

## Community Infrastructure Levy: Preliminary Draft Charging Schedule Key Issues



January 2019



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# Preliminary Draft Charging Schedule Key Issues

## 1 Introduction

- 1.1 The Preliminary Draft Charging Schedule and supporting viability evidence was subject to public consultation between 25 May and 6 July 2018. The consultation material was available to view on line through the council's consultation portal <https://consult.harrogate.gov.uk/kse/> and in hard copy at libraries and councils offices throughout the district. The council used the following methods of consultation:

Community Infrastructure Levy : Preliminary Draft Charging Schedule - Methods of Consultation	
Website	Information was posted on the council's website and on the planning policy team's consultation portal
Press notice	Notice in the Advertiser series of newspapers
Availability of documents	Consultation documents were made available for inspection in council offices, libraries and on the website.
Contact with statutory bodies/key stakeholders	Statutory bodies contacted by letter or email
Contact with parish councils	Parish councils were contacted by letter/email informing them of the consultation. They were also sent a copy of the PDCS.
Contact with consultees	All contacts on the consultation database were contacted via letter or email informing them of the consultation and how they can view the documents and respond to the consultation.
Social media	Notification that the consultation had started and regular reminders throughout the consultation were posted on the councils twitter feed
Email	A dedicated email address for the planning policy team provided the opportunity for members of the public to ask questions regarding the content of the documents and also submit completed response forms.
Online consultation portal	Interactive portal enabling the response form to be completed and submitted directly whilst viewing the consultation documents
Post	Completed response forms could be posted to the planning policy team for consideration

**Table 1.1 CIL methods of Consultation**

- 1.2 23 responses were received to the consultation and an analysis of the main issues raised can be found in the table below. The individual responses can be found on the consultation portal at <https://consult.harrogate.gov.uk/kse>

## 2 Analysis of Responses

## 2 Analysis of Responses

Representation	HBC Response
Support the principle of the Community Infrastructure Levy	Noted
Support the Regulation 123 list	Noted
Support The charging Zone 2	Noted
Support for the draft instalment policy	Noted
Support the £0 per square metre charge for all other types of chargeable development	Noted
The Council's approach to discretionary relief is unsound as it does not align with national planning policy guidance. As drafted, a developer could only apply for discretionary relief if the value of the planning obligations set out within a S106 legal agreement are greater in value than money that would be required through CIL	The discretionary relief is in line with national policy.
An extensive body of evidence is presented by the Borough Council in terms of the current S106 and other tariffs paid to the Borough Council (and the County Council as highways and education authority). This demonstrates a substantive variation in the costs attributed to individual dwellings. In turn such amounts have consequences in respect of the developer's profits and subsequently the sales values and affordability of development in the District. It is questionable given changes in national policy, for example in the provision of secondary education what CIL payments will be needed for.	In order to introduce CIL Harrogate Borough Council must demonstrate that there is a shortfall in funding between the expected total cost on infrastructure needed to support development in the District over the plan period and the level of funding likely to be forthcoming from other sources of infrastructure. This work has shown that there is a infrastructure funding gap so therefore justifies the introduction of CIL.
A basic premise of the Local Plan that "The scale of development reflects the settlement's role and character" is fundamentally flawed in that currently Hampsthwaite is threatened by developments which have the potential to double its population. This will radically change its character and swamp its limited existing infrastructure.  It follows that, since a basic premise is flawed then the methodology and assumptions which arise must be flawed also.	The principle and scale of development in Hampsthwaite is determined by the Local Plan and is not considered as part of the Community Infrastructure Levy.
The viability of CIL and related infrastructure costs should be reconsidered on brownfield land in the light of experience in neighbouring authorities, including Hambleton, Leeds, Selby who are collecting CIL for brownfield sites and have similar house prices to Ripon.	The 'Local Plan Viability Update and CIL Viability Assessment' states that brownfield land that is subject to affordable housing does not have the capacity to bear CIL. The introduction of CIL has to be based on robust viability evidence for the Harrogate district and cannot be influenced or reconsidered by the experiences in other local authority areas.
Ripon Barracks comprises both brownfield and greenfield land which will be developed in accordance with a future masterplan. It is premature to assume at this stage that the infrastructure gap for the whole development will not support a CIL. This is the most important development site in the City and the City Council would expect to secure some neighbourhood share of CIL for City Plan projects from its development. The viability of CIL and related infrastructure costs should be reconsidered on strategic sites, including Ripon Barracks, in the light of experience in neighbouring authorities, including Hambleton District.	The Strategic Sites across the District including Ripon Barracks, when it is assumed that they will be subject to both a 40% affordable housing target and their expected strategic infrastructure and mitigation costs, do not have a capacity to bear CIL from residential development. The CIL rates and Charging Zones are based on clear, transparent and robust evidence and therefore it is not considered necessary to reconsider it.

## Analysis of Responses 2

Representation	HBC Response
<p>When the Ripon City Plan is adopted HBC will be required to allocate 25% of any CIL generated within Ripon to the City Council to spend on local infrastructure projects. However, there is likely to be virtually no CIL money to share in Ripon, which is totally unacceptable. The only sites that could generate CIL under the draft proposals are those under 10 dwellings and Hambleton District's experience is that many of these will seek self-build exemption. Any sites in Littlethorpe and Sharow parishes would not provide a neighbourhood share for Ripon. Harrogate BC has suggested that CIL money funded elsewhere can be used in Ripon. However, there would be no neighbourhood share for Ripon from this. In addition, the proposed CIL rate for the more expensive parts of the District is significantly lower than the adopted rates in the Leeds and Bradford CILs in other similar house price areas in north Leeds and the Wharfe Valley. This will result in less CIL monies at District level being available to be shared within Harrogate District.</p>	<p>The CIL rates are supported by viability evidence specific to the Harrogate District. The rates charged in other authorities will be supported by different viability evidence and may be affected by different policy influences and requirements.</p>
<p>Object to the Zone 1 proposed residential CIL rate of £50 sq. m:</p> <p>Data shows that small sites of 10 units or less have a higher build cost per square metre. This is further exacerbated when professional fees etc. are added. This is because they are often factored in as a percentage of build cost. There is no evidence to suggest that the Council has taken account of this when assessing the viability of these smaller schemes when setting the proposed CIL rate of £50/sq. m. An alternative, nominal rate or no rate at all should be included for sites of this size.</p> <p>The small site rate should be raised from 10 to 25 units.</p>	<p>No viability evidence has been tabled to suggest that a £50 sq. m charge for sites of 10 dwellings is inappropriate. The small size threshold fits with the affordable housing threshold and those small sites that are not subject to affordable housing (those of 10 and fewer) are more viable than those larger sites of 11 or more.</p>
<p>Object to proposed CIL rate of £0/sq m for Zones 2 and 3;</p> <p>Policy SG1: Settlement Growth within Harrogate's Core Strategy has seen development focused around the main settlements since its introduction, adding pressure to the existing infrastructure. The draft Local Plan is proposing further residential and employment schemes in these areas, but according to the zone levy there will be no contributions from these sites to the infrastructure that would benefit from CIL funding under the Draft Regulation 123 List. Suggest these sites make some contribution to the CIL fund</p> <p>The definitions for Zones 2 and 3 and the rates proposed for new residential development within these zones of £0 are prejudicial in favour of the main urban settlements and strategic sites within the draft Local Plan</p>	<p>Zone 2 comprises the main urban areas of Harrogate, Boroughbridge, Knaresborough, Masham, Pateley Bridge and Ripon as well as the allocoations that are adjacent to the main urban area of Ripon. Zone 3 includes the strategic sites at Boroughbridge, Green Hammerton, West Harrogate and East of Knaresborough. Other areas of land adjacent to the main settlements and the main service villages of the District are within Zone 1 so do generate a CIL charge and there are a large number of housing allocations within this zone.</p> <p>The viability evidence does not support a charge within Zone 2 and 3.</p>
<p>Object to the charging zone boundaries:</p> <p>The current definitions would impact any brownfield sites that fall outside of Zones 2 and 3, meaning that they would have to pay CIL. Brownfield sites should be treated separately as the economic viability is different to that of a greenfield site, the costs being significantly higher.</p>	<p>Under the CIL Regulations, charging zones can only be based on geographical areas and not land use so it is not possible to set a different rate for brownfield sites. A general allowance has been made for all brownfield sites of 5% of costs (as set out in para 7.6 of the 2016 Viability Assessment) and the differences between the proposed rates within and without the urban area are due to the greenfield/brownfield distinctions. The majority of brownfield</p>

## 2 Analysis of Responses

Representation	HBC Response						
	sites are found within the urban areas and the tight boundaries are a proxy for greenfield/brownfield existing land uses.						
It is important to differentiate between different parts of the District in particular where there are substantive differences in the characteristics of the housing market in terms of sales values. Nevertheless from the material contained in the consultation document there appear to be three charging zones in Table 1.1. However, from the description there appear to be a number of overlaps between the definitions. It would be helpful if the "main urban areas" for Zone 2 were specifically mapped; the one map provided for Ripon does not correspond to the descriptions.	The Zone 2 map for Ripon contains the 'main urban area' and land that is adjacent to the main urban area which includes the Ripon allocations. <b>Agree that it would be useful if the main urban areas for Harrogate, Knaresborough, Boroughbridge, Masham and Pateley Bridge are also mapped.</b>						
Suggest that all development types coming forward upon the strategic sites (including sheltered housing and shops) fall within the £0 CIL rate.	Development of the strategic sites will likely lead to a significant Gross Development Value (GDV) and therefore it is unlikely that CIL on a very small element is going to threaten the delivery of the overall scheme.						
We understand that a payment of the levy within 60 days of the commencement of development is broadly used by a large number of Local Planning Authorities nationwide. However, we do not agree that 100% of amounts of £50,000 or less should be paid in one instalment. The Council does not seem to have taken into account the funding availability of smaller projects and more leniency should be included within the proposals for this.	<p><b>Agree that there may be an impact on the funding availability of smaller projects. The Draft Instalments Policy to be changed as follows:</b></p> <table border="1"> <thead> <tr> <th>Amount of CIL Liability</th> <th>Number of Instalments</th> <th>Payment Periods and Amounts</th> </tr> </thead> <tbody> <tr> <td>Any amount less than £50,000</td> <td>Two</td> <td>Due in 2 equal instalments within:  3 months of commencement  6 months of commencement</td> </tr> </tbody> </table>	Amount of CIL Liability	Number of Instalments	Payment Periods and Amounts	Any amount less than £50,000	Two	Due in 2 equal instalments within:  3 months of commencement  6 months of commencement
Amount of CIL Liability	Number of Instalments	Payment Periods and Amounts					
Any amount less than £50,000	Two	Due in 2 equal instalments within:  3 months of commencement  6 months of commencement					
The list of matters that will continue to be addressed through s106 contributions should not be viewed as exhaustive. Rail infrastructure should also be acknowledged in the list in particular: improvements to railway stations and improvements to level crossings where increased vehicular and pedestrian movements import additional risk.	The site specific matters listed are those that are most commonly needed to make a development acceptable in planning terms and the wording specifically states that the list is not exhaustive. The inclusion or not on the list does not restrict the Council's ability to ask for rail improvements if it is assessed to be needed. It is therefore not necessary for it to be added to the list.						
No allowance has been made for the higher development costs related to housing for older people. The CIL rate should be £0 sq m for these types of development.	It is accepted that the costs of developing in this sector are higher than for mainstream market housing. The following appropriate costs have been used: Estate Housing generally - £974 m2  Sheltered Housing - £1186 m2  Extra Care Housing - £1294 m2						
The 'urban area' zone should be drawn widely so as to include the greenfield sites that are adjacent to the urban areas.	This issue is not supported by viability evidence. The differences between the proposed rates within and without the urban areas is due to the greenfield/brownfield distinctions as at present it is not possible under the CIL Regulations to define CIL by land use. The majority of sites within the urban areas are brownfield and the majority of						



## Analysis of Responses 2

Representation	HBC Response
	the sites outside the urban area are greenfield. The tight boundaries are a proxy for greenfield/brownfield existing land uses.
We consider that the CIL rate in Ripon should be the same as in the rest of the District. We do not believe that the Viability Assessment provides a satisfactory basis for calculating a CIL, particularly in Ripon where it is not sufficiently fine grained to pick up significant variations in values within the City. The viability assessment should be redone at a finer grain in Ripon than previously i.e. at ward level and should take more account of the size and type of market housing likely to be built in different parts of the City.	It is accepted that a high-level approach has been taken. It is also accepted that prices vary within the proposed Charging Zones and these could lead to higher rates in some places. CIL Charging Zones must be based on clear, transparent and robust evidence. Values with the urban areas particularly vary based on very local matters - the neighbours to a site, the proximity to the main roads, the views from the site etc, and whilst some ward may have a slightly higher or slightly lower average value (based on existing home sales) than another ward there is not sufficient newbuild transactional evidence to support a finer grained approach.
The viability study is not up to date	<p>The viability appraisals from the 2016 Whole Plan Viability Assessment have been re-run to incorporate the updated affordable housing requirements and to inform the setting of CIL. It is therefore up to date and is a robust piece of evidence.</p> <p>See Chapter 6 of the 'Local Plan Viability Update and CIL Viability Assessment : May 2018'</p>
The costs of dealing with unstable land is overstated which leads to artificially depressed rates of CIL. Much of Ripon is not affected by gypsum and we consider that any such costs are already absorbed in land values.	No specific allowance is made for unstable land or gypsum issues. A general allowance is made for all brownfield sites of 5% of costs. It is necessary to make allowance for the normal costs associated with developing brownfield sites and it would not be appropriate to ignore such costs in CIL or any other viability assessment.
The non-residential uses that will form part of the new settlement would be subject to CIL whereas a zero rate is recommended for the residential development. The New Settlement should be identified as a separate zone where £0 sq m should be charged for all uses	The Council is working on a site specific Development Plan Document for this site. This will set out the mix of uses which will include employment uses (which will be zero rated) and neighbourhood centres. It is more than likely that these neighbourhood centres will contain elements of retail and it is possible that there may be a supermarket. It is also likely that an element of older peoples housing will be required. This scheme is likely to have a significant GDV and therefore it is unlikely that CIL on a very small element is going to threaten the delivery of the overall scheme.
Wider leisure uses have not been tested	Wider leisure uses are not planned for in the emerging Local Plan and are not generally anticipated so there is no need to test them. On the whole they will fall in the 'All other development' CIL charge which is £0m2.
<p>The business model used by the smaller convenience food retailers is different to the larger operators and the format of the shops is different. A clear distinction should be made between larger supermarkets and smaller convenience stores, which are typically found in local centres and are not affected by Sunday trading laws. As such, we recommend using the definition within the 2008 Competition Commission report into the groceries market. Suggest the following definition:</p> <p>Supermarket : Class A1 retail store where the space devoted to the retail sale of groceries exceeds 280 square meters and which stocks products from more than 15 product categories.</p>	The viability assessment is not concerned with any particular developers' or operators' business model, rather it is an assessment carried out under the PPG and Harman Guidance for the purpose of assessing whether or not the development plan is put 'at serious risk' or not. No alternative evidence has been submitted to suggest that the assumptions used, and the analysis based on those assumptions is flawed. The CIL Viability Study recommends the following definition and it is not appropriate to change it to reflect difference in size.

## 2 Analysis of Responses

Representation	HBC Response
	<p><i>'Supermarkets are shopping destinations in their own right where weekly food shopping needs are met and which can also include non-food floorspace as part of the overall mix. The majority of custom at supermarkets arrives by car, using the large adjacent car parks provided'</i></p>
<p>There is a lack of evidence available which sets out how the zones were derived, and additional clarification is required setting out details of the proposed boundary of each zone.</p>	<p>The justification to the charging zones is explained in the CIL Viability Assessment.</p>
<p>Object to Draft Regulation 123 list;          There seems to be no provision for local village halls - unless these are covered under 'cultural provision'. Currently commuted sums helps local village halls with much needed improvements/updating and if only 15% or 25% of the CIL charged will go back to the Parish Council any local sums will be considerably reduced.</p>	<p>The 15/25% that goes direct to Parish Councils is in addition to commuted sums that will continue to be sought.</p>
<p>We consider that a definition which draws a distinction between sheltered accommodation which provides an element of care (Class C2) and retirement accommodation (Class C3) would be useful. Suggest the following definition:           'Sheltered housing : Residential accommodation which includes an element of care within Use Class C2'</p>	<p><b>Agree that a definition would be helpful. The following definition to be added as a tablenote to Table 1.1 Recommended rates of CIL.</b>   <b>"Sheltered Housing : Residential accommodation which includes an element of care within Use Class C2"</b></p>
<p>'Green Infrastructure' is included on the draft 123 list. However, it is unclear if this would include the canal network and tow paths. Clearly 'green infrastructure' covers a wide range of types of infrastructure and as such it is likely that only certain projects will actually benefit from CIL funding. Waterway infrastructure may be subsumed within the broad strategic transport infrastructure category on the Draft Regulation 123 List. As a result, we do not believe that the current proposed wording is suitably precise. There is a need to more precisely define the 'green infrastructure' projects on the Regulation 123 List so as to prevent a situation occurring in which specific types of green infrastructure fail to actually benefit from CIL, and at the same time cannot be funded through s.106 agreements.           Alternatively, off-site improvements to footpaths and towpaths could be referred to within the list of "Site specific matters needed to make the development acceptable in planning terms" in the explanatory text below.</p>	<p>The definition of Green Infrastructure includes rivers and canals (including their banks and paths) so will benefit from CIL funding.           The site specific matters listed are those that are most commonly needed to make a development acceptable in planning terms and the wording specifically states that the list is not exhaustive. The inclusion or not on the list does not restrict the Council's ability to ask for improvements to footpaths and towpaths if it is assessed to be needed. It is therefore not necessary for it to be added to the list.</p>
<p>The Draft Regulation 123 list does not itemise specific projects but excludes site related infrastructure from CIL and potentially includes projects in the draft City Plan. The general nature of the Regulation 123 list is not helpful to Ripon. If the only infrastructure funding from the Barracks and most other sites is to be via S106 Agreements, the existence of the Regulation 123 list could preclude S106 Agreement money being negotiated to fund City Plan projects, yet there would be very little neighbourhood share of CIL available for these.           We consider that the Regulation 123 list should be revised to exclude provision of infrastructure in the parishes of Ripon, Sharow and Littlethorpe. It would then be possible to fund all</p>	<p>Planning obligations (S106) should only be sought where they meet all of the following tests:</p> <ul style="list-style-type: none"> <li>necessary to make the development acceptable in planning terms</li> <li>directly related to the development: and</li> <li>fairly and reasonably related in scale and kind to the development</li> </ul>

## Analysis of Responses 2

Representation	HBC Response
related infrastructure, including City Plan projects, through S106 Agreements rather than through CIL on a site by site basis.	It is not anticipated that all the City Plan projects would be funded wholly through S106 Agreements regardless of the presence of the Draft 123 list. Whilst the Barracks would not generate CIL, it does not stop CIL money being spent in Ripon as it is not location specific.
It is important that there is a Reg 123 list which sets out the range of projects and programmes which will be wholly or partly funded by CIL. However, as a particular concern we would suggest that the projects are surprisingly generic and non-specific. In the absence of specifically identified programmes and projects one would question the fundamental need for the CIL levy in the District, regardless of the charging levels.	In order to introduce the CIL Harrogate Borough Council must demonstrate that there is a shortfall in funding between the expected total cost of infrastructure needed to support development in the District over the plan period and the level of funding likely to be forthcoming from other sources of infrastructure. This work has shown that there is a infrastructure funding gap so therefore justifies the introduction of CIL.
The Reg 123 list is too generic and should better reflect the provisions within the Infrastructure Delivery Plan	<p>Planning Policy Guidance does not specify how detailed a Reg 123 list should be but does make it clear that "<i>where the regulation 123 list includes a generic type of infrastructure, section 106 contributions should not be sought on any specific projects in that category. Site-specific contributions should only be sought where this can be justified with reference to the underpinning evidence on infrastructure planning</i>". The majority of the infrastructure items listed in the Infrastructure Delivery Plan rely on site-specific contributions as the mitigation required is directly related to the growth associated with the development of the allocated sites. These items should therefore not be included on the Reg 123 list.</p> <p><b>To aid understanding of this, an exclusion column will be added to the Reg 123 list</b></p>
CIL should be used for the development of health infrastructure	Health is identified on the Draft Regulation 123 list as infrastructure that CIL could be used to fund. The Infrastructure Delivery Plan has also been updated to include the priority health infrastructure projects identified by the Clinical Commissioning Group.

Table 2.1 Key issues and HBC Responses

