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Contributor Number:
Contribution Number:
Representation Number:

Rhondda Cynon Taf County Borough Council
CIL Consultation June – August 2013
Cyngor Bwrdeistref Sirol Rhondda Cynon Taf
Ymgynghoriad ASC Mehefin – Awst 2013

CIL: Draft Charging Schedule Consultation Form
Ffurflen Ymgynghori Rhestr Ddrafft Codi Tâl ASC

Completed forms should be returned by 5.00pm 7th August 2013
to: The Spatial Development Team, Regeneration & Planning
Division, Rhondda Cynon Taf County Borough Council,
Floor 3, Sardis House, Sardis Road, Pontypridd, CF37 1DU

Dylech anfon ffurflenni wedi'u cwblhau erbyn 5:00pm 7fed Awst
2013 at: Carfan Datblygu Gofodol, Adran Adfywio a Chynllunio,
Cyngor Bwrdeistref Rhondda Cynon Taf, Llawr 3, Tŷ Sardis,
Heol Sardis, Pontypridd, CF37 1DU

Further copies can be obtained from the Spatial Development Team, or you can photocopy this form.
Gallwch gael rhagor o gopiau o Garfan Datblygu Gofodol, neu gallwch lungopio'r ffurflen hon.

Contact Details / Manylion Cyswllt

Personal Details / Manylion Personol

Agents Details / Manylion yr Asiant

Title / Teitl		Mr
First Name / Enw Cyntaf		Peter
Last Name / Cyfenw		Waldren
Job Title (if applicable) / Title Swydd (Ile bo'n berthnasol)		Director
Organisation (if applicable) / Sefydliad (Ile bo'n berthnasol)	Sainsbury's Supermarkets Ltd	WYG
Address / Cyfeiriad	C/O Agent	5th Floor, Longcross Court 47 Newport Road Cardiff
Post Code / Cód Post		CF24 0AD
Email Address / Cyfeiriad E-bost		peter.waldren@wyg.com
Phone Number / Rhif Ffôn		02920 829 200





3. If your representation is seeking a change to the CIL Draft Charging Schedule, do you consider it necessary to attend the Examination in Public? / Os ydy'ch sylwadau yn ceisio newid y Rhestr Ddrafft Codi Tâl ASC, ydych chi o'r farn bod angen ichi fynychu'r Archwiliad Cyhoeddus?

Yes, I wish to attend / Ydw, hoffwn i fynychu

No, I do not wish to attend / Na, dw i ddim am fynychu

4. Please tick the box if you would like to be notified about any of the following:
Tichiwch y blwch os hoffech chi gael gwybodaeth ynghylch unrhyw un o'r canlynol:

If the Draft Charging Schedule has been submitted to an Independent Examiner in accordance with section 212 of the Planning Act 2008 (as amended) / Os ydy'r Rhestr Ddrafft Codi Tâl wedi cael ei chyfeirio gerbron Archwiliwr Annibynnol yn unol ag adran 212 Ddeddf Cynllunio 2008 (fel y'i diwygiwyd).

The publication of the recommendations of the Examiner and the reasons behind those recommendations / Cyhoeddi argymhellion yr Archwilydd a'r rhesymau dros yr argymhellion hynny.

The approval of the Charging Schedule by the Charging Authority (the Council) / Cymeradwyo'r Rhestr Codi Tâl gan yr Awdurdod Codi Tâl (y Cyngor).



1. Did you make any representations on this issue during the consultation on the Preliminary Draft Charging Schedule? / A gyflwynoch chi unrhyw sylwadau yn ystod yr ymgynghoriad ar y Rhestr Ragarweiniol Ddrafft Codi Tâl?

Yes/Do No/Naddo

If 'yes', please give your representation number (if known)

If 'no', please briefly explain why you did not do so

Os 'do', nodwch gyfeirnod y sylwadau (os yn hysbys)

Os 'na', nodwch yn fyr pam na gyflwynoch chi sylwadau

Representations made in respect of other issues on behalf of SSL - representor number 6191.

2. Do you have any comments relating to the CIL Draft Charging Schedule and its supporting evidence? / Oes sylwadau gyda chi ynghylch y Rhestr Ddrafft Codi Tâl ASC a'r dystiolaeth sy'n gen iddi?

Yes / Oes

(Please make sure you refer to the sections or paragraphs to which your comments relate and provide details by using the box below for your comments. If needed, please continue on a separate sheet of paper).

(Cyfeiriwch at yr adrannau neu'r paragraffau mae eich sylwadau yn ymwneud â nhw a nodwch fanylion eich sylwadau yn y blwch isod. Defnyddiwch ddalen ar wahân os hoffech chi).

No / Nac oes

Please see separate sheet.



5. Are there any other issues arising from the CIL Draft Charging Schedule that you would like to comment on? / Hoffech chi godi unrhyw faterion eraill ynghylch y Rhestr Ddrafft Codi Tâl?

No.

THANK YOU FOR YOUR COMMENTS ON THE CIL DRAFT CHARGING SCHEDULE

Completed forms should be returned to:

The Spatial Development Team, Regeneration & Planning Division, Rhondda Cynon Taf County Borough Council, Floor 3, Sardis House, Sardis Road, Pontypridd, CF37 1DU.

REPRESENTATIONS SHOULD BE RETURNED BY

5:00pm ON THE 7th AUGUST 2013

REPRESENTATIONS RECEIVED AFTER THIS DATE WILL NOT BE CONSIDERED

DIOLCH AM EICH SYLWADAU AR Y RHESTR DDRAFFT CODI TÂL ASC

Dylech anfon ffurflenni wedi'u cwblhau at:

Carfan Datblygu Gofodol, Adran Adfywio a Chynllunio, Cyngor Bwrdeistref Rhondda Cynon Taf, Llawr 3, Tŷ Sardis, Heol Sardis, Pontypridd, CF37 1DU.

DYLAI SYLWADAU GAEL EU HANFON YN ÔL ERBYN

5:00pm 7fed Awst 2013

FYDDWN NI DDIM YN YSTYRIED UNRHYW SYLWADAU SY'N CAEL AU DERBYN AR ÔL Y DYDDIAD HWN



Discretionary relief

Our client Sainsbury's Supermarkets Limited (SSL) wishes to highlight their general support for the Draft Community Infrastructure Charging Schedule (June 2013). On behalf of our client, these representations provide comments and precedents set in regard to the approach to discretionary relief in relation to Exceptional Circumstances (Regulation 55-58).

Our comments seek to ensure that Rhonda Cynon Taff County Borough Council (RCTCBC) pay due regard to the need to ensure that the combined weight of obligations do not render development in the Borough unviable on the application of the Community Infrastructure Levy (CIL). We note the apparent absence of any modelling of major developments, comparable to the scale of the Talbot Green town centre, which have very significant on-site infrastructure requirements. The viability modelling fails to account for consented schemes which become subject to 'fresh' planning applications (e.g. for revisions to layout) after the adoption of CIL, triggering the need for contributions. Such contributions could result in 'double dipping' payment in the instance where an existing s106 Agreement has already secured relevant Strategic Infrastructure (or contributions towards), or could result in combined obligations. We raise concern that major developments could be rendered unviable due to the combined impact of s106 payments and CIL. In the context of economic uncertainty there is a need to have a discretionary relief policy to ensure chargeable development remains viable development.

In our opinion, the extent of previously delivered and future obligations should be considered when assessing the viability of a scheme, and in determining eligibility for Exemption Circumstance from CIL in accordance with the CIL regulations at the current time.

At the time of making these representations SSL have received, as joint applicants with Talbot Green Developments Limited (TGDL), a resolution to grant permission for a 10,801sqm (GEA) supermarket, 573 space car park, petrol filling station and associated access roads, infrastructure and landscaping. The resolution was made to grant full planning permission subject to a Planning Obligation under s106 of the Act ensuring payment of (*inter alia*) £2.05M for strategic highway infrastructure, described in the committee report as improvements to the roundabout junction of the A4119/A473. One of the transport projects included on the Councils Regulation 123 Draft Infrastructure List relates to the improvement of the A4119/A473 roundabout. The trigger points contained in the s106 agreement for making this payment results in the full amount being paid within 6 weeks of having commenced development.

The development programme requires the provision, by TGDL, of significant new access infrastructure to serve the site as well as provision of a serviced plateau for the supermarket itself. The provision of these site preparation/access works are envisaged to take approximately 12 months, after which construction of the supermarket by SSL will commence. Accordingly, the £2.05M strategic highway s106 payment will have been made some 11 months prior to construction of the store commencing.

Retailing is a particularly dynamic sector of the economy with constant data analysis refining the ultimate end product. Accordingly, SSL's models, standards and specifications



frequently change to ensure developments are fully cognisant of the latest thinking. It is possible, or even likely, therefore that the precise form of development will differ from that which has been resolved to be approved, necessitating a further planning submission.

In Wales, there is no scope to submit a Minor Material or Non Material Amendment and accordingly the only options to seek approval for any change would be to either (a) seek to vary a condition listing the approved plans or (b) apply for a new full planning permission. Unfortunately, the conditions set out in the committee report contain no condition listing the approved plans and while we have requested one be added, it is not clear at time of writing whether such a request will be granted. In such circumstances it appears that a new application would be required for even a relatively minor and acceptable change to the approved development.

While the Community Infrastructure Levy (Amendment) Regulations 2012, which came into effect on 28 November 2012, introduced a recognition that applications made under s73 of the Act might hitherto have resulted in an overpayment of CIL, there is no similar provision for new applications for full planning permission (under s57), even if such an application were materially similar to a previously approved permission and resulted in no increase in floorspace (indeed, even if they resulted in a reduction in floorspace).

The outcome of the above is that:

- Should permission be granted with no condition listing the approved plans (thus precluding a s73 application); and
- Should development of the site preparation/access works commence, thus triggering payment of the £2.05 highway infrastructure payment (for works to the A4119/A473 junction, which is included on the Council's Regulation 123 list); and
- Should SSL wish to alter the development in any way such that a new planning application is required; and
- Should such an application be determined after CIL comes into effect (as seems entirely possible given the current development programme and published timetable for introducing CIL);

Then, notwithstanding the fact that the development's share of its Regulation 123 infrastructure burden (£2.05M) will already have been paid and notwithstanding any implications for scheme viability, a further CIL payment would be required (calculated at broadly £1,000,000). This would be grossly unfair and would in effectively constitute 'double dipping'.

Regulations 55 to 58 allow charging authorities to set discretionary relief for exceptional circumstances to allow the charging authority to avoid rendering sites with specific and exceptional cost burdens unviable should exceptional circumstances arise. We believe that the above scenario constitutes exceptional circumstances.

Before granting discretionary relief, the charging authority will need to be satisfied that the costs relating to the section 106 agreement (which we assume must include the section 106 agreement relating to the original permission) are greater than those related to the Community Infrastructure Levy, and that the relief would not constitute notifiable State Aid. We believe these stipulations would be met.



Proposed Statement of Common Ground or Memorandum of Understanding

In a similar set of circumstances to those outlined above, the London Borough of Brent and Quintain Estates and Development plc prepared and signed a Statement of Common Ground on 12th November 2012. The statement formalised areas of agreement in relation to the CIL Draft Charging Schedule between the two parties to address the circumstances prior to the adoption of the CIL Charging Schedule. As with the Talbot Green development, the s106 agreement pre-dated the Charging Schedule coming into effect and accordingly included infrastructure to both directly mitigate on site impacts, and to serve the wider needs of the area.

We request that a Statement of Common Ground or Memorandum of Understanding is also prepared and signed in advance of examination to assist the Examiner in addressing the concerns outlined above. In these similar circumstances, we wish to address our client's unease and to avoid 'double dipping' for Strategic Infrastructure and to ensure certainty for developers in assessing viability in regard to progressing their schemes.