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Your Ref
Our Ref

24th August 2023

Dear Sir/Madam

Bassetlaw Community Infrastructure Levy Examination
LIDL Hearing Statement

I am writing in accordance with my instructions on behalf of Lidl (Great Britain) Ltd to inform their representations to the Bassetlaw Community Infrastructure Levy Consultation. This letter represents a Hearing Statement for consideration at the Examination scheduled for the 7th September 2023.

My instructions relate specifically to the proposed CIL charge of £100 per sqm on food retail in the Draft Charging Schedule. I refer you to previous representations made in February 2020 and October 2021, on behalf of Lidl.

Lidl's main interest in Bassetlaw relates to the development proposals for their Carlton Road site in Worksop (planning application reference 23/00955/FUL - now validated) which includes proposals for a foodstore of 1911 sqm, and up to 89 homes.

For the benefit of all relevant parties who will view this letter, I am qualified to provide opinions on matters of planning viability. I am a dual qualified Chartered Surveyor and Town Planner with over 20 years' professional experience of development and viability matters. I have prepared viability evidence in support of CIL charging schedules on behalf of several local authorities in the north of England and the Midlands. I have also acted extensively as an expert witness at planning inquiries and examinations in public.

I set out below our responses to the headings requested by the Examination Briefing Paper as follows:

What particular part of the schedule is unviable/unrealistic/ unreasonable?

The proposed rate of £100 per sqm on food retail stores is considered to be unviable. The viability assessment commissioned by the Nationwide CIL Service that proposes this charge has numerous shortcomings and therefore the rate proposed is not justified.

Which test(s) does it fail?

The proposed rate is considered to fail the following tests derived from Paragraph: 040 Reference ID: 25-040-20190901 of National Planning Practice Guidance relating to Examination of CIL Charging Schedules (updated January 2023). This text states that CIL Charging Schedules should meet the following tests:

1. The draft schedule is supported by background documents containing appropriate available

evidence;

2. The proposed rate or rates are informed by, and consistent with the evidence on viability across the charging authority's area.

Why does it fail?

The Draft Charging Schedule is not considered to be supported by '*appropriate available evidence'*, as per Point 1 above (see Matter 2 and Matter 4 of Examination Agenda). This is due to the following reasons:

- Insufficient evidence to support assumptions – The majority of viability assumptions included in the Council's viability evidence are sourced from the supporting 'Property Value Study' produced by estate agent HEB Chartered Surveyors. Paragraph: 020 Reference ID: 25-020-20190901 of National Planning Practice Guidance states a charging authority "should draw on existing date wherever it is available" and that "sources of data can include (but are not limited to):
    - *Land registry records of transactions;*
    - *Real estate licenced software packages;*
    - *Real estate market reports;*
    - *Real estate research;*
    - *Estate agent websites;*
    - *Property auction results;*
    - *Valuation office agency data;*
    - *Public sector estate/ property teams' locally held evidence;*

  In respect of the foodstore use, there is no documentation of any such actual transactional evidence to support key assumptions such as rents and capitalisation rates. Such evidence is readily available from multiple standard data sources and does not appear to have been used given the lack of such detail in the supporting documentation. Our own evidence, as documented in our representation letter of October 2021 demonstrates local evidence of rents and yields and the Council's evidence is inconsistent with this.

- The valuation methodology is not robust – There are a number of omissions from the valuation methodology applied to the foodstore development typology. These are as follows:

    - Purchaser's costs omitted on investment valuation – standard valuation practice should include an allowance for the purchaser's costs that are incurred in acquiring the property as an investment which should be deducted from the Gross Development Value. This should include stamp duty (up to 5% of the sale price), agent fees (typically 1% of the sale price) and legal fees (typically 0.5% of the sale price) and VAT on both agent and legal fees. On a foodstore investment sale this would represent close to 6.8% of the sale price in total to deduct from the gross valuation to determine the actual sale price achieved (the **Net** Development Value). Therefore, the assessment overstates value inputs in the viability appraisal, eroding viability.

    - Purchaser's costs omitted on land sale valuation – Similarly, allowances should be made for the purchaser's costs on the purchase of the land when applying a residual valuation method (also Stamp Duty, agents and legal fees). Therefore, the assessment understates the costs that would be incurred by a developer in executing the assumed development, therefore eroding viability.

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   - Tenant incentives omitted – It is standard practice in lease transactions for incentives to be offered by the landlord to the tenant in return for a commitment to lease the property for a certain period of time and will usually take the form of rent-free periods or a landlord contribution towards tenant fit out costs. Appendix 1 Property Value Study makes no reference to any incentives offered, however these are necessary cost items to secure a foodstore tenant and must be either deducted from the investment valuation or included as development costs in the development appraisal. The effect of including such inducements in the appraisals would be to erode viability.

   - No void cost allowance for empty rates/ non-recoverable service charge – The appraisal refers to an assumed void of 3-6 months in the finance calculation and therefore allowances should be made for void costs such as empty property business rates and any non-recovered service charge (e.g. covering items such as insurance and service charge).

   - No cashflow – no cashflows are provided indicating that only a static residual appraisal with manually calculated finance costs has been produced. There is a risk that this method does not accurately estimate the true finance costs that would be incurred as a result of the variable timing between cost and income flows in the development programme which can lead to unreliable results.

   - Abnormal costs are not inserted as cost items – site abnormal costs have not been inserted in the viability assessment as cost items, but rather an allowance made in the viability buffer such that the maximum CIL rates are discounted from the maximum sums generated by comparing the residual land value from the benchmark land value. This methodology risks underestimating the true impact of site abnormal costs as a result of omitting related expenditure items such as finance and fees which would be incurred as a result of abnormal site expenditure.

- Insufficient transparency – Paragraph: 019 Reference ID: 25-019-20190901 states that "*Viability assessments should be proportionate, simple, **transparent** and publicly available in accordance with the viability guidance*". In this case, the actual financial appraisals have not been provided to enable scrutiny of the of the viability assessment to determine its soundness.

- No testing of real-world sites – NPPG regarding Viability encourages testing of real world sites alongside typologies and paragraph: 020 Reference ID: 25-020-20190901 states "*In addition, a charging authority should directly sample an appropriate range of types of sites across its area, in line with planning practice guidance on viability*". There is no evidence of consideration of real world sites and the engagement with developers/promoters appears to have focused on house builders with no foodstore developers consulted.

In relation to Test 2 as detailed above, there are considered to be inconsistencies between evidence of viability and the actual assumptions used in the Council's viability assessment. Focusing on the headings included in Matter 2 of the Examination agenda:

- Professional fees – The industry standard range for commercial schemes is 8-12% of costs for professional fees, therefore the 7% rate as proposed in the viability appraisal is considered to be low.
- Finance – the viability assessment includes a debt interest rate of 5% pa. Interest rates have dramatically increased over the last 12 months impacting debt financing costs. The Bank of

England base rate is currently 5.25% and debt funding is typically several percentage points above this level. C&W are currently benchmarking interest rates of 7.5-8% pa on viability assessments.

- Abnormal costs – we have previously supplied site specific evidence of abnormals site development costs as documented in our representation letter of October 2021, which details that the actual abnormal site costs facing Lidl's Carlton Road site significantly exceed the broad brush cost assumptions utilized by the Council's viability assessment. These costs are not repeated here.
- Density and floorplate assumptions for commercial development – the supermarket typology is based on 33% site coverage (3,000 sqm on 0.9 ha). Generally, supermarkets require a more spacious environment due to parking, servicing and circulation requirements and a 20% site coverage should be applied. The impact of changing the density assumptions would be to increase both land and abnormal site costs in the viability appraisals, since they have been applied on a per ha basis.
- Construction costs – build cost allowed for within the Council's evidence is £1,249 per sqm. BCIS median costs for supermarkets, rebased to Bassetlaw as at August 2023 is currently £1,739 per sqm which represents a substantial increase from the Council's viability assessment. Experience of Local Plan and CIL examinations shows that BCIS median costs are generally accepted as the authoritative position on build costs in the absence of site specific QS estimates.
- The cost of implementing accessibility standards – the Council's viability assessment assumes a cost for S106 of £11 per sq m for the foodstore development typology. Based on the Lidl's proposed development of 1911 sqm this would represent a cost of £21,021, which is considered to be completely inadequate for the off site highway improvements typically associated with implementing a foodstore consent. As a benchmark, Lidl's previous planning application included a proposed S278 agreement for highway works of £1.3million.

In relation to Matter 4 and having regard to evidence presented above and earlier representations (February 2020 and October 2021), we consider the CIL Charging Schedule for foodstore uses does not strike an appropriate balance between helping to fund new infrastructure and the potential effects on economic viability.

How could the schedule be made viable/realistic/reasonable?

A reappraisal of the foodstore retail development typology is required to ensure that the proposed tariff is based on, and consistent with, appropriate available evidence, and would not place at risk the delivery of development for such use. Based on our assessment and the specific amendments required as detailed above, we consider that a significant reduction in the CIL rate that is applicable to foodstore retail is both justified and appropriate.

Yours faithfully

Stephen Miles MRICS MRTPI
Partner I Development and Strategic Advisory