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

5 March 2012

Dear Ms Eastaugh

Greater Norwich Development Partnership
Community Infrastructure Levy Regulations 2011 (Amended)
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 amended 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.

The Councils have made it clear, in their published response to the preliminary charging schedule consultations, that in setting the level of CIL charges their only concern is to strike an appropriate balance between the desirability of funding the cost of infrastructure required to support development from CIL and its potential effects on the economic viability of development.

The approach taken to assessing the Charging Schedules does not achieve an appropriate balance between these two objectives. In fact the disproportionate loading of the Community Infrastructure Levy upon two limited classes of development: retail uses, especially large convenience goods based retail units of 2,000 square metres gross or more, and residential development, is likely to put the overall development of the area, as identified in the Councils' Joint Core Strategy, at substantial risk.

<u>Impact on new district centres</u>

The Joint Core Strategy for Broadland, Norwich and South Norfolk, which was adopted on 24 March 2011, identifies the need for new or expanded District Centres in the following areas:

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- The Old Catton, Sprowston, Rackheath, Thorpe St Andrew growth triangle, which will be serviced by a new district centre at Blue Boar Lane and possibly a second district centre elsewhere in the growth triangle.
- Expansion of the town centre at Wymondham;
- Improvements to the town centre and additional employment opportunities at Long Stratton;
- An enhanced district centre in Easton/ Cotessey; and
- Major enhancements to Norwich City Centre.

As you are aware, new district centres are usually anchored by an 'anchor store', most often a large convenience goods based store, which is designed to encourage people into the district centre and generate linked trips to near-by stores. The development of a new district centre is often carried out by a developer whose funding or market appraisal for the site is underpinned by letting or operating the anchor store for that development. The cost of developing the district centre, as a whole, is not commercially viable for the developer without the security of a letting of the anchor store. The attractiveness of the anchor store is determined solely by balancing the cost of the development with the projected revenues of that store. The higher the cost of development, the less attractive the location in question will become. In the absence of an anchor store, many redevelopment options will not proceed; either because they are not viable, or because there is no draw to bring in additional businesses or customers.

A large proportion of anchor stores in district centres meet the definition of "large convenience goods based stores" as set out in the new Charging Schedule i.e. supermarkets and other stores, such as Marks & Spencer, where 50% of the trading floor is designated for the sale of convenience goods. In this scenario, a developer would be liable to pay CIL on the anchor store at a rate of £135 per square metre (adding £270,000 to the cost of building a 2,000 square metre store or £540,000 to a 4,000 square metre store) as well as the various CIL charges falling due on the rest of the district centre development.

Given the current economic conditions, and the relatively poor trading figures of comparison goods-based retailers in the current market, it is unlikely that a comparison goods-based retailer would accept the high development costs of creating a new district centre; or indeed taking a long term letting of a new anchor store. It is equally unlikely that a developer would agree to build a new district centre without first having secured retail tenants, or an occupier for the anchor store. In the absence of a comparison goods-based retail tenant, the additional development costs incurred as a result of £135 per square metre levy on large convenience stores, could easily render an otherwise viable District Centre development economically unviable.

In any event, the high CIL charges will dissuade a convenience based retailer from agreeing to develop district centres, and will encourage them to seek a more cost effective location in a different local authority. In short, the CIL levy proposed, will make it significantly harder for the Councils' to deliver the growth and development promised it their Joint Core Strategy.

Impact on regeneration and employment opportunities

The Joint Core Strategy also highlights the need to revitalise the local economy within Norwich, increasing the number of local employment opportunities available to residents. 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 areas. 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.

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. Again putting at risk the Councils' ability to deliver on the objectives set out in their Joint Core Strategy.

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.

Draft Staged Payments Policy and Phased Developments

While the ability to make staged payments is to be welcomed, the draft staged payments policy, set out in appendix 4 of the updated 'Background and Context' document, overlooks the fact that many major development projects are implemented in phases.

As you will be aware, large-scale developments are phased for a number of reasons, most commonly because the revenue generated by the early phases of the development needs to be realised in order to fund the remainder of the scheme.

At present staged CIL payments are linked to the period of time that has passed since commencement, rather than the phase of development achieved. This means that any one staged payment could well fall due before the earlier phases of the scheme have started to generate the revenue required to fund it, rendering the project economically unviable.

We note that, under the CIL Regulations, developers are required to serve a notice of commencement of development on the Charging Authority, but are not required to notify them of the commencement of individual phases of development. This could, however, be easily addressed through the use of planning conditions or, alternatively, planning obligations requested through a s.106 agreement.

Concerns about Council's approach to setting Community Infrastructure Levy charges

As we stated in our earlier submissions, the 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.

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, 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. Nor have they made the connection between the development of a supermarket, and the consequential development that often accompanies it, which would also carry a CIL charge. 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.

The charges proposed to be levied on large supermarkets (£135.00 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 this 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 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.

Proposed changes to the Council's approach

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.

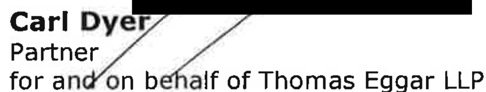
For these reasons, we would ask that the Greater Norwich Development Partnership and its constituent local authorities undertake a fundamental rethink of their position, and substantially alter their Charging Schedules in so far as they relate to retail development in general, and large format retailing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

Alternatively, we would request that:

- The CIL charges for large convenience goods based stores be reduced from £135 per square metre to £25 per square metre, in line with the levy proposed for all other types of retail developments; and

- The draft staged payments policy be amended so that the staged CIL payments are linked to development phases, rather than to the period of time that has passed since the commencement of development.

Yours sincerely



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