

23 May 2013

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Head of Strategic Planning
Winchester City Council
City Offices
Colebrook Street
Winchester
SO23 9LJ

Dear Sir or Madam,

REPRESENTATIONS ON BEHALF OF ALDI STORES LTD - WINCHESTER CITY COUNCIL DRAFT CIL CHARGING SCHEDULE, MAY 2013

On behalf of my client, ALDI Stores Ltd, I am pleased to provide representations in response to the current Winchester City Council CIL consultation; the 'Draft CIL Charging Schedule' (DCCS).

ALDI has recently constructed a new foodstore of c.1,500 sq.m. (gross) at Burnett Close, Winchester, and has further development interests within the area to which the DCCS refers. Our representations therefore provide general comment on the LPAs' approach to CIL, and specific comment on the proposed retail charge.

In preparing these representations we have given particular regard to the DCCS, the CIL Viability Study (Adams Integra, November 2012) and the subsequent 'Addendum Report following Stage 1 Consultation' (Adams Integra, April 2013). We have also had regard to the Preliminary Draft CIL Charging Schedule (PDCCS) and the representations that the LPA has received in response to that consultation.

Rates & Definitions

It is important that any Charging Schedule is underpinned by a recognition that the planning system should do everything it can to support sustainable economic growth (NPPF, paras. 18 and 19). This aim requires careful attention to viability and costs, and the scale of obligations and policy burdens should ensure that development viability is not threatened (NPPF para.173) - on the contrary, CIL should support and incentivise new development (NPPF para. 175).

The introduction of a Charging Schedule represents a significant consideration for potential investors in the administrative area of Winchester City, and will influence both existing and proposed developments, their location, nature and form and ultimately their viability and deliverability. As a result, it is important that the Charging Schedule that is implemented provides robust, clear and concise guidance.

We are disappointed to see that the proposed retail rates have not been reduced following representations made (by others) to the PDCCS, and the charges remain as follows:

- Retail – all categories within the town centre – a charge of £120 per sq.m. is applicable to Zone 2 only
- Retail – convenience stores, supermarkets and retail warehouse - a charge of £120 per sq.m. is applicable in Zone 2
- Retail – all other categories - a charge of £120 per sq.m. is applicable in Zone 2

We note that the definitions of different uses have been reconsidered and the associated footnotes removed. 'Retail' is defined by the DCCS as developments falling within the uses set out in Class A1 of the Use Classes Order 2010. The DCCS then defines 'supermarket' as a food-based retail store greater than 278 sq.m. in size.

Currently, the Regulations allow charging authorities to set different levy rates within their area. This can be by reference to 'zones' and 'different intended uses of development'. Differential rates cannot currently be set in relation to the *size* of a development, and this issue is the subject of a current government consultation process to which the LPA will need to have regard.

National food operators do not all operate the same business models. ALDI is a modest-sized 'deep-discount' foodstore operator. The Competition Commission, and the Planning Inspectorate (through its consideration of appeals) recognise the deep-discount (limited-line) market as a defined sector of the retail market. It is therefore important that the LPA acknowledges current DCLG CIL Guidance (April 2013), which states that: "...charging schedules should not impact disproportionately on particular sectors or specialist forms of development and charging authorities should consider views of developers at an early stage". (para. 37) [our emphasis]. It is therefore important that all forms of retailing are taken into account when determining an affordable retail levy.

'Deep-discount' retailers such as ALDI operate business models designed to deliver discounted goods for a localised catchment. ALDI in particular operate a model based on high levels of efficiency and low overheads, which enables cost savings to be passed on to their customers. ALDI, therefore, provides accessible low-cost goods that assist those on lower incomes, and as such ALDI is able to provide greater choice for customers in deprived areas. A high rate of CIL will impact upon the viability of the business and deter future investment of discount retail provision and choice within Winchester City's administrative area.

S.106

We disagree with Adams Integra's response (April 2013) to consultee concerns regarding the lack of an allowance in viability appraisals for s.106 costs.

An estimated allowance for site-specific contributions should be made for non-residential development. This is entirely practical, and is an approach that has been taken by numerous other Charging Authorities in forming an appropriate viability evidence base.

For the majority of larger retail developments (medium and large foodstores and supermarkets, including extensions to existing stores) s.106 will be an additional cost in the planning process over and above CIL, and this cost should be accounted for within the viability analysis. On this basis alone, the LPA should carefully consider whether a charge of £120 per sq.m. is, in fact, supported by robust evidence.

Further to the above, Adams Integra appear to imply (with reference to 'double-dipping') that s.106 contributions could be used for the same infrastructure provision as CIL. The context in which this conclusion has been drawn does not appear to be accurate in the context of the Regulations, and is in any

event not an appropriate basis upon which to conclude that s.106 should not form part of the viability analysis.

Discretionary Exemptions

The CIL Regulations provide that Charging Authorities have the option to offer a process for giving relief from the levy in specific exceptional circumstances. We note that the LPA has now clarified that it does not wish to offer such relief.

The use of an exemptions policy enables the Charging Authority to avoid rendering sites with specific and exceptional cost burdens unviable. This is an important consideration in ensuring the delivery of development. It is not acceptable, in our view, for the LPA to state that it will not offer discretionary relief, without first providing sound reasons for its decision.

Payment by Instalments

We are pleased to see that the LPA has confirmed that it will be considering payment by instalments. Payment by instalments would provide certainty and flexibility in respect of levy payment deadlines. Consideration should also be given to payments in kind (e.g. land could be offered as part or all of the payment in certain cases, which could offer an equal if not greater benefit).

Monitoring & Review

To provide greater certainty to developers, it would be helpful if the DCCS could set out how the LPA intends to monitor changes in the market (both rises and falls in prices), and to set out how often the Charging Schedule will be formally reviewed.

On the basis of the foregoing, we suggest that further consideration is given to the evidence for reducing the retail levy. We consider that it is also important that the LPA considers exemptions, and considers site-specific s.106 payments as part of the viability exercise.

We should be grateful if you would keep us informed of the Council's progress in introducing CIL.

Should you have any queries in respect of these representations, please do not hesitate to contact Helen Tilton or Dan Templeton of this office.

Yours sincerely

Helen Tilton
Senior Planner