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Our ref: PPG/2185/45117198

Your ref:

23 May 2013

Dear Sirs

**Community Infrastructure Levy: Draft Charging Schedule Consultation
Response on behalf of Asda Stores Ltd**

We act for Asda Stores Limited ("Asda") and we write further to our previous representations in response to the Council's Preliminary Draft Charging Schedule submitted on 1 February 2013 (a copy of which are enclosed). In those representations we made a number of key objections and suggestions and we are disappointed to note that the Council has made no changes to the proposed CIL, which rates now set out in the Draft Charging Schedule following the previous consultation.

Financial assumptions underpinning the viability assessment

We note that the Council's consultants have prepared an addendum report, following the previous consultation. That report specifically responds to the concern set out in our previous representations that the viability study does not allow for site-specific s.106 contributions, stating:

There may be a requirement for a contribution through s.106 or s.278 agreements for a particular site because of that site's anomalies... Furthermore with the Supermarket modelling a total of 16.5% of the construction costs are allowed for under professional fees, contingency and external works which is considered sufficient to cover planning fees and other site specific additional costs.

That response is inadequate. Regulation 14(2) of the Community Infrastructure Levy Regulations 2010 (as amended) requires the Council to consider the effects of CIL on economic viability. The Council's modelling of supermarket developments should have considered the level of s.106 and s.278 contributions which developers may still be liable to pay. By not doing so the Council has failed to comply with its obligation under Regulation 14(2) to consider properly the effect of the proposed rate on the economic viability of the development. It is insufficient for the addendum report to assert that these costs will be covered by the allowance for professional fees, when the viability assessment has not considered how high those costs might be.

Change of use and conversion projects

In their addendum report, the Council's consultants state:

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Generally conversion costs are less than new build costs where it is usual that the main shell of the structure including foundations are reused.

This response makes it clear that the Council's viability assessment has not considered fully the impact on economic viability of conversion projects as it appears to assume that the proposed development will qualify for the deduction set out at Regulation 40(10) of the CIL Regulations. If the floorspace has not been in lawful use for six months continuously in the twelve months prior to planning permission being granted, currently no deduction will be available.

The Council does not appear to have taken into account the viability of conversion or regeneration schemes involving vacant units. The proposed CIL charge could, therefore, render such schemes unviable. The Council's failure to consider properly the economic viability of these schemes is contrary to both the CIL Regulations and national guidance.

Department of Communities and Local Government ('DCLG'): CIL Consultation

As you are aware, DCLG is currently consulting on a wide ranging set of amendments to the Community Infrastructure Levy Regulations, which include but are not limited to changes to the treatment of existing floorspace, the evidence needed to demonstrate appropriate charging rates, the ability to accept infrastructure as payment in kind and the scope of discretionary exemptions and reliefs.

The results of this consultation are likely to significantly impact on how the Council elects to implement CIL and its effectiveness as a tool for revenue generation. In the circumstances, it would be sensible to consider delaying putting the Draft Charging Schedule forward for examination until this consultation is concluded and its outcome known.

Key Suggestions

We note that the Council has not incorporated any our key suggestions regarding exceptional circumstances relief or publishing its policy regarding staged payments into its Charging Schedule. We will not repeat those suggestions here, save to say that we consider them to be key to ensuring commercial developments come forward.

Yours faithfully

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