

Ripon City Plan Submission Draft

Supporting Document: Planning  
Obligations

March 2018



**RIPON CITY PLAN**

Making a Better Place

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## 1 Introduction

- 1.1.1 This supporting document provides the background to the circumstances in which planning obligations should be sought from developers in Ripon. Although CIL is not in place in the Harrogate District the implications for private house building are addressed. The priority to be given to the complementary projects identified in the Plan is also addressed.

## 2 National Planning Policy

### 2.1 Planning Agreements

- 2.1.1 A variety of planning obligations exist whereby agreements are made between a developer and the Local Planning Authority and are designed to meet any concerns the Authority may have about meeting the costs of providing new infrastructure for an area. A planning obligation may only constitute a reason for granting planning permission if it is necessary to make a development acceptable in planning terms and where it is directly related to the development.

### 2.2 Community Infrastructure Levy (CIL) (Appendix J.a)

- 2.2.1 The CIL Regulations came into effect in April 2010 and have been subject to various amendments. Updated CIL guidance is contained within the PPG. The CIL was designed as a means of collecting developer contributions to infrastructure investment that had been identified as necessary to support the development of an area.
- 2.2.2 The Localism Act 2011 (Appendix J.b) sets out what Neighbourhood CIL can be spent on. It includes the provision, improvement, replacement, operation or maintenance of infrastructure – or anything else that is concerned with addressing the demands that development places on the local area.
- 2.2.3 With regard to Neighbourhood Plans, in February 2014 Parliamentary Under Secretary of State for Communities and Local Government, Nick Boles M.P. in response to a question from John Mann M.P. said:

*"...I share...the desire to make it clear to every neighbourhood that if it produces a neighbourhood plan and brings forward development, it deserves to have a substantial proportion of the revenues..."*

## 2.2.4 [Delegated Legislation Committee, Draft CIL \(Amendment\) Regulations Feb 10<sup>th</sup>, 2014. \(Appendix J.c\)](#)

This commitment is outlined in the PPG below.

## 2.3 [Planning Policy Guidance](#)

001 Ref ID: 25-001-20140612 (Appendix J.d)

Revision Date 12.06.2014.

### 2.3.1 The Planning Policy Guidance highlights that:

*...In England, communities that draw up a neighbourhood plan or neighbourhood development order (including a community right to build order) and secure the consent of local people in a referendum, will benefit from 25% of the levy revenues arising from the development that takes place in their area. This amount will not be subject to an annual limit. For this to apply, the neighbourhood plan must have been made (see section 61E of the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38C of the Planning and Compulsory Purchase Act 2004) before a relevant planning permission first permits development (as defined by [regulation 8](#), as amended by the [2011 Regulations](#) and the [2014 Regulations of the Community Infrastructure Levy Regulations](#)). This higher amount will also apply when the levy is paid in relation to developments which have been granted permission by a neighbourhood development order (including a community right to build order) (see [related guidance](#)). Neighbourhood planning does not apply in Wales, so neither does the enhanced neighbourhood funding element linked to it.*

2.3.2 In areas where there is a neighbourhood plan or neighbourhood development order in place, charging authorities can choose to pass on more than 25% of the levy, although the wider spending powers that apply to the neighbourhood funding element of the levy will not apply to any additional funds passed to a parish, town or community council. Those additional funds can only be spent on infrastructure, as defined in the Planning Act 2008 for the purposes of the levy.

2.3.3 Charging authorities do not have to pass on a neighbourhood portion of a levy charge if they issued the [liability notice](#) for that development before 25 April 2013.

Paragraph: 072 Reference ID: 25-072-20140612

Revision date: 12 06 2014CIL

## 2.4 Regulation 123 List

2.4.1 The Regulation 123 List provides for a council to set out a list of those projects or types of infrastructure that it intends will be, or may be, wholly or part funded through the CIL. In order to ensure that individual developments are not charged for the same infrastructure items through both Section 106 Agreements and the CIL a s106 contribution or a s278 agreement cannot then be made towards an infrastructure item already on the list.

## 2.5 Section 106 Agreements

2.5.1 Until a new Harrogate District Local Plan is adopted Section 106 Agreements remain the method through which funding for infrastructure and site-specific needs is raised. Following the implementation of a Community Infrastructure Levy, Harrogate Borough Council will still be able to raise additional s106 funds for infrastructure, provided it is directly linked to the site-specific needs associated with the scheme in question and that it is not infrastructure specifically identified to be funded by CIL, through the Regulation 123 List.

## 3 Local Plan and Supplementary Planning Documents

### 3.1 Harrogate Borough Council, Core Strategy, 2009. (Appendix J.e)

3.1.1 Policy C1 of the Core Strategy superseded the HBC Local Plan, 2001, Policy IMP2 - 'Provision of Infrastructure Needs Generated by Development'. It states:

*Policy C1: Inclusive Communities*

*Proposals for the use and development of land will be assessed having regard to community needs within the District, with particular importance placed on the following specific needs identified through the Harrogate District Community Plan and other relevant strategies and plans:*

- a. elderly people, especially in terms of open market housing, health, sport and recreation;*
- b. young people, especially in terms of affordable housing and access to services*
- c. the rural population especially in terms of affordable housing and access to services;*
- d. disabled people, especially in terms of access to services and mobility*

*Wherever possible and viable, proposals for new development will be expected to contribute to achieving:*

- *A reduction in the fear of crimes and incidence of anti-social behaviour;*
- *A reduction in social inequalities and disadvantage;*
- *The protection and enhancement of the supply of community facilities and local services.*

*The Borough Council will expect developers to provide for and/or contribute towards the provision of community and other infrastructure needs generated directly by their development where this is necessary to make a scheme acceptable in planning terms.*

### **3.2 [Harrogate CIL Economic Viability Assessment, Roger Tym & Partners, March 2013 \(Appendix J.f\)](#)**

3.2.1 Roger Tym & Partners were commissioned by Harrogate Borough Council to develop and prepare a Community Infrastructure Levy (CIL) Economic Assessment for HBC. A Charging Schedule was prepared, supported by local evidence regarding infrastructure requirements and the impact of the CIL on the viability of development in the District.

3.2.2 The report produced evidence to support the establishment of a separate charging zone for Ripon:

*...As discussed in Section 4, in addition to having lower sales values, large parts of Ripon are affected by Gypsum in the ground, the presence of which adds substantially to development costs and it is a significant constraint on development and land values...On this basis, and the viability assessments set out in Section 5, it appears that there is a case for creating a differential charging zone for Ripon as a result of the combination of lower sales values and higher development costs. In order for any differential charging zone to be defined, it is necessary to draw a line on a plan that sets the boundary of it. Our sales mapping provides evidential basis for doing so. In the case of Ripon, there are three wards in which values are consistently lower than elsewhere. Therefore, we recommend that the Ripon charging zone is defined as the wards of:*

- *Ripon Spa;*
- *Ripon Minster; and*
- *Ripon Moorside...*

3.2.3 Pages 47-48.

This report recommended the following proposed preliminary Draft Charging Scheme for the District:

Use	Proposed CIL charge (per sq.m)	
	Harrogate (excluding Ripon)	Ripon
Private market houses in:	£85	£45
Supermarkets	£200	
Retail Warehouses	£120	
Public/Institutional Facilities as follows: education, health, community and emergency services	£0	
All other chargeable development	£10	

Table 11.1 Proposed Charging Schedule, p.55, Harrogate CIL Economic Viability Assessment.

### 3.3 [HBC Public Consultation on Draft Charging Schedule \(CIL\). \(Appendix J.g\)](#)

3.3.1 In the summer/autumn of 2013 HBC carried out a public consultation on a Draft Charging Schedule for the District. The proposed rates are set out in the table below:

‘...The rates to be charged against the gross internal floor area of:

- All new dwellings
- All other built development exceeding 100 square metres in size; and
- The net additional floor area of all replacement development (after the area of demolished buildings in lawful use has been deducted) where it exceeds 100 square metre.

Development Uses	CIL Rate (per sq.m)	
	Harrogate (excluding Ripon)	Ripon
Private market houses in:	£85	£45
Supermarkets	£140	
Retail Warehouses	£105	
Public/Institutional Facilities as follows: education, medical or health facilities, community facilities and emergency services	£0	
All other chargeable development (including apartments)	£0	

3.3.2 Several public consultation responses namely Ripon City Council, Ripon Civic Society and the Greater Ripon Improvement Area, noted that the problems associated with gypsum do not affect all of the city. In particular the areas to the west and north west, including the military estate, which falls within the ‘Zone A’ designation where there are no known areas of gypsum dissolution. HBC recognised this distinction and the officer response was

*"...The Council proposes to amend the current differential rate boundary to remove land within Zone A where there is no known gypsum present..."*

### **3.4 Harrogate Borough Council, Draft Local Plan – CIL**

3.4.1 Harrogate Borough Council's emerging Draft Local Plan is still developing the supporting evidence to produce a Community Infrastructure Levy Draft Charging Schedule. In September 2016, HDH Planning & Development Ltd, produced for HBC a [Whole Plan Viability Assessment \(Appendix J.h\)](#). This document was produced to assess the deliverability of development sites identified in the SHELAA and to provide evidence to help Harrogate Borough Council to set proposed rates for the Community Infrastructure Levy.

3.4.2 Whilst it uses a lower value when modelling potential development sites in Ripon it is not clear if any distinction has been made between land known to be affected by gypsum and that to the north and northwest of the city which is not.

3.4.3 It does however state that:

Para. 12.10

*"...may be necessary to develop a site specific rate of CIL for the strategic sites in the AI corridor to ensure that a clear delivery strategy can be demonstrated at examination.."*

3.4.4 The potential development sites identified within the SHELAA which are currently owned and occupied by the MOD have been identified by HBC as 'strategic sites'. The above paragraph may indicate that a site specific rate of CIL may be levied within the Clothierholme Village Regeneration Area.

### **3.5 Harrogate Borough Council Draft Local Plan, Planning Obligations (Appendix J.i)**

3.5.1 A number of draft policies within the Draft Local Plan contain implications for planning agreement:

- Housing, Pol. HS2 Affordable Houses & Starter Homes
- Transport, TI1 Delivery of New Infrastructure
- Heritage, HP7 New Sports, Open Space & Recreation Development

### **3.6 Harrogate Borough Council Supplementary Planning Documents and Advice**

3.6.1 In addition, other guidance from HBC including information on planning agreements can be found in:

- 'Guidance on Developer Contributions to Educational Facilities', July 2016 (Appendix J.j)
- 'Provision for Open Space in Connection with New Housing Development', October 2016, Supplementary Planning Document (Appendix J.k)

## **4 City Plan Vision & Objectives**

### **4.1 Extract from Vision**

*The city centre's Georgian, Victorian and mediaeval townscape and historic street pattern will be conserved with the Cathedral Precinct and the Market Place, Spa and Northern Quarters integrated for the enjoyment of residents and visitors alike. New development will balance the desire to retain local distinctiveness whilst displaying the best of contemporary architectural innovation. The city will be known as a place to visit for excellent public art.*

*The city's attractive countryside setting, including its waterways, the Studley Royal and Fountains Abbey World Heritage Site and neighbouring villages, will be protected and enhanced to maintain its distinctiveness.*

*Ripon itself will be seen as a city of urban villages. These will guide the character of development and be reflected in the inevitable changes that arise from the city's growth and changing role*

*Walking and Cycling will be encouraged by the quality of the public realm and careful and innovative management and maintenance of highways, footpaths and bridleways.*

*Comprehensive facilities for active recreation will add to Ripon's attractiveness as a place to live and work.*

### **4.2 Relevant Objectives**

4.2.1 To identify the opportunities and constraints in attracting resources for the delivery of proposals

- 4.2.2 To identify opportunities that arise during the preparation of the plan for projects that will complement delivering the vision (some of which may be led by Ripon City Council through the City Development Initiative)

## 5 Reports & Information from public, practitioner and industry bodies

### 5.1 [CIL Review Panel Report, March 2017 \(Appendix J.I\)](#)

- 5.1.1 In conjunction with the publication of The Housing White Paper the Government published a review of CIL produced by Three Dragons and the University of Reading. It recommended that the Government should replace CIL with a hybrid system of a broad and low level Local Infrastructure Tariff (LIT) and Section 106 for larger and strategic developments. With regard to Neighbourhood CIL the report stated:

#### *'NEIGHBOURHOOD CIL*

- *5.4.6 We recognise the importance that the Government attaches to allowing parishes/ neighbourhoods to spend a portion of the current CIL receipts. But we have already highlighted the difficulties this causes and the lack of evidence to suggest that the neighbourhood portion of CIL makes development any more acceptable at the local level. We are also concerned that a continuation of the current arrangements will lead in many instances to already scarce and over subscribed resources being diverted into projects that do not ease the pressure on existing infrastructure and consequently do not actually improve the conditions for local communities. Our objective, therefore, is to find a way of ensuring that money paid by developers, either through our recommended LIT or through Section 106 obligations goes towards the actual delivery of infrastructure enhancements that are recognised as necessary by both the local community and local authority.*
- *5.4.7 The problem seems to lie principally in the manner in which the decision making process on infrastructure planning and actual provision is managed between the local community and the local authority (be it unitary, district and/or county) and we have therefore focussed on how this can best be improved. In both parishes and neighbourhoods, local authorities are already required to work with the local community on the preparation of both the local plan and the neighbourhood plan and as part of this process it would not be unreasonable to expect that the impact of development and the infrastructure needed to address that impact would be considered. It*

would also make sense for the question of how the neighbourhood share of any CIL/LIT should best be used. Subsequently, the neighbourhood's share is handled 'in trust' by the local authority and administered in consultation with the neighbourhood forum. In parished areas the parish council will receive the funds from the local authority and spend them in accordance with regulations.

- 5.4.8 We believe the key to ensuring a sensible and productive spend of the neighbourhood share is for there to be a more rigorous integration at the plan-making stage, for both the local plan and the neighbourhood plan, over how the neighbourhood share should be spent. There should also be ongoing dialogue at the point at which the funds become available and are spent, such as currently happens in un-parished neighbourhoods, to ensure that best value is obtained. We have stopped short of recommending that the actual spending power of parishes with regard to the neighbourhood share should be withdrawn. We would hope, however, that improved dialogue at both the planmaking and allocation/spending stage would prevent funds being allocated to places that are less affected by development and also avoid funds being diverted into projects that do not actually solve the infrastructure problems created by development.
- 5.4.9 It is perhaps also worth noting that with an enhanced role for Section 106 under our proposed twin track LIT/Section 106 regime, there will be more instances where developers of larger sites will be directly involved in consultation and discussions with both local authorities and local communities over ameliorating the impact of development which will allow greater opportunity for the needs of local communities to be taken into account. This is a link which we noted has been weakened in CIL authorities, to the detriment of good relations between local communities and developers.

We recommend that there is closer integration at both the local plan and neighbourhood plan-making stages between the local authorities and the community to ensure agreement over how the neighbourhood share of LIT is allocated.

We recommend that local authorities work closely with both parishes and neighbourhoods over the actual spending of any neighbourhood allocation of LIT to ensure that the delivery of infrastructure is supported and best value is obtained.”

*CIL Review Panel Report, March 2017*

## 6 HBC Reports & Commissioned Evidence

### 6.1 [HBC 'Whole Plan Viability Assessment', HDH Planning & Development Ltd September 2016](#)

**HBC 'CIL Economic Viability Assessment', Roger Tym & Partners, March 2013**

6.1.1 See Section 3 above.

## 7 Ripon City Plan Reports & Studies

7.1.1 The City Plan Team have done no separate work as it is beyond our capabilities. We have however set out our approach to those projects which we feel are appropriate to the successful delivery of the policies identified within the Plan through the Complementary Projects outlined in the Plan's Appendix and which would in part, or wholly, subject to planning obligations.

## 8 Analysis & Conclusion

8.1.1 It has been clearly established that those communities which choose to invest in producing a successful Neighbourhood Plan – one that secures the consent of local people in a referendum – should be allowed to spend a significant proportion of money raised through current planning obligations. Throughout the City Plan process, Complementary Projects have been identified which would ensure the delivery of the policies and meet the vision and objectives which emerged during the formulation of the Plan.

8.1.2 The CIL Regulations 2010 (as amended) allowed for differential rates as a way of dealing with different levels of economic viability within the same charging area. In Ripon City the prevalence of gypsum combined with generally low sales values achieved in comparison to the rest of the District provided HBC's justification for the differential rate. The consultation exercise in 2013 resulted in HBC agreeing that not all parts of the city were affected by Gypsum and that the boundary for a reduced 'City of Ripon' rate should exclude those areas in 'Zone A'. However, at present (June 2017) work is still continuing by HBC to produce a new Economic Viability Assessment (EVA) and a new Draft CIL Charging Schedule.

8.1.3 Many of the Complementary Projects identified offer the opportunity for working in partnership with a number of national, regional and local organisations and voluntary groups. Ripon City Council through the City Development Initiative will be the lead partner

of the projects and already several of the sporting clubs within the City have joined together to help plan the proposed sports strategy. The City Plan Team have also been liaising closely with the Dean and Chapter of Ripon Cathedral and The National Trust in the preparation bids to The Heritage Lottery Fund by the two organisations.

- 8.1.4 It is submitted that the City Plan's work on Complementary Projects helps to overcome some of the criticisms identified in the CIL Review Panel Report concerning the how the 'neighbourhood share' of CIL/Planning Obligations should be spent. The Complementary Projects not only demonstrate the deliverability of the whole plan, but they also reflect the 'local distinctiveness' of the Plan. The projects also help to illustrate the positive benefits of development and allow the local community to identify necessary infrastructure enhancements.
- 8.1.5 The emergence of the HBC Draft Local Plan has introduced the opportunity to consider possible funding under the CIL. Guidance from Central Government within the PPG formalises the percentage of uncapped monies which local communities can access from the CIL if they are able to successfully deliver a Neighbourhood Plan through a referendum. The City Plan's Complementary Projects offer a blueprint for a Ripon based Section 106 & 278/Regulation 123 List which would ensure a clear delivery strategy for the Plan.
- 8.1.6 In light of recent Government thinking as of March 2017, it seems fair to conclude that the precise nature of planning agreements which the Ripon City Plan might find itself operating within is a present unknown; however, it appears most likely that it will be some form of twin track system comprising CIL/LIT and Section 106 Agreements. The identification of complementary projects through the preparation of the Plan and the degree of close working co-operation with local authorities such as North Yorkshire County Council, provides evidence that wider public and infrastructure benefits may be derived through planning obligations to deliver these schemes.

## 9 Policy Wording

- 9.1.1 Following the approach and conclusions in section 8 above the Plan includes:

### 9.2 Policy J.1 – Planning Obligations

- 9.2.1 Applicants for planning permission will be required to enter into Planning Agreements in order to mitigate the wider impacts of the development, the managements of on-going elements of the proposals and the contribution to cumulative public benefit in the city as set out in a priority list of measures specific to the city of Ripon.

## 10 Complementary Projects

There are no Complementary Projects relevant to this document.

## 11 Appendices

- J.a CIL Regulations
- J.b Localism Act 2011
- J.c Delegated Legislation Committee, Draft CIL (Amendment) Regulations, Feb 10 2014
- J.d Planning Policy Guidance 001 Ref ID: 25-001-20140612
- J.e HBC Core Strategy
- J.f Harrogate CIL Economic Viability Assessment, Roger Tym & Partners, March 2013
- J.g HBC Public Consultation on Draft Charging Schedule (CIL)
- J.h Whole Plan Viability Assessment, September 2016, HDH Planning & Development Ltd for HBC
- J.i Harrogate Borough Council Draft Local Plan November 2016, Planning Obligations
- J.j HBC 'Guidance on Developer Contributions to Educational Facilities', July 2016
- J.k HBC 'Provision for Open Space in Connection with New Housing Development' SPD, October 2016
- J.l CIL Review Panel Report, March 2017