LB Barking & Dagenham – Community Infrastructure Levy Viability Study
Representation on behalf of W.M. Morrison Plc.

24 April 2013

This representation has been prepared in response to the consultation launched by London Borough of Barking and Dagenham in respect of their Community Infrastructure Levy Economic Viability Assessment (January 2012) and Draft Charging Schedule. We are instructed by W.M. Morrison Plc. to make representations on their behalf.

Introduction

Aspinall Verdi Limited, Chartered Surveyors are property regeneration and development consultants. We have direct experience of advising both public and private sector clients with respect to development viability, S106 and planning gain matters. The firm has a thorough understanding of property markets, valuation, development economics, and delivery.

This representation has been prepared by Atam Verdi, BSc (Hons) MRICS, Registered Valuer. Atam is a founder Director of Aspinall Verdi and has 20 years post qualification experience in the planning and development consultancy sector. He has been based in London and Leeds and has advised on projects throughout England.

This submission has been prepared to support further representations by Peacock & Smith town planning consultants for W.M. Morrison PLC.

For the purposes of these representations we have reviewed the following documents:

1. GVA Consultants, Economic Viability Assessment: Affordable Housing & Community Infrastructure Levy Report, January 2012
2. GVA Consultants, CIL Economic Viability Study: Addendum on Retail, September 2012

General Comments

Prior to making specific comments in response to the Draft Charging Schedule and GVA’s viability assessments we draw attention to the following points.

The interrelationship of CIL and site specific S106 is critical to the commercial viability of larger development and regeneration projects such as food stores. In many cases the food store is linked to a wider development scheme or masterplan involving other uses and infrastructure such as roads. Therefore the preparation and inclusion of infrastructure elements to the Regulation 123 List needs to be clearly defined and understood to avoid double counting (known as ‘double-dipping’\(^\text{1}\)). Typical ‘site specific’ S106/S278 costs that will be out-with the Regulation 123 List should be factored into the CIL Viability Modelling.

Request to be heard. Should any changes be made to the CIL Charging Schedule in relation to Use Class ‘A’ retail use across the Authority boundary, then we would reserve the right to make representations and be heard at the Examination in Public.

\(^{1}\) See Paragraph 84-92, pp 21-23, DCLG Community Infrastructure Levy Guidance, December 2012
Specific Comments

The following specific comments have been made referring to the paragraph numbers in the CIL Economic Viability Assessment report and the Addendum on Retail.

**Economic Viability Assessment: Affordable Housing and CIL/S.106**

<table>
<thead>
<tr>
<th>Item (Paragraph Number)</th>
<th>Comment</th>
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<tbody>
<tr>
<td><strong>Introduction</strong> (Overview to the CIL Brief – para 1.5)</td>
<td>We agree with the outline for the brief, its aims and objectives and the principles guiding the study. The first bullet of 1.5 references the market review (contained at Appendix F of the GVA report), and how this underpins the entire study. We therefore provide our comments on the market review first below.</td>
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<td><strong>Appendix C (Property Market Review)</strong></td>
<td>The property market review in respect of retail contains no supporting market evidence for supermarkets. No data is given to support rents, values, yields or land values for supermarket developments. Given this lack of evidence and rationale it is difficult to see how the assumptions made have been arrived at.</td>
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<td><strong>Overall Approach</strong> (para 2.2)</td>
<td>We agree with the overall approach; that CIL is a high level rather than a detailed study at site specific level. However for the CIL charge to not negatively impact on development the assumptions underlying the residual valuations must be robust. As mentioned in the report, the analysis to be used to assess potential CIL levels is to be on “the basis of clearly reasoned evidence”. In this respect the consultants have not presented any market evidence in respect of supermarket values to underpin the appraisal (see previous point on Appendix C).</td>
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<td><strong>The Appraisal Model</strong> (para 2.3-2.20)</td>
<td>Again we agree with the approach, comparing the residual value with benchmark land values to obtain the potential contribution. However, the report provides only limited commentary as to how these benchmark (or “threshold”) land values have been arrived at (see comments on paras 2.14-2.20 below). It is not possible for us to comment on the evidence base. The RICS guidance (Financial viability in planning (GN94/2012) emphasises the importance of comparable market evidence (see Box 13 and paragraphs 2.2.3, 3.4.7, 3.4.9, 4.2.1). We would also like to point out that CIL should not be set at the margins of viability (para 2.23). This is made explicit in the DCLG CIL Guidance (December 2012, p10) where it states that, “A charging authority’s proposed levy rate (or rates) should be reasonable given the available evidence, but there is no requirement for a proposed rate to exactly mirror the evidence, for example, if the evidence pointed to setting a charge right at the margins of viability. There is room for some pragmatism.”</td>
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<td>Benchmark Land Values (para 2.14-2.20)</td>
<td>The GVA report refers to the commercial benchmark land values being agreed by their commercial agents, but as mentioned above there is no specific market evidence or commentary within the Property Market Review. The consultants refer to evidence from the ‘current situation in Barking and Dagenham’, Valuation Office Agency data and ‘Agency Team knowledge of transactions in the Borough, but have not presented any of this evidence so we are unable to comment. Tables 9 and 10 sets out the benchmark land value for residential and mixed use and commercial land values. No benchmark value is provided for retail land. A benchmark land value for retail land is required for the following reasons. Landowners will reflect the full development value in their aspirations when considering a sale. Landowners are likely to “hold out” until they have explored their potential returns fully, and may not sell the site if the proposed returns are below their expectations. In many cases landowners have not fully discounted the value of their land following the credit crunch and the land market correction is still taking place. This is particularly relevant for sites that have the potential for the delivery of retail schemes as demand has remained from developers and operators. In the case of retail developments, landowners are likely to hold out for the highest value and are unlike to accept a reduction in their land value for CIL. Finally, large retail sites often take considerable site assembly (including fees and holding costs) which is not factored into this benchmark cost.</td>
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<td>Rent Free, Rent, Yield and Profit (Table 13, p.31)</td>
<td>We note that no allowance for rent free has been included for convenience retail typologies (schemes 18 and 20). There is no explanation as to why this is the case given the ‘strong’ rent and yield selected. The supermarket yield of 5% is considered to be ‘strong’, even for national retailer covenants. We would advocate a more realistic yield of 5.5-5.75% which would significantly impact on viability. Note that at ‘keen’ yields the Council is effectively saying that, “supermarkets can only be developed by the national retailers” and the policy will exclude local retailers/covenants.</td>
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<td>Supermarket Viability Findings (para 3.10-3.17)</td>
<td>GVA advise that a 7,000 supermarket development offers potential for CIL/S106 charge of up to £1,500 psm. We note the cautionary caveats by GVA in respect of the £1,500 psm rate at bullets points 1) – 5) (paragraph 3.16) and agree with these. We also note that the assessment is based on an operator led approach and the results of the developer led approach have not been presented. We assume that this would yield a lower CIL rate psm due to the developers profit required and therefore at £1,500 psm the City is effectively saying that, “it doesn’t want developer led schemes”. No actual residual development appraisals have been made available and we have not been able to review such models. We would expect this information to be provided and that such models take on board the comments made within this paper and also that appropriate allowances</td>
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### Item (Paragraph Number) | Comment
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**Introduction (paras 1.1 – 1.3)** | We agree with the outline for the brief, its aims and objectives and the principles guiding the study. The main EVA failed to provide adequate analysis of retail development to potentially contribute to a CIL charge.

**Analysis (paras 2.1-2.7)** | The property market review in respect of retail still contains no supporting market evidence for supermarkets. No data is given to support rents, values, yields or land values for supermarket developments. The report’s author comments that “we have seen examples where an operator has offered more than double the bids from developers”, yet no market evidence is provided to substantiate this claim or market values and yields. We can therefore not comment on the validity of the value assumptions used where no supporting market evidence has been provided.

Further the Addendum on Retail provides no details on build costs or any other assumptions necessary to produce the residual development appraisals. It is impossible to comment on the validity of the potential maximum CIL Charge without understand the basis for the residual development appraisals.

**We would expect all cost, value and other assumptions to be made available/explicit and we have not been able to review such assumptions**

**Benchmark Land Values** | Again, GVA fail to provide benchmark land values in the Addendum on Retail. Our comments on the original Economic Viability Assessment Report

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**Table 1 – Affordable Housing & CIL/S.106 EVA - Representation Comments**

| CIL Economic Viability Study: Addendum on Retail |
|---|---|
| **Item (Paragraph Number)** | **Comment** |
| **Introduction (paras 1.1 – 1.3)** | We agree with the outline for the brief, its aims and objectives and the principles guiding the study. The main EVA failed to provide adequate analysis of retail development to potentially contribute to a CIL charge. |
| **Analysis (paras 2.1-2.7)** | The property market review in respect of retail still contains no supporting market evidence for supermarkets. No data is given to support rents, values, yields or land values for supermarket developments. The report’s author comments that “we have seen examples where an operator has offered more than double the bids from developers”, yet no market evidence is provided to substantiate this claim or market values and yields. We can therefore not comment on the validity of the value assumptions used where no supporting market evidence has been provided.

Further the Addendum on Retail provides no details on build costs or any other assumptions necessary to produce the residual development appraisals. It is impossible to comment on the validity of the potential maximum CIL Charge without understand the basis for the residual development appraisals.

**We would expect all cost, value and other assumptions to be made available/explicit and we have not been able to review such assumptions** |
| **Benchmark Land Values** | Again, GVA fail to provide benchmark land values in the Addendum on Retail. Our comments on the original Economic Viability Assessment Report |
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equally apply to the addendum report. |  
Rent Free, Rent, Yield and Profit (para 2.5) | Again, we note that no allowance for rent free has been included for convenience retail typologies (schemes 18 and 20). There is no explanation as to why this is the case given the ‘strong’ rent and yield selected. The supermarket yields are considered to be ‘strong’, even for national retailer covenants. We would advocate a more realistic yield of 5.5-5.75% which would significantly impact on viability. Note that at ‘keen’ yields the Council is effectively saying that, “supermarkets can only be developed by the national retailers” and the policy will exclude local retailers/covenants
Supermarket Viability Findings (para 2.6) | Again, no actual residual development appraisals have been made available and we have not been able to review such models. We would expect this information to be provided and that such models take on board the comments made within this paper and also that appropriate allowances are made which reflect:
- Appropriate timescales – has the finance cost been spread over an appropriate period?
- Land assembly costs and requirements
- Brownfield development and so remediation and site preparation costs are incurred
- With larger schemes development related ‘local’ S278 and S106 costs are taken in to account i.e. for 7,000 sqm foodstores this would be needed
CIL as a % of GDV and Build Cost (para 2.7) | The CIL levy rates provided in tables calculating CIL as a proportion of GDV and build cost bear no resemblance to the levy proposed for supermarket development in the Draft Charging Schedule. Therefore, the tables fail to present the very considerable proportion of GDV and build costs that the proposed CIL levy represents. The tables need updating to reflect the proposed CIL levy.
Conclusions and Recommendations (paras 3.1-3.4) | Conclusions regarding the important role that retail development often plays in regeneration, acting as an ‘anchor’ to larger mixed use developments are supported. Imposition of a high CIL levy will jeopardise the potential financial support that retail development can currently offer.

Table 2 – Retail Addendum - Representation Comments

Summary and Conclusions

We are pleased to have been given this opportunity to comment on the London Borough of Barking and Dagenham CIL Draft Charging Schedule would like to register our interest in receiving details of further amendments proposed as a result of this consultation.
The work undertaken to date has been substantial, however in our view makes several optimistic assumptions. The information made available during this consultation is also very limited and fails to enable fair scrutiny of the evidence base that underpins the Economic viability assessment and, in turn, the Draft Charging Schedule. Publication of this material and further work and revisions are needed in order to reflect the observations above and particularly:

1. That at future points the residual development appraisal models are provided such that the assumptions and workings are made clear;
2. Market evidence needs to be provided to support the assumptions used to develop the CIL rate. Without such information the market validity which underpins the entire study cannot be appraised. Please see the above comments relating to yields, land values, and rents;
3. CIL should not be set at the margins of viability; this issue needs to be addressed so as not to discourage development.
4. The build costs need to be provided in full;
5. Details of developers’ profit levels need to be provided;
6. Checks made that double dipping has been avoided.

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