

1. Do you feel that the proposed rates are suitably informed by the viability evidence provided in the Local Plan and Community Infrastructure Levy Viability Study (August 2013) and Viability Study Post Consultation Update (November 2013) produced by HDH Planning & Development?

YES

NO

SEE ATTACHED LETTER

2. Do you believe the evidence on viability is correct?  
If not, please set out alternative evidence to support your view.

YES

NO

SEE ATTACHED LETTER

3. Do you think the rates proposed strike an appropriate balance between helping to fund infrastructure through CIL and the potential effects of imposing CIL on the viability of development needed to deliver the aspirations of the Local Development Plan?

YES

NO

SEE ATTACHED LETTER

4. Do you think the Council should introduce an instalments policy?

YES  NO

5. Do you think the Council should include discretionary relief from CIL for charitable investment or 'exceptional circumstances' as outlined in section 2.5 of the CIL Preliminary Draft Charging Schedule consultation document?

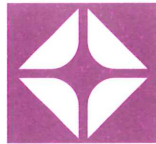
YES  NO

5. Do you have any other comments on the preliminary draft schedule or supporting evidence?

YES  NO

SEE ATTACHED LETTER.





Planning Policy  
Maldon District Council  
Council Offices  
Princes Road  
Maldon  
Essex  
CM9 5DL

6 March 2014

Our Ref: RS/14/2105

Dear Sir / Madam,

**COMMUNITY INFRASTRUCTURE LEVY PRELIMINARY DRAFT CHARGING  
SCHEDULE CONSULTATION – RESPONSE BY ALDI STORES LTD**

We write on behalf of client, Aldi Stores Ltd, in respect of the Community Infrastructure Levy Preliminary Draft Charging schedule (PDCS), which is open for public consultation between 22 January and 7 March 2014.

The PDCS for Maldon proposes a charge of £150 per sq. m for supermarkets and retail warehouses, and no charge for other retail developments.

Aldi have a long-standing requirement for a new foodstore in the District, and are working hard to identify suitable opportunities to deliver a significant investment in Maldon, providing a range of associated benefits to the local community in the process. Although no site-specific opportunities have been identified to date, our client envisages presenting a retail development proposal to the Council in the future.

However, Aldi are concerned that the proposed CIL charging rate detailed in the PDCS may jeopardise the viability of future proposals, and hereby raise issue with the proposed charge rate, and the methodology used to derive the figure. It is noted that the draft rates previously referred to may be subject to change following comments received through public consultation and in light of future Government guidance, and we urge the Council to review the draft rates accordingly.

**Aldi Stores Ltd**

In respect of introducing our client, Aldi first entered the UK food retail market in 1990 and over the past 24 years has opened in excess of 500 'discount' foodstores, serving local communities throughout the country and employing over 13,000 people, with many more as part of its wider supply chain.

Aldi is committed to continuing its strong investment in the UK economy, and is currently undertaking a nationwide floorspace expansion programme, with the aim of delivering new foodstores to improve and enhance their existing portfolio, creating many new employment opportunities in the process. Accordingly, it can be seen that that Aldi is an important employer at a national level and a significant investor in the UK economy.

In retailing terms, Aldi's philosophy is to provide high quality products at discounted prices and within a pleasant shopping environment. Discounted prices are achieved through considerable bulk buying power, specialisation in the number of lines offered and maximising efficiency within the operation of the stores. Aldi does not necessarily sell goods at the lowest possible prices, but rather retail the highest quality goods at the lowest possible prices

Stores are medium sized, typically 900sqm – 1,300sqm (net) and stock only a limited range of predominantly own-branded products. Aldi has only a limited amount of non-food floorspace (15%-20%), which mostly contains weekly specials. This is a significant difference to larger 'Big 4' supermarkets, which can have between 30%-50% comparison floorspace.

The Aldi store format does not include specialist butcher, fishmonger, bakery, delicatessen or chemist counters, which are commonplace with larger supermarket chains. This is an important distinction with Aldi and crucial to understanding how their stores operate. In practice this means that, unlike larger supermarket formats, ALDI are not a 'one-stop-shop' meaning that customers also have to visit other shops and services to complete their shopping trip.

On this basis Aldi complements, rather than competes with existing local traders and generates considerable propensity for linked trips and associated spin-off trade.

However, crucial to this is a tried and tested business model to ensure efficient and effective operation. This is recognised by the Competition Commission, which categorises Aldi as a Limited Assortment Discounter (LAD), providing an important distinction between discount food operators and larger convenience operators.

### Representations

We note that the PDCS has been derived following a Viability Study undertaken by HDH Planning and Development Ltd (August 2013), which we have reviewed accordingly.

We agree with the approach in setting differential charge rates for CIL, in accordance with the Community Infrastructure Levy Regulations (As Amended). However, we consider the proposed rates for supermarkets and retail warehouses to be excessive at £150 per sq. m. In accordance with paragraph 13.2 of the CIL Regulations (2010), we remind that Council that "*in setting differential rates, a charging authority may set supplementary charges, nil rates, increased rates or reductions*".

In the first instance we consider it unreasonable that the proposed CIL charge rate for supermarkets and retail warehouses are over double the maximum amount for residential development, which proposes two rates of CIL, of £70 per sq. m and £0 per sq. m across the Borough. Given much of the infrastructure provided by the Levy is intrinsically linked to residential development, this appears particularly unfair. Notwithstanding the requirements of supermarkets and retail warehouses to provide additional significant highway infrastructure contributions within a S.106 Agreement, we consider the proposed charge of £150 per sq. m is excessive and prohibitive to development at a time of national government encouragement for economic growth.

There is a general perception that national food retailers can afford to pay such high CIL rates, and that the viability of developments will be unhindered. This assumption appears to be the case with the PDCS, as all supermarkets are considered under a single charge irrespective of the size, or net sales area.

It is hereby emphasised that discount operators, such as Aldi, have an entirely different operational model to other supermarkets such as Tesco, Sainsburys, Asda and Morrisons. Aldi's business model is based on delivering discounted goods to a localised catchment, and operates on low profit margins based on high levels of efficiency and low overheads. This model is designed to enable cost savings to be passed on to Aldi's customers.

Discount operators provide a distinctive and valuable role in the convenience market, by extending the local retail offer and delivering market choice for those suffering from social exclusion: a key aim of the NPPF. In respect of viability, the excessive CIL rate may jeopardise the ability of discount convenience operators to deliver such benefits, in conflict with Paragraph 14 (1b) of the CIL Regulations 2010, which states that Councils should consider "*the potential effects (taken as a whole) of the imposition of the CIL on the economic viability of development across its area*".

To this effect, we fundamentally disagree with the methodology employed in the Viability Study, which uses three variations of retail development to derive the proposed charge of £150 per sq. m. The methodology uses a single storey supermarket model of 4,000 sq. m; a retail warehouse model of 4,000 sq. m and a town centre shop of 150 sq. m. None of these development types bears any resemblance to a typical discount convenience development such as Aldi, which are typically around 1,500-1,700 sq. m gross floorspace.

It is therefore considered unreasonable that 'medium' sized foodstores such as Aldi should be expected to pay a CIL charge that has only been proved as viable for a supermarket of 4,000 sq. m. Moreover, the methodology demonstrates that imposing a levy on the 'town centre shop' format is not viable – hence why no charge is proposed for retail development other than supermarkets and retail warehouses. It is therefore clear from this methodology that retail developments can only afford to pay a charge that is proportionate with their scale, and that a single blanket charge is inappropriate.

We therefore urge the Council to differentiate between discount supermarkets and larger superstore formats of the 'big 4' operators. We consider that 'like for like' comparison between convenience retail formats is not possible, and this generalised approach is a significant flaw when assessing financial viability. It is entirely unreasonable to expect discount operators to pay a CIL charge which is largely based on a business model materially different to their own.

In proposing a single charging rate that directly favours larger superstore retail formats, the PDCS directly prejudices against discount operators: the direct result of not considering a 'medium' sized foodstore development model of around 1,500-2,000 sq. m within the methodology. Indeed, if the Council were to resort to a single charge rate for supermarkets – which we principally disagree with – this should be a much lower figure than proposed, to avoid affecting the viability of non-assessed convenience retail formats.

The creation of a physical retail destination comprises a number of benefits, including enhancing retail choice, stimulating competition, creating employment opportunities, and generating spin-off trade through stimulating linked trips and increased footfall, in some cases facilitating other development nearby.

The imposition of excessive CIL charges jeopardises potential development opportunities, and acts as a significant deterrent to inward investment. In considering the value that convenience retail development can have in ensuring the vitality and viability of town centres, the subsequent effect of deterring such development could be severe, with adverse impacts on the communities and neighbourhoods they serve similarly possible. This argument was highlighted in the Examiner's report on Trafford Borough Council's Draft Charging Schedule, dated 31 January 2014. The report concluded that, in order to ensure that a CIL charge would not harm the vitality and viability of Sale Town Centre, by

making a supermarket development proposal unviable, town centre supermarket developments in the Borough should be exempt from the levy.

Aldi are committed to delivering an investment in Maldon in the future, however if the current proposed charge rate is pursued, we are concerned that this will impact the viability of future schemes being delivered, and prevent the associated benefits from being realised. We therefore request that the Council considers a reduction in the CIL charging rate in respect of these comments, and the range of convenience retailers who would wish to invest in Castle Point.

We wish to propose the introduction of a floorspace threshold of 2,000 sq. m of gross floorspace, with a CIL payment only triggered when this figure is exceeded. A discount food retail format would comfortably fit within this threshold, whilst the larger formats with greater turnover potential would exceed this. We consider this a reasonable approach that takes account of different development formats.

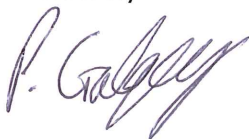
Proposed differential retail charge rates based on floorspace thresholds are increasingly common amongst local planning authorities, including the London Boroughs of Hillingdon and Waltham Forest, and Dartford Borough Council. Norwich City Council use a 2,000 sqm threshold for convenience retail developments to trigger variable CIL rates, levied on chargeable development since July 2013. Furthermore Lambeth Council's draft Charging Schedule proposes a charge per sq. m of £115 on retail development in excess of 2,500 sq. m, and a nil charge below the threshold. These approaches are considered to be more reflective of the differing nature of respective retail formats.

In considering these proposals we draw the Council's attention to paragraph 37 of the Government's CIL Guidance (April 2013) states "*charging schedules should not impact disproportionately on particular sectors or specialist forms of development...*" Furthermore, paragraph 35 of the Guidance states that charging authorities can articulate different rates by reference to intended uses where this is justified on the grounds of economic viability.

We realise that the suggested Levy is only in preliminary draft form at present, and there is scope for review in light of the representations received. It is respectfully asked that the Council takes account of the concerns expressed in this letter and makes appropriate amendments to the Draft Charging Schedule, through the introduction of a threshold for convenience retail floorspace. Without amendment, the appetite for investors such as Aldi to bring new development to the Borough will be diminished, and will subsequently prevent the delivery of their associated benefits.

We would be grateful if we could be kept informed of progress. Should the Council wish to discuss this matter in greater detail then please do not hesitate in contacting the undersigned.

Yours sincerely



Paul Galgey

**PLANNING POTENTIAL**