From: [redacted]
Sent: 04 June 2013 15:28
To: CIL
Cc: [redacted]
Subject: Tower Hamlets Draft Charging Schedule
Attachments: 130603 LB Tower Hamlets DCS CIL rep_v2.pdf

Dear Sir / Madam

We have been instructed by our client, WM Morrison Supermarkets Plc (Morrisons), to object to Tower Hamlets draft charging schedule, which proposes a CIL rate of: £195/sq m (borough-wide) for convenience-based supermarkets, superstore and retail warehousing (>280 sq m).

The proposed CIL rate is informed by a Viability Study (March 2013) prepared by BNP Paribas. Morrisons have instructed Aspinall Verdi Property and Development Consultants to review the viability study and provide their comments to support this objection. Accordingly, please find attached representations prepared by Aspinall Verdi.

In summary, Aspinall Verdi have recommended that further work and revisions are needed, particularly:

1. The EUV needs to be reconsidered as the most appropriate measure for calculating the surplus for CIL over development land Market Value benchmarks. It is suggested that more weight to the use of benchmark Market Values and site sizes based on urban design principles and site densities.

2. A revised approach to the generic one size retail scheme is recommended. At present, this does not accurately reflect actual store sizes (and thus the associated costs/values) and in any event is different for supermarkets and retail warehousing.

3. In addition to the observations in Table 1 (of the representations), there are additional factors/costs that need to be taken into account depending on the scale of the development. For example:

    - Land assembly costs and holding costs;
    - The additional costs associated with brownfield development (e.g. remediation and site preparation costs);
    - Site specific S278 and S106 costs which are often substantial for supermarkets and are likely to be still required in addition to CIL
    - No allowance has been made for planning fees/costs, these costs can be considerable.

4. Market evidence and rationale for the appraisal inputs is missing and should be provided in order for the rent and yield assumptions to reviewed in context and the evidence base to be sound.

5. The level of developers' profit should be increased.

6. We would support the use of 12% (not 10%) professional fees given the complexity of such retail schemes.

In our view, the draft CIL charge will put undue additional risk on the delivery of any such proposals and will be an 'unrealistic' financial burden on new large-scale retail development. This, in turn, poses a significant threat to potential new investment and job creation in the local area at a time of economic recession and low levels of development activity. Our client is concerned that a balance has not been found between infrastructure funding requirements and viability and subsequently the suggested charge will have a significant adverse impact on the overall viability of future retail development in the district.

I trust our objection and the attached comments by Aspinall Verdi will be taken into account when finalising the CIL Charging Schedule.

We look forward to the Council's response.

London Borough of Tower Hamlets – Community Infrastructure Levy Viability Study
Representation on behalf of W.M. Morrison Supermarkets Plc.

29 May 2013

This representation has been prepared in response to the consultation launched by London Borough of Tower Hamlets in respect of their CIL Draft Charging Schedule (March 2013) and Community Infrastructure Levy Viability Study by BNP Paribas Real Estate (March 2013).

We note that this is the Draft Charging Schedule stage of consultation. We are instructed by W.M. Morrison Supermarkets Plc. to make representations on their behalf and therefore this representation focuses on convenience/food retailing.

Introduction

AspinallVerdi is a niche firm of Chartered Surveyors and Chartered Town Planners specialising in property development and regeneration consultancy. We have direct experience of advising both public and private sector clients with respect to development viability, CIL, 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 Ben Aspinall, MRICS MRTPI. Ben is a Director of AspinallVerdi with 20 years experience in the planning and development consultancy sector advising on projects throughout the UK.

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

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

1. BNP Paribas Community Infrastructure Levy: Viability Study, March 2013
2. Tower Hamlets Community Infrastructure Levy Draft Charging Schedule, March 2013

General Comment in respect of CIL and Food Stores

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'[1]). Typical 'site specific' S106/S278 costs that will be outwith the Regulation 123 List should be factored into the CIL Viability Modelling.

[1] See Paragraph 84-92, pp 21-23, DCLG Community Infrastructure Levy Guidance, December 2012

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Specific Comments

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

Item (Paragraph Number)	Comment
Viability Benchmark – HCA and Appeals (paragraphs 3.6 - 3.8)	The HCA guidance and the planning appeal decisions referred to are for specific planning applications and not area-based policy formulation. The planning appeal decisions are all based on a specific planning application on a specific site and therefore the existing use of the site is known. It is therefore entirely possible to appraise the residual value of the site for development and compare this against the existing use value of the site. Assuming that the residual value is greater than the existing use value there will be a commercial incentive for the landowner to release the site for development. However, to apply the same approach to area wide policy formulation is flawed. This approach is too academic and is not how the market actually works in practice (see next comment below).
Local Housing Delivery Group (LHDG) guidance (paragraphs 3.9 - 3.10	The LHDG report refers to the concept of 'Threshold Land Value' (TLV). We adopt this terminology as it is an accurate description of the important value concept. The report states that 'Threshold Land Value should represent the value at which a typical willing landowner is likely to release land for development.' The LHDG report refers to an approach to benchmarking TLV's which is based on current / existing use value plus a premium. However, this is very ambiguous and has been interpreted out of context. We interpret existing use value and alternative use value as in the LHDG report to be a subset of Market Value as it is not possible to be site specific in a District-wide strategic context. At numerous points throughout the LHDG report it is advocated, that TLV's will need to be 'sense checked' against local market evidence (pages 29, 30, 31, 34, 36, 40). Indeed the report does acknowledge that, 'if resulting Threshold Land Values do not take account [local market knowledge], it should be recognised that there is an increasing risk that land will not be released and the assumptions upon which a plan is based may not be found sound' (page 30 of the report). The consultants have failed to refer to the RICS guidance which superseded the LHDG guidance. The RICS guidance on Financial Viability in Planning was published after the Harman report in August 2012 (the Harman Report was published in June 2012) and it is much more 'market facing' and less academic in its approach. The RICS guidance is grounded in the statutory and regulatory planning regime that currently operates in England and is consistent with the Localism Act 2011, the NPPF and Community Infrastructure Levy (CIL) Regulations 2010. The RICS Guidance defines 'site value' [threshold land value] benchmark, as the Market Value having regard to development plan policies and all other material planning considerations.

Item (Paragraph Number)	**Comment**
	If the economics of development are to be grounded in reality and therefore schemes deliverable the emphasis does have to be on property market evidence. We therefore commend the RICS Guidance.
Reduction in land value (paragraphs 3.11 – 3.13)	We note the comments about a reduction in land value being an inherent part of the CIL concept. This concurs with the RICS guidance referred to above which requires the TLV to be further adjusted to reflect the emerging policy / CIL charging level (RICS Box 8). Note that this goes on that the level of the adjustment assumes that site delivery would not be prejudiced which is a matter of judgement (see below).
Mayoral CIL (paragraphs 4.26 and 5.52)	We note that the Mayoral CIL is included in the total ‘surplus for CIL’ and therefore has to be deducted from the rate per square metre before applying the ‘appropriate balance’ reduction for a ‘buffer’. We would recommend that the Mayoral CIL be shown explicitly as a cost to the development so that the maximum CIL is shown net of Mayoral CIL. It will therefore be more explicit how much has been deducted to reflect the ‘appropriate balance’. This has been shown explicitly in the case of the residential results (Table 8.4.1) but not for the commercial typologies.
Four Benchmark Land Values (paragraphs 4.39 – 4.44)	We note the comment at 4.38 that “current use values should be regarded as benchmarks rather than definitive fixed variables on a site by site basis” however, BNP have then gone on to define a series of 4 Benchmark Land Values which are purely hypothetical and not relevant to how the market actually works in practice. Take for example Benchmark Land Value 4, which refers to the existing use value of community building (including a 20% premium) at £2.99 million (presumably per hectare?) and assuming that a developer wanted to acquire the site for a scheme generating a residual land value of £5 million per hectare – would the Council sell the site for £2.99 million? If it did it would be failing in its duty to get Best Value. This example shows why it is important to sense-check Threshold Land Values to Market Values (per hectare) as recommended by the RICS. (Note that it may be relevant to reflect a discount from MV to reflect emerging CIL (rather than a premium over EUV)). In any event the results of the land value benchmarking should be drawn together and the valuers use their judgement to recommend a single TLV figure (albeit maybe varied by zones) to use within the Economic Viability Appraisals. To use 4 Benchmark Land Values is overly complex, divorced from reality and dilutes the recommendations about the actual maximum CIL rate.
Commercial Development Land Value (paragraph 4.47)	This follows on from the above comments in respect of the residential TLV. In the case of commercial development typologies BNP have assumed that the TLV is derived from the existing use value of the site which is based on the same use as the proposed development. Furthermore, they assume that the existing use is *“half the size of the new development, with a lower rent and higher yield reflecting the*

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Item (Paragraph Number)	Comment
	secondary nature of the building." We consider that this approach does not reflect the reality of the market. For example, this approach does not address the circumstance where say a now obsolete industrial site is being acquired for redevelopment for a retail or residential scheme. In reality a developer would need to acquire a site of sufficient size to accommodate the development contemplated (i.e. a retail scheme) – including aspects such as landscaping, circulation and car parking. Allowances therefore should be made using a TLV derived from MV benchmark's for development land and appropriate planning assumptions for site size/density. Furthermore we would challenge the rationale behind applying the rate of 1:1.5 in terms of the building size of the new development. As we have mentioned car parking and other aspects need to be considered. We would recommend that market/scheme evidence be provided to support this assertion. There is no rationale for the percentages of intensification between the existing and proposed floor areas. This seems to be discretionary assumption with no supporting evidence. The approach of applying a lower rent and higher yield for existing uses than for the planned new floor space automatically generates positive viability. Again we would advise a review of this assertion within the context of market reality.
Retail Scheme typologies (Table 4.48.1)	We note that BNP have appraised three retail typologies, namely: • 30,000 sqft all other retail (A1-A5) City Fringe and North Docklands • 30,000 sqft all other retail (A1-A5) elsewhere, and • 30,000 sqft convenience based supermarkets and superstores and retail warehousing. These equate to stores of 2,787 sqm. We note that BNP has recommended a small retail CIL rate of £70 psm in the City Fringe/North Docklands area for schemes of less than 280 sqm. It appears from table 4.48.1 that schemes of this size were not tested as part of the economic viability appraisal and therefore there is no evidence to support the differential rates by size and zone. This also questions the basis therefore upon which £70 psm was selected as a rate in the [higher value] City Fringe/North Docklands areas and whether the rate for convenience retailing generally (over 280 sqm across the District (including the lower values areas)) should also be £70 psm. Within the main body of the report there is no justification for the choice of the 30,000 sqft generic scheme. It would be more appropriate to model two or three options of say, 280 sqm, 1,500 sqm and a larger format of say 5,000+ sqm. This generally would reflect the formats which operators are presently considering.
Retail scheme appraisal assumptions (Table 4.48.1)	• There is no property market evidence within the report to support the appraisal value assumptions (rents, yields etc).

Item (Paragraph Number)	Comment
	• A base construction cost of £120 psf has been adopted for the convenience food development typology. However, this typology includes retail warehousing which has a build cost substantially less than food supermarkets. It is therefore incorrect to lump retail warehouse typologies in with supermarkets. • Professional fees of 10% have been used. We would recommend the use of 12% given the complexity of retail schemes and the requirements for additional reports (e.g. retail impact assessments etc.) • Profit is set at 20%. We would suggest that the developers profit level for the supermarket typology is increased to 25% on cost based on the: developer's site assembly risk; holding costs and timescales to secure returns can be very long; funding costs and risks where even for prime supermarket developments bank finance is scarce and requires developers to contribute large amounts of equity; planning costs and risks (some of which could be abortive). • The approach and rationale for the existing floorspace and existing rent/yield assumptions is not clear, as discussed above (see paragraph reference 4.47 above). Comparing rents of £6-£10 psf on the existing to £21.50 psf on the new build and a yield of 8% compared to 6.25% on an existing building of half the size will naturally create viability for CIL. This is a completely artificial and contrived scenario and not representative of how the property market works in practice (see above). • Landowner premium – as discussed above we recommend an approach that starts from Market Value and deducts an allowance for emerging planning policy (e.g. CIL) rather than an Exiting Use Value + premium approach which is unrealistic. Notwithstanding this it is not clear within the report why supermarket typologies have assumed a 20% landowner premium and not a greater premium. In the case of retail developments where landowners consider that there is prospect of securing developments on their site that yield high value, their aspirations to secure higher land values will be prevalent. Land owners 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. Also, in many cases landowners have not fully discounted the value of their land following the credit crunch and the land market price correction is still taking place. This is particularly relevant for sites that have the potential for the delivery of retail schemes, where the market remains buoyant. In the case of retail developments, landowners are likely to hold out for the highest value and are unlikely to accept a reduction in their land value for CIL.
Commercial appraisal results (paragraph 5.12 and Table 5.12.2)	The BNP report gives no explanation as to how, or why, three different Current Use Values (CUV) are used in presenting the results. As described above, in practice, if a landowner is approached by a developer to build a new food store their aspirations as to value will be based on the Market Value of the site derived from the Residual Value of

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Item (Paragraph Number)	Comment
	the scheme for the new use. The landowner will not sell the site for existing use value, even existing use value + a small [20%] premium, if he thinks that the MV of the site is substantially greater. The Council's consultants need to use their judgement to recommend what the TLV figure is in order to simplify the analysis and reduce the need for purely hypothetical CUV scenarios.
Convenience based supermarkets and superstores and retail warehousing appraisal results (paragraphs 6.30 – 6.33 and chart 6.33.1)	We find the results of the BNP Paribas at chart 6.33.1 to be difficult to interpret and potentially misleading: • The chart and discussion about the results do not specify the Threshold Land Value that is applicable. The chart shows various scenarios for three CUV's – but which one is the right one? How does this compare (per hectare or per acre) to actual Market Values of land? (see above) • The analysis does not differentiate by size of scheme – so how has the CIL rate for small retail (<280 sqm) been derived? • Similarly the analysis lumps together supermarkets and retail warehouses which both have significantly different build rates which undermines the reliability of the appraisals.
Strategic Sites Land Values (Table 7.4.1 and Table 7.11.1)	From the tables presented it is possible to calculate the benchmark land value per hectare on the strategic sites however this exercise has not been done (or at least not presented). These values for development land should then be compared to the four Existing Use benchmarks and three Current Use benchmarks generated above to establish the TLV. This, this exercise does not appear to have been completed.
Commercial conclusions and recommendations (pp 68 – 69)	The conclusion section describes further assumptions in respect of Mayoral CIL and Crossrail S106. We understand (page 68) that BNP have assumed a negotiated Crossrail payment of 70%. What is the basis for this for this reduction? The guidance from both the LHBG and RICS is clear in that the appraisal should take into account the full suite of planning obligations. It appears that this has not been the case in respect of Crossrail which assumes a negotiation. Whilst his may be the case in practice, it is not the basis for establishing CIL which should be policy compliant.
Retail CIL rates (page 69)	It is not clear (e.g. what TLV etc. – see above) how the maximum CIL rates have been derived and we do not support the retail CIL rates proposed. Furthermore, it is not clear how the recommended CIL rates have been derived. The convenience retail generally has been discounted from £310 psm to £195 psm (37%) and the small retail has been discounted from £150 psm to £70 psm (53%). We are not clear how these discounts have been arrived at and indeed there is no appraisal evidence in respect of the small retail typology. The CIL rates for retail require review in light of the comments made within our representations herein.

Item (Paragraph Number)	Comment
Appendix 4 Commercial Appraisal Results – Convenience Retail and Retail Warehousing	We note the tabulated Current Use Value assumptions – rent £6-£10 psf, yield 8%, premium 15-20% - but as we have shown above this is meaningless based on a purely manufactured set of assumptions and completely divorced from the property market. We recommend that the aforementioned CUV's are translated into a land price per hectare and compared to the land values required in the context of the strategic sites and other development land. This will provide evidence to base the selection of the [single] TLV (Threshold Land Value).
Appendix 5 – Strategic Site Appraisals	The report states that BNP have used Argus Developer to appraise the strategic sites (paragraph 7.5) however the results presented are not Argus Developer. They appear to be in-house excel models. The Argus models should be made public for comment.

Table 1 – Draft Charging Schedule – Schedule of Representations for Wm Morrison

Summary and Conclusions

We are pleased to have been given this opportunity to comment on the LB Tower Hamlets CIL Draft Charging Schedule.

The work undertaken to date has been substantial, however is unsatisfactory in several areas and missing in some assumptions. Further work and revisions are needed in order to reflect the observations above and particularly:

1. The EUV needs to be reconsidered as the most appropriate measure for calculating the surplus for CIL over development land Market Value benchmarks. We would suggest more weight to the use of benchmark Market Values and site sizes based on urban design principles and site densities.
2. We would recommend a revised approach to the generic one size retail scheme, which does not accurately reflect actual store sizes (and thus the associated costs/values) and in any event is different for supermarkets and retail warehousing.
3. In addition to the observations in Table 1 above, there are additional factors/costs that need to be taken into account depending on the scale of the development e.g.
    - Land assembly costs and holding costs;
    - The additional costs associated with brownfield development (e.g. remediation and site preparation costs);
    - Site specific S278 and S106 costs which are often substantial for supermarkets and are likely to be still required in addition to CIL
    - No allowance has been made for planning fees/costs, these costs can be considerable.

4. Market evidence and rationale for the appraisal inputs is missing and should be provided in order for the rent and yield assumptions to reviewed in context and the evidence base to be sound.
5. The level of developers' profit should be increased.
6. We would support the use of 12% (not 10%) professional fees given the complexity of such retail schemes.

Request to be heard at Independent Examination

We would respectfully request the right to be heard at the Independent Examination in order to make further comment on the CIL charges that Tower Hamlets intends to adopt.