



Thomas Eggar LLP  
Belmont House Station Way  
Crawley West Sussex RH10 1JA

Telephone +44 (0)1293 742 700  
Facsimile +44 (0)1293 742 999  
DX no. 85715 Crawley

Ms Sandra Eastaugh  
Greater Norwich Development Partnership Manager  
Greater Norwich Development Partnership  
PO Box 3466  
NORWICH  
NR7 7NX

**By e-mail and by post**  
[cil@gndp.org.uk](mailto:cil@gndp.org.uk)

Our ref: PPG/CD/AMW/45097999/Asda  
Your ref:

14 November 2011

Dear Ms Eastaugh

**Greater Norwich Development Partnership  
Community Infrastructure Levy Regulations 2011 (Amended)  
Preliminary Draft Charging Schedule Consultation  
Response to Consultation on behalf of Asda Stores Limited**

We act for Asda Stores Limited, who have asked us to make representations on their behalf in respect of the draft Charging Schedules prepared by the Greater Norwich Development Partnership on behalf of Norwich City Council, Broadland District Council, and South Norfolk Council.

As the Charging Schedules proposed are the same for all three councils (albeit with some variations between areas within the combined districts of the three councils) we will confine these representations to a single set of comments on the collective effect of the three Charging Schedules. This is consistent with the approach of the councils, which has been to achieve a universal Charging Schedule co-ordinated amongst the three districts.

We wish to object fundamentally to the approach taken to assessing the Charging Schedules, and to the disproportionate loading of the Community Infrastructure Levy upon two limited classes of development: retail uses, especially large convenience goods based supermarkets and superstores of 2,000 square metres gross or more, and additionally (although of less direct concern to our client residential development.

The stated purpose of the Community Infrastructure Levy is to raise revenue for infrastructure necessary to serve development. The rationalisation for the imposition of the Community Infrastructure Levy was that insufficient monies were being raised through the planning process to fund the infrastructure necessary to provide for the needs of development authorised by planning permissions. While revenue has historically been raised by Section 106 Agreements (and Section 52 Agreements before those) the revenue collected, it was argued, has been raised disproportionately from a limited number and class of developments, and the majority of (minor) developments that escaped the requirements to enter into a Section 106 Agreement were either effectively subsidised by larger developments, or were allowed to proceed, and individually and cumulatively contributed to infrastructure requirements, without being required to pay for them. The Community Infrastructure Levy was intended to remedy that imbalance.

GA: 1480962\_1

Against that background, we do not think it an unreasonable approach to seek a Community Infrastructure Schedule calculated on the basis of a district-wide (or, as here, three districts-wide) assessment of infrastructure needs, with the estimated total cost of those needs being calculated, and then the estimated total cost being divided between the total estimated or planned development anticipated for a district (or three districts). That would at least have been a fair and potentially proportionate approach to the issue of raising the Community Infrastructure Levy and fixing the Charging Schedules. It is noteworthy that this is the approach that has already been adopted by some of the authorities who have already had their Charging Schedules approved.

Instead, the Charging Schedules proposed for the three districts exhibit a fundamental disconnect between the Community Infrastructure Levy charges proposed, and the infrastructure requirements of the developments upon which they are levied.

The Greater Norwich Development Partnership has produced a number of supporting documents to seek to justify the Community Infrastructure Levy Charging Schedules proposed; many of these prepared by your consultants, GVA. However the principal work undertaken by GVA appears to be simply to assess each segment of the development economy as a potential 'cash cow' and source of revenue, without carrying out any, or any meaningful, exercise to assess the infrastructure likely to arise from any particular class of development.

In this connection, it is worth taking a moment to consider the contribution made by the retail sector as a whole to the economy of the UK. The retail sector is one of the most dynamic and innovative sectors within the UK economy. It is also one of the largest employers and the largest creator of new jobs at the present time. Asda Stores Limited have a proven track record of investing in and on the edge of town centres and other existing centres, and of creating jobs within these. Their stores regularly rejuvenate and regenerate existing centres and the surrounding areas, and draw new shoppers to them, which benefits the existing retailers, and those who open stores in Asda-anchored centres in their wake. Across the UK, while some superstores individually necessitate the provision of specific local infrastructure, the proliferation of large modern supermarkets can be argued to have reduced infrastructure requirements by lessening the travel distances necessary for people to undertake their bulk food shopping. Put shortly, it is frequently the case that journey times fall as new supermarkets are opened.

Nowhere in the GVA supporting papers is there any acknowledgement of this phenomenon, nor indeed any meaningful assessment of the role of large supermarkets within the national economy, beyond a very crude assessment that they have the capacity to pay potentially very large sums of Community Infrastructure Levy.

In this connection, we are extremely concerned by the suggestion put forward by GVA as part of the background papers and justification to the three local authorities preparing these Charging Schedules that a generic superstore developed by an operator would be capable of paying CIL of up to £1,500.00 per square metre. This would be a total of nearly £9,750,000.00 for the 6,500 square metre typical superstore which they consider. This level of contribution is wholly unrealistic, and would threaten the ability of operators to make the investment the economy needs.

Even at the Community Infrastructure Levy figure proposed in the Charging Schedules of £135.00 per square metre, the proposed Charging Schedules would add £877,500.00 to the cost of GVA's generic supermarket development. Nowhere in the GVA papers is there any suggestion that this is necessarily the appropriate figure in terms of the related infrastructure costs that a supermarket development should be expected to carry. They

have concerned themselves only with their (superficial - as they themselves acknowledge) calculations of assumed ability to pay.

Given that there is a risk that, at least for an interim period, local authorities will still seek site-specific commitments also under the Section 106 regime this represents an unreasonable double-whammy of loading costs onto a very limited category of development.

Although these representations are not made on behalf of any house builder in particular, or the housing industry in general, we note that a similar approach has been adopted to commercial house building. While our clients are mainly concerned with the impact on retail developments, this is still a matter of legitimate concern to our clients, who are involved in many mixed use town and district centre schemes. The viability of many of these will be prejudiced. Again, very high rates of Community Infrastructure Levy are proposed, and these, if adopted, will have the effect of reducing the supply of housing within the three districts involved. All other things being equal, if you increase the cost of providing a product, either the supply of it will fall, or the price will rise, reducing demand.

Adding up to £16,000 to the cost of a 100 square metre house at a time when the Government is seeking to improve the affordability and supply of housing seems perverse to say the least.

Similarly, providing a major disincentive and additional cost to investment in major supermarkets at a time when government policy (as to which see the ministerial statement 'Planning for Growth' and the draft National Planning Policy Framework issued on 25 July 2011) is to achieve greater investment in the economy and greater job creation is completely inappropriate.

The charges proposed to be levied on large supermarkets (£135.00 per square metre) and on house building (£135.00 - £160.00 per square metre) appear even more disproportionate when one looks at the remainder of the Charging Schedule where all other forms of development save smaller retail units (£25.00 per square metre) are to be charged at a blanket rate of a relatively nominal £5.00 per square metre.

If these Charging Schedules are adopted, there will inevitably be two consequences across the three districts adopting them: firstly, all other forms of development will receive a massive subsidy at the expense of commercial house building and the construction of large supermarkets; and secondly, there will be a corresponding disincentive (and market distortion accordingly) to investment in those two sectors of the economy.

It is trite economics that ideally taxes should distort the market as little as possible, and allow consumer and market preferences to be expressed in the most natural way possible to achieve optimum market solutions. This is every bit as true in the market for land and the use of land as in all other aspects of the economy. The proposed Charging Schedules being promoted by the Greater Norwich Development Partnership fly in the face of the fundamental principle of taxation. If these Charging Schedules are implemented, they will distort the local market across the three districts; and they will provide a huge disincentive to house building at a time when the Government is trying to encourage this; and to investment in large format retailing, a significant job creator, at a time when the Government is trying to encourage the creation of additional employment across the economy.

Additionally, it should be noted that within the three district economy, over the planned period there is likely to be a very limited number of large format retail stores built. Consequently, reducing the levy proposed per square metre on this floor space would not result in a proportionate increase in the levy required on other forms of commercial or other development. However, applying this levy would run the risk of diminishing substantially

the number of such stores built, with a consequential loss of employment opportunities, regeneration, and investment in town and district centres.

A much fairer solution, accepting for the purpose of this argument the premise that the Community Infrastructure Levy is necessary for the purpose of funding district-wide infrastructure, would be to divide the councils' estimate of total infrastructure costs over the charging period (and in this connection, it is important to remember that the Government's guidance as recorded in the National Planning Policy Framework is that deliverable infrastructure should be included) by the total expected development floor space and apply a flat rate levy across the district and across all forms of development. That will have the least possible adverse effect upon the market for land and for development, and yet the greatest possible opportunity for the economy to prosper and thrive, and for jobs to be created.

For all these reasons, we would ask that the Greater Norwich Development Partnership and its constituent local authorities undertake a fundamental rethink of their position, and substantially alter their Charging Schedules in so far as they relate to retail development in general, and large format retailing in particular.

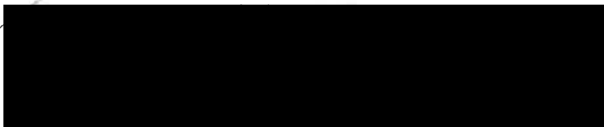
Yours sincerely



**Carl Dyer**

Partner

for and on behalf of Thomas Eggar LLP



cc *Broadland District Council (by e-mail too to all three councils?)  
Norwich City Council  
South Norfolk Council*