

CIL Draft Charging Schedule Response Form 2015

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Ref:

Rep. Ref.

Please use this form if you wish to support or object to the Community Infrastructure Levy – Draft Charging Schedule

If you are commenting on multiple sections of the document you will need to complete a separate copy of Part B of this form for each representation.

This form may be photocopied or, alternatively, extra forms can be obtained from the Council's offices or places where the plan has been made available (see back page). You can also respond online using the LDP Consultation System, visit:

www.warwickdc.gov.uk/planning

Part A - Personal Details

	1. Personal Details	2. Agent's Details (if applicable)
Title		Mr
First Name		Peter
Last Name		Waldren
Job Title (where relevant)		Director
Organisation (where relevant)	Ignis UK Property Fund	WYG
Address Line 1	C/O Agent	5 th Floor, Longcross Court
Address Line 2		47 Newport Road
Address Line 3		Cardiff
Address Line 4		South Glamorgan
Postcode		CF24 0AD
Telephone number	C/O Agent	02920 320 722
Email address	C/O Agent	peter.waldren@wyg.com
Would you like to be made aware of future updates on the CIL?		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
About You: Gender		
Ethnic Origin		
Age	<input type="checkbox"/> Under 16 <input type="checkbox"/> 16 - 24 <input type="checkbox"/> 25 - 34 <input type="checkbox"/> 35 - 44	
	<input type="checkbox"/> 45 - 54 <input type="checkbox"/> 55 - 64 <input type="checkbox"/> 65+	
Notifications		
Please specify whether you wish to be notified of any of the following:		
1. Submission of the Draft Charging Schedule for examination	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
2. Examiner's Report	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	3. Council approval of Charging Schedule
		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

Part B - Commenting on the CIL Draft Charging Schedule

If you are commenting on multiple sections of the document you will need to complete a separate sheet for each representation

Sheet of

Which part of the document are you responding to?

BNP Paribas Real Estate CIL Viability Study (June 2013)
(see text below)
BNP Paribas Real Estate CIL Viability Addendum
(November 2014) (see text below)
Warwick Draft CIL Charging Schedule 2015

Paragraph number / Heading / Subheading (if relevant)

Draft CIL Charging Schedule para 5.5, proposed
charge and evidence base

Map (e.g. Proposed Development Sites – District Wide)

N/A

What is the nature of your representation?

Support

Object

Please set out full details of your objection or representation of support. If objecting, please set out what changes could be made to resolve your objection (Use a separate sheet if necessary).

WYG Planning & Environment write on behalf of our client Ignis UK Property Fund in regard to the current consultation on the Warwick Community Infrastructure Levy Draft Charging Schedule. Our client is the owner of Leamington Shopping Park and accordingly these representations relate principally to the commercial, and specifically the retail elements of the Draft Charging Schedule (DCS).

Definitions - *'convenience based supermarkets and superstores and retail parks'*.

The DCS considers three types of retail use/development:

"Retail – prime Leamington Spa zone";

"Convenience based supermarkets and superstores and retail parks"; and

"Retail – others areas."

The DCS contains no definition of these categories, which we consider to be a significant omission if the DCS is to provide clear advice to potential developers. The evidence base, in the form of the BNP Paribas Real Estate CIL Viability Study (June 2013), defines two of the above development types in the footnotes to table 1.6.1 at page 5, as follows:

"Superstores/supermarkets are shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix of the unit."

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“Retail warehouses are large stores specialising in the sale of household goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods, catering for mainly car-borne customers.”

We do not consider that these definitions are adequate to enable a developer to understand which rate would apply to a given form of retail development. For example:

- What is a “shopping destination in its own right” in respect of superstores/supermarkets? This statement could apply to any shop (if customers visited just that one shop) or to no shops at all (if the customers habitually visited more than one shop by way of a linked trip);
- Who would determine (and how) whether a superstore/supermarket meets weekly food shopping needs? It is a well reported recent trend that customers are shopping for food little and often, regardless of the size of establishment they shop at and the range of goods provided. The days of the weekly shop appear to be numbered. Moreover, the CIL charge would have to be calculated and paid long before the shopping habits of future customers of a development would be known. Furthermore, the type of shopping trip carried out could change significantly, multiple times, over the lifetime of the development;
- In respect of retail warehouses, are these synonymous with retail parks (as referred to in the schedule), or does a ‘park’ necessarily have to consist of more than one ‘warehouse’? Would two such units comprise a ‘park’, or three, or more? Is a shared car park or single ownership required?
- What does “large stores” mean? Is there a floorspace threshold? If so, this should be clearly stated.
- What does “specialising in the sales of” mean? Is it the same as “selling” or does it mean “exclusively selling” or “predominantly selling”?
- Does the inclusion of “other ranges of goods” in the definition literally encompass all other types of goods? If so, what is the point of specifically naming household goods and DIY items? If it does include all other types of good, how can this classification of use be differentiated from the “Retail - other areas” classification?
- Who would determine (and how) whether a retail development catered for “mainly car-borne customers”? What proportion would constitute “mainly”? How would this be known at the point of calculating CIL - the CIL charge would have to be calculated and paid long before the mode of travel of future customers would be known. Customer travel mode could change significantly, multiple times, over the lifetime of the development.

No definition for “Retail – other areas” is provided anywhere in the DCS or evidence base. Reference to “other areas” appears to indicate that it does not apply to the defined prime Leamington Spa zone. While there is no reference to ‘type’ other than “retail” it may also be intended to exclude superstores/supermarkets and retail warehouses from the “Retail – other areas” category. However, given the inability to clearly define those terms (see above) it is equally not possible to define what falls outside of those terms.

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It is clear that nothing in the DCS or evidence base addresses the above questions and accordingly the type of development that the “Convenience based supermarkets and superstores and retail parks” and

“Retail – others areas” charging rates are applicable to is effectively undefined. This is unacceptable and the charge attributed to “Convenience based supermarkets and superstores and retail parks” should be zero rated so that it becomes clear that a charge applies to the prime Leamington Spa zone only and that no charge applies to any form of retail development outside of that zone.

Evidence Base

The National Planning Practice Guidance sets out the requirements of the evidence base used to support a DCS. It confirms that:

- *“Care must be taken to ensure that it is robust.” (paragraph 015);*
- *“A charging authority must use ‘appropriate available evidence’ ... to inform their draft charging schedule ... consider a range of data, including values of land in both existing and planned uses, and property prices – for example... rateable values for commercial property.” (paragraph 019);*
- *“a charging authority should directly sample an appropriate range of types of sites across its area, in order to supplement existing data. ... The exercise should focus on strategic sites..., and those sites where the impact of the levy on economic viability is likely to be most significant (such as brownfield sites).” (paragraph 019);*
- *“Charging authorities that decide to set differential rates may need to undertake more fine-grained sampling... Fine-grained sampling is also likely to be necessary where they wish to differentiate between categories or scales of intended use.” (paragraph 019);*
- *“A charging authority should take development costs into account when setting its levy rate or rates, particularly those likely to be incurred on ... brownfield land. A realistic understanding of costs is essential to the proper assessment of viability in an area.” (paragraph 020);*
- *“Differential rates should not be used as a means to deliver policy objectives... Charging schedules with differential rates should not have a disproportionate impact on particular sectors or specialist forms of development.” (paragraph 021); and*
- *“A draft charging schedule is prepared by the charging authority, in light of ... updated evidence where applicable.” (paragraph 030).*

Given the lack of clearly defined development types, it is difficult to see how the evidence base could have robustly tested those different types of development. Indeed, the only appraisals carried out in respect of retail development are an appraisal for “Lmtn Spa - Prime (Ctrl Parade & Royal Priors)”, “Rest of L'ton Spa, Warwick, Rest of District” and “Supermarkets, Superstores, Retail Parks” (see Appendix 5 of the June 2013 BNP Paribas Viability Study). Focussing on the last of these, we consider that carrying out a single appraisal for supermarkets/superstores (i.e. shopping destinations in their own right where weekly food shopping needs

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are met) and retail parks (i.e. large stores specialising in the sale of household goods, DIY items and other ranges of goods, catering for mainly car-borne customers) is entirely inappropriate. These types of development comprise two wholly different forms of retail store with different construction specifications and costs, lifespans, values and returns. To assume the same inputs and outputs for both forms of development is entirely false and accordingly the evidence base cannot be considered robust in this regard.

Furthermore, to have only considered the redevelopment of a 15,000 sq ft existing store to provide a 30,000 sq ft store in the same use is also entirely inappropriate. While this may be more applicable to an extension to an existing store, where no additional land were required to achieve the development, it wholly fails to consider the development of a new store on a new site. The viability inputs and outputs of developing a new store are likely to be very different to a relatively straightforward extension. The viability considerations are likely to be different too for developments of different scales. A relatively small store is likely to be less viable than development of a larger store or stores due to economies of scale.

Of equal concern is the sensitivity of the variations of the appraisal carried out. Again, focusing on the *"Supermarkets, Superstores, Retail Parks"* appraisal, the BNP Paribas Viability Assessment (June 2013) suggests that such development is viable in the base (appraisal 5) scenario for all current use values (CUV) considered. However, if yields drop by 0.1% (appraisal 4) such development would be unviable at £105/sqm CIL charge in all but CUV 1 scenario (£17/sqft). If CUV were to rise by c.30 pence/sqft, the development would be unviable.

Finally, we note that the Viability Assessment was updated for the DCS in the form of a Viability Assessment updated addendum report (BNP Paribas, November 2014). The updated addendum report notes at paragraph 1.2, that:

"However, the period February 2013 to November 2014 has also seen an increase in build cost inflation. The RICS 'Building Cost Information Service' data for Warwick indicates that costs have increased by 14.9% over this period. This increase in costs will clearly have an adverse impact on development viability, partially offsetting the improvement in [residential] sales values."

It is not clear whether this reference to increased build costs is reference to the cost of material and labour or whether it is reference to tender prices. However, our reference to the RICS BCIS data confirms that tender costs for construction of all types of development, including commercial development, have indeed risen. The tender cost increases in the West Midland region is confirmed by BCIS as 9% over the Q1 2013 to Q4 2014 period

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Notwithstanding this recognition of increased costs, the November 2014 addendum report considers residential development only. No account has been taken of up to dated construction costs for commercial development and, accordingly, it can be clearly stated that there is no information currently in existence which considers up to date viability considerations for commercial development underpinning this DCS.

Given all of the foregoing, we do not consider that a robust evidence base exists and that care has not been taken to ensure that the evidence base is robust (as required by NPPG paragraph 015). A range of data, including values of land in both existing and planned uses, and property prices – have not been used (as required by NPPG paragraph 019). An appropriate range of types of sites have not been directly sampled and no appropriate focus has been brought to sites where the impact of the levy on economic viability is likely to be most significant such as brownfield sites (as required by NPPG paragraph 019). There has been no fine grained sampling to support the proposed differential rates for various (unclearly defined) types of retail development (as also required by NPPG paragraph 019).

Given the absence of updated viability information for commercial uses in the November 2014 viability addendum report, a *“realistic understanding of costs essential to the proper assessment of viability in an area”* has not been achieved (as required by NPPG paragraph 020). Neither has the draft charging schedule been prepared *“in light of ... updated evidence where applicable”* (as required by NPPG paragraph 030).

Proposed Rate

Notwithstanding the criticism above, the June 2013 Viability Assessment concludes in paragraph 7.3 that *“Superstores, supermarket and retail parks are capable of generating greater surplus value and could absorb a CIL of £148 per square metre. After allowing for a discount below the maximum rate, we suggest a CIL of £105 per square metre.”*

The NPPG notes that *“A charging authority’s proposed rate or rates should be reasonable, given the available evidence... There is room for some pragmatism. It would be appropriate to ensure that a ‘buffer’ or margin is included, so that the levy rate is able to support development when economic circumstances adjust. In all cases, the charging authority should be able to explain its approach clearly.”* (paragraph 019, NPPG). It is likely due to this guidance, which is reflected in paragraph 5.5 of the DCS and paragraph 4.5 of the Preliminary DCS, that the Charging Authority proposed a charge of £75/sqm in their PDCS (a discount of c.50%).

A consistent approach was taken in respect to other development types. Retail development in the prime Leamington Spa zone is reported as being able to absorb a CIL of £133/sqm in the base (appraisal 5) appraisal,

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yet the PDCS suggested a rate of just £65/sqm. Hotel use is reported as being able to absorb a CIL of £204/sqm, yet the PDCS suggested a rate of just £80/sqm. Student housing was reported as being able to absorb a CIL of £133/sqm, yet the PDCS suggested a rate of just £80/sqm. (Discounts ranging between 40% and 61%).

However, inexplicably, and with no further justification whatsoever, the DCS increases the CIL for supermarkets/superstores and retail parks from £75 to £105/sqm. The CIL for other development types remain unchanged, including for residential development, notwithstanding the November 2014 viability addendum report finding *"a marginal improvement in viability in comparison to the results in the June 2013 Viability Study"*. Accordingly, while other forms of commercial development receive discounts of between 40% and 61% (and in the case of prime zone retail, 51%), supermarkets/superstores and retail parks receive just 29%.

The NPPG notes that *"Differential rates should not be used as a means to deliver policy objectives... Charging schedules with differential rates should not have a disproportionate impact on particular sectors or specialist forms of development."* (paragraph 021, NPPG).

Given that no other CIL rate was amended between the publication of the PDCS and the DCS and given the higher level of discount those other types of development receive, it is impossible not to conclude that the increase in CIL for supermarkets/superstores and retail parks will not have a disproportionate impact on these sectors/forms of development and that this is not being used as a means to deliver some other policy objective. It is certainly the case that the charging authority has not explained its approach clearly (as required by NPPG paragraph 019).

Conclusion

On behalf of our client, Ignis UK Property Fund, we object to the Draft Charging Schedule, and particularly the Convenience based supermarkets and superstores and retail parks category. We consider that the category is poorly defined, providing no clarity as to which forms of development it would apply to. We consider that the evidence base informing the proposed CIL charge for these types of development is not robust having not tested a sufficient range of sites/development and not taking account of up to date cost information.

Notwithstanding these concerns, we consider that the increase in CIL rate between the publication of the PDCS and the DCS is irrational, is unexplained and would have a disproportionate impact on these types of development.

We consider that the CIL charge for these types of development should be zero rated. Failing that, any charge should not exceed that set out in the PDCS.

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Sheet of

CIL Examination : Right to be Heard

Do you wish to be heard by the Examiner at the examination? Yes No

If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:

It is considered that the evidence base informing the proposed CIL charge is not sufficiently robust, that the proposed categories in the Draft CIL Charging Schedule are ill defined and the changes between the proposed charges in the Preliminary and Draft charging schedules remain unexplained and disproportionate. The plan is not deemed to be 'sound' and our client would like the opportunity to speak at the future Hearing in order to ensure these matters are fully explored and understood.

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Guidance on Making Representations

- Please use this response form as it will help the Council to keep accurate and consistent records of all the comments on the Plan, alternatively complete online at www.warwickdc.gov.uk/planning
- If you wish to make comments on more than one aspect of the Plan, please use a separate copy of Part B of this form for each
- You may withdraw your objection at any time by writing to Warwick District Council, address below
- It is important that you include your name and address as anonymous forms cannot be accepted. If your address details change, please inform us in writing
- All forms should be received by 4.45pm on Friday 10 April 2015
- Copies of all the objections and supporting representations will be made available for others to see at the Council's offices at Riverside House and online via the Council's e-consultation system. Please note that all comments on the Local Plan are in the public domain and the Council cannot accept confidential objections. The information will be held on a database and used to assist with the preparation of planning policy documents and with consideration of planning applications in accordance with the Data Protection Act 1998
- Please return this form to: Development Policy Manager, Development Services, Warwick District Council, Riverside House, Milverton Hill, Leamington Spa, CV32 5QH or email: newlocalplan@warwickdc.gov.uk