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Delivered by email

Planning Policy
London Borough of Haringey
6th Floor, River Park House
225 High Road
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Dear Sir/Madam

COMMUNITY INFRASTRUCTURE LEVY: DRAFT CHARGING SCHEDULE (DCS) CONSULTATION

We act on behalf of our client, Sainsbury's Supermarkets Ltd, in response to publication of the London Borough of Haringey CIL DCS and would like to take this opportunity to make representations to the consultations.

Proposed CIL Rates

Retail Development

The DCS proposes a CIL rate of £95 per sq m for retail supermarkets and £25 per sq m for all retail warehousing within the borough. All other Class A1 to A5 retail uses have a nil chargeable rate (in addition to the Mayor's adopted CIL rate of £35 per sq m). The DCS does not provide any further definition towards what constitutes supermarket or retail warehousing within the borough.

Lack of Evidence that Sub-Categories of an Intended Use are Different

There is no adequate evidence that the sale of retail goods within a supermarket and in a retail warehouse are each different intended uses (for Regulation 13 purposes) to the sale of goods from all other use classes (A1-A5). All are retail uses involving the sale of goods to visiting members of the public for their own consumption, with similar operational characteristics. In the London context, and in Haringey, what is the real difference in "intended use" between retail warehousing, supermarkets and other forms of retailing? They are all simply shops and should be treated equally.

In any event, there is no adequate evidence supporting the charging schedule which justifies the distinctions in "intended use" that are being made.

Lack of Viability Evidence

Retail Development

In respect of retail development, the CIL Updated Viability Study (prepared by BNP Paribas Real Estate) has only considered three types of retail scenarios across the borough, including a retail warehouse/retail park of 20,000 sq ft GIA, a retail supermarket of 30,000 sq ft GIA and a smaller high street format of 4,000 sq ft GIA (see Appendix 1 of the CIL Updated Viability Study).

The scenarios are only broad hypothetical assumptions, which do not accurately reflect the appropriate range of local retail availability across the borough. The commercial assumptions are based on an intensification of the existing use on the site. The sampling should reflect a greater selection of the different typologies of strategic (and other) retail sites allocated within the emerging Haringey Local Plan, in line with paragraph 27 of the CIL Guidance (April, 2013). Our view is that the evidence does not reflect the characteristics of local market conditions or variations in land values across the Borough.

Given the proposed £95 per sq m retail rate for supermarkets, and lower rate of £25 per sq m for retail warehousing within the borough, such differential CIL rates should be adequately supported by “fine grained” evidence. The CIL Study does not provide sufficient evidence on the viability of retail warehousing , supermarket development and other retail uses.

Whilst the viability study makes a brief reference in relation to the local policy context regarding CIL, there is no detailed information on how the proposed rates will impact on the deliverability of the emerging Development Plan particularly in relation to meeting the retail pipeline and borough wide/area specific policy targets. The Council should re-consider lowering its charging levels for retail development and be more pragmatic about viability.

Lack of Definition

The definitions used for retail differentiation are inadequate. Reference to terms like “supermarkets” or “retail warehousing” are not sufficiently precise for developers to understand the CIL implications.

When applications are made, particularly for smaller retail units, the operator will not be known. It will not be clear whether it will be a supermarket or not. Indeed that may not be known until after the unit has been built, particularly if the unit is part of the ground uses in a residential scheme. This makes a CIL charge impractical since the authority will not know whether a nil rate or a £95 charge per sq m should be levied.

State Aid

Supermarkets and retail warehouses sell an overlapping range of goods with many other shops. They all compete in the same market. The DCS charges a high CIL to supermarkets, a lower charge to retail warehousing but not to other types of retail development. There is no consideration in the available evidence on the state aid implications of this or whether it is objectively justified.

It should be remembered that the responsibility for state aid compliance rests on the Charging Authority (paragraph 40 of the CIL Guidance). There is no relevant evidence that demonstrates that the Council have given this issue any, let alone proper, consideration.

2013 CIL Reform Consultation

In addition to the above, on 15 April 2013 the Department for Communities and Local Government (DCLG) began consulting on changes to the CIL regulations. Importantly, the consultation invites responses on whether the Regulations should be rephrased to emphasise that examinations of charging schedules must focus on the robustness of the evidence base and that charging authorities should be 'required' to strike an appropriate balance between funding infrastructure and the potential effects of the levy (rather than 'aim' to strike such a balance).

The evidence should clearly demonstrate how the proposed levy rates will contribute towards the implementation of the Haringey Local Plan at examination (see paragraph 19 of the DCLG Consultation on CIL further reforms). These nuanced changes would therefore focus more attention on the role of the charging authority in justifying their approach. Subject to consultation responses, the regulations are likely to change. We therefore recommend the Council are mindful of these forthcoming legislative changes in progressing their CIL and so we reiterate our view that further evidence must be given.

Instalments Policy

The CIL DCS notes in paragraph 11, that payments' will be due in fully sixty days from the commencement of development, offering the facility to make payments in instalments for CIL liability in excess of £500,000. For those over the half a million pound threshold, payment will be required over two instalments, with the largest proportion due within the first sixty days from commencement, and the remainder payable 180 days thereafter.

Sainsbury's consider the instalment threshold to be substantially higher than other London Borough's and request that a more flexible approach is taken regarding the payment of CIL. Further clarification will therefore be required within the Charging Schedule so that the financial consequences can be modelled.

Exceptions Policy

In addition to adopting an instalments policy, Sainsbury's suggest that the Council also adopt a policy which would allow the Charging Authority to offer discretionary relief from the CIL payments. Moreover, paragraph 8.3 of the DCS states that the Council are not expecting to implement any discretionary relief within the short term.

Sainsbury's considers it essential that the Council retains the opportunity for such an agreement to be reached in particular circumstances and welcomes the drafting of an exceptions policy in preparation for the next round of consultation.

We trust the above points are helpful and look forward to reviewing the Charging Schedule when published in due course. Please contact Chris Deeks in the first instance.

Yours sincerely

Chris Deeks
Assistant Planner