dedicated surface parking.

**Town Centre comparison retail** development will usually involve redevelopment of existing buildings to provide new retail accommodation that better meets the demands of modern retail businesses. Typically such development will provide a wide range of unit sizes, including one or two large spaces for 'anchor tenants' and a much larger number of small spaces. They will typically have frontage on to areas of high footfall, aiming to capture the passing trade of shoppers on foot, who are also likely to visit other stores and other parts of the centre, many of whom will arrive in the centre by non-car modes.

## **APPENDIX 2 – DISCRETIONARY RELIEF: CIRCUMSTANCES & PROCEDURE**

These are the relevant extracts from the CIL Regulations 2010 in relation to the circumstances and procedures by which discretionary relief or exception circumstances will apply:

### **Discretionary relief for exceptional circumstances**

**55.**—(1) A charging authority may grant relief (“relief for exceptional circumstances”) from liability to pay CIL in respect of a chargeable development (D) if—

- (a) it appears to the charging authority that there are exceptional circumstances which justify doing so; and
- (b) the charging authority considers it expedient to do so.

(2) Paragraph (1) is subject to the following provisions of this regulation.

(3) A charging authority may only grant relief for exceptional circumstances if—

- (a) it has made relief for exceptional circumstances available in its area;
- (b) a planning obligation under section 106 of TCPA 1990(b) has been entered into in respect of the planning permission which permits D; 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 D,
  - (ii) considers that to require payment of the CIL charged by it in respect of D would have an unacceptable impact on the economic viability of D, 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.

### **Exceptional circumstances: procedure**

**57.**—(1) Relief for exceptional circumstances must be claimed in accordance with this regulation.

(3) The person claiming relief (“the claimant”) must be an owner of a material interest in the relevant land.

(4) A claim for relief must—

- (a) be submitted to the charging authority in writing on a form published by the Secretary of State (or a form to substantially the same effect);
- (b) be received by the charging authority before commencement of the chargeable development;
- (c) include the particulars specified or referred to in the form; and
- (d) be accompanied by—

- (i) an assessment carried out by an independent person of the cost of complying with the planning obligation mentioned in regulation 55(3)(b),
- (ii) an assessment carried out by an independent person of the economic viability of the chargeable development,
- (iii) 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,
- (iv) where there is more than one material interest in the relevant land, an apportionment assessment, and
- (v) a declaration that the claimant has complied with paragraph (6).

(5) For the purposes of paragraph (4)(d) an independent person is a person who—

- (a) is appointed by the claimant with the agreement of the charging authority; and
- (b) has appropriate qualifications and experience.

(6) The claimant must send a copy of the completed claim form and the particulars referred to in paragraph (4)(d) to the owners of the other material interests in the relevant land (if any).

(7) As soon as practicable after receiving a claim for relief, the charging authority must notify the claimant in writing of its decision on the claim and (where relief is granted) the amount of relief granted.

(8) Where relief is granted the charging authority must send a copy of the decision to—

- (a) the collecting authority (if it is not the charging authority); and
- (b) the person by whom the planning obligation mentioned in regulation 55(3)(b) is enforceable (if that person is not the collecting authority or the charging authority).

(9) A claim for relief for exceptional circumstances will lapse where the chargeable development to which it relates is commenced before the charging authority has notified the claimant of its decision on the claim.

(10) A chargeable development ceases to be eligible for relief for exceptional circumstances if there is a disqualifying event.

(11) A disqualifying event occurs if—

- (a) before the chargeable development is commenced—
  - (i) charitable or social housing relief is granted in respect of the chargeable development, or
  - (ii) an owner of a material interest in the relevant land makes a material disposal of that interest; or

(b) at the end of the period of 12 months beginning with the day on which the charging authority issues its decision on the claim, the chargeable development has not been commenced.

(12) Where a disqualifying event occurs an owner of a material interest in the relevant land must—

(a) notify the charging authority in writing of the disqualifying event before the end of the period of 14 days beginning with the day on which it occurs; and

(b) send a copy of the notification to the owners of the other material interests in the relevant land (if any).

(13) On receipt of the notification the charging authority must send a copy to—

(a) the collecting authority (if it is not the charging authority); and

(b) the person by whom the planning obligation mentioned in regulation 55(3)(b) is enforceable (if that person is not the collecting authority or the charging authority).