



Ref: A093929

Implementation Team  
Planning (Community & Policy Development)  
West Dorset District Council  
South Walks House  
South Walks Road  
Dorchester  
DT1 1UZ

13<sup>th</sup> March 2018

Dear Sir/Madam

## **West Dorset Regulation 123 List – Consultation February 2018 Representations on Behalf of C G Fry & Son Ltd**

### **Introduction**

We set out below representations submitted on behalf of C G Fry & Son Ltd (C G Fry) in response to revised West Dorset Regulation 123 list consultation (February 2018).

C G Fry has applied for outline planning permission (with all matters reserved) for residential development on land at Bank and Ridge Farms, Chickerell. The planning application has been registered (ref: WD/D/16/01443) and the proposed development comprises:

*"Construction of 292 dwellings (Use Class C3), vehicular access from two new junctions off School Hill in the east and also via the B3157 via Courage Way in the west, pedestrian and cycle linkages including improvements to Barr Lane, internal estate roads, public open space, an extension to the burial ground of St Mary's, Chickerell, landscaping, a sustainable urban drainage system including attenuation ponds, utility connections, and associated engineering, infrastructure and earth works."*

A S106 agreement has been developed with the District and Town councils to reflect the community's infrastructure aspirations and Policy CHIC 2 in the adopted Local Plan.

### **Representations**

We make the following representations:

### **Appropriate Balance**

The principal change to the R.123 list is that over forty projects that were previously to be funded through CIL are now proposed to be funded through Section 106 obligations. We do not agree that this is a minor change.





The following advice contained in Planning Practice Guidance paragraph 097 is relevant:

*“Where the regulation 123 list includes a generic type of infrastructure (such as ‘education’ or ‘transport’), section 106 contributions should not be sought on any specific projects in that category. Site-specific contributions should only be sought where this can be justified with reference to the underpinning evidence on infrastructure planning which was made publicly available at the charging schedule examination.*

*The charging authority’s proposed approach to section 106 contributions should be set out at examination and should be based on evidence. Where a regulation 123 list includes project-specific infrastructure, the charging authority should not seek any planning obligations in relation to that infrastructure.”*

The above approach ensures that the “appropriate balance” between the infrastructure funding gap and viability considerations is considered through the CIL Examination in Public (EiP), in accordance with Regulation 14 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). The changes proposed could potentially significantly affect this balance and the viability of planned growth. This is exacerbated by the inclusion of infrastructure within Column B (S106 Infrastructure Projects) where it states “*infrastructure relating to a specific development*” which provides no certainty in terms of both infrastructure cost or delivery mechanism.

Justification needs to be provided for the removal of infrastructure from Column A to Column B and the appropriate balance needs to be given serious consideration in terms of whether an EiP is legally required. Where S106 infrastructure projects have not formed part of the evidence base for the previous CIL EiP, we recommend that they are removed to ensure that the proposed changes to the R.123 list are lawful.

### **Infrastructure Delivery Strategy**

One way of evidencing the need to make changes to the R.123 list would be to update the Infrastructure Delivery Strategy (IDS) which underpins the R.123 list. Any update to the IDS should be subject to consultation to allow consideration of the latest viability appraisal available for strategic sites in particular, which may have been carried out by the landowner or developer.

The latest iteration of the IDS is dated 2014. If the IDS is to be relied upon to inform the R.123 list, it should be updated more regularly, we would suggest annually. Due to the IDS being out of date, there are significant discrepancies between its contents and the proposed changes to the R.123 list. In particular, Schedule 2c of the IDS includes water and bus improvements, which have not formed part of the site-specific Section 106 discussions to date on the above application. The library and museum improvements included within the IDS have now been scoped out of the Section 106 negotiations. Discrepancies between the two documents call into question the actual infrastructure funding gap that exists, which is the other part of the appropriate balance required to be determined through EiP under Regulation 14.

### **Infrastructure Delivery**

Clarity is required in respect of the proposed changes to the R.123 list (column B) in terms of which S106 items are required to be provided and which are to be a financial contribution (or both), for each site allocation.





For example, Policy CHIC 2 relates to what are effectively two separate sites to the north and east of Chickerell respectively that will be delivered by two different developers.

In respect of *On/off-site green infrastructure and recreation* (column B), one site - land to the east of Chickerell - will provide land to accommodate (and possibly financial contributions to support the delivery of) infrastructure including a primary school, adult grassed football pitch with associated changing facilities, allotments and a play area. The other site – land to the north of Chickerell - will provide financial contributions towards this infrastructure.

By the same token, land to the north of Chickerell will provide land for the cemetery extension, while no financial contribution is being sought from the developer of the land to the east of Chickerell for this infrastructure.

However, as worded, column B refers to the *Provision* of this infrastructure, whereas in reality, S106 will secure either a financial contribution or the provision of land (and possibly financial contributions) towards the relevant infrastructure.

The same point applies to the *On/off site culture and leisure projects* – again column B. Infrastructure such as the skate park and improvements to Weymouth Swimming Pool and Redlands Sports hub are to be secured by financial contributions but provided by third parties.

This important distinction should be clarified.

## Conclusions

In summary, we consider that the proposed changes to the R.123 list have not been properly evidenced, justified or explained. Bearing in mind the potential impact the changes may have on the appropriate balance to be struck under Regulation 14, this matter needs to be urgently addressed before any changes are adopted.

We trust that these representations will be considered as your Council considers its infrastructure funding and delivery into the future.

We welcome any further discussion on the points raised in our representations and ask please to be notified of any decisions or further consultation in respect of the R.123 list and/or IDS. In the meantime, should you have any queries please do not hesitate to contact us.

Yours faithfully



Simon Coles  
**Director**  
For and on behalf of WYG

Hawkridge House, Chelston Business Park, Wellington, Somerset TA21 8YA  
Tel: +44 (0)1823 666 150 Fax: +44 (0)1823 666 631 Email: info@wyg.com www.wyg.com

WYG Environment Planning Transport Limited. Registered in England & Wales Number: 3050297  
Registered Office: Arndale Court, Headingley, Leeds, LS6 2UJ



creative minds safe hands