



The Planning Inspectorate

Report to Harrogate Borough Council

by Jameson Bridgwater DipTP MRTPI

an Examiner appointed by the Council

Date: 19 May 2020

PLANNING ACT 2008 (AS AMENDED)

SECTION 212(2)

REPORT ON THE EXAMINATION OF THE DRAFT HARROGATE BOROUGH COUNCIL COMMUNITY INFRASTRUCTURE LEVY CHARGING SCHEDULE

Charging Schedule submitted for examination on 16 August 2019

Examination hearing held on 23 October 2019

File Ref: PINS/E2734/429/8

Non-Technical Summary

This report concludes that the Harrogate Borough Council Community Infrastructure Levy Charging Schedule provides an appropriate basis for the collection of the levy in the area. The Council has sufficient evidence to support the schedule and can show that the levy is set at a level that will not put the overall development of the area at risk.

One or more modifications are needed to meet the statutory requirements. These can be summarised as follows:

- Introduce a threshold for the CIL charging rate for smaller format supermarkets/supermarkets
- Clarifications with regard to CIL charging descriptions and definitions

The specified modifications recommended in this report are based on matters discussed during the public hearing sessions and do not alter the basis of the Council's overall approach or the appropriate balance achieved.

Introduction

1. This report contains my assessment of the Harrogate Borough Council Community Infrastructure Levy (CIL) Charging Schedule in terms of Section 212 of the Planning Act 2008. It considers whether the schedule is compliant in legal terms and whether it is economically viable as well as reasonable, realistic and consistent with national guidance. It takes account of the Community Infrastructure Levy (Amendment)(England)(No 2) Regulations 2019 and the associated revisions to the Planning Practice Guidance (PPG), which came into effect on 1 September 2019.
2. To comply with the relevant legislation the local charging authority has to submit a charging schedule which sets an appropriate balance between helping to fund necessary new infrastructure and the potential effects on the economic viability of development across the district. The basis for the examination, on which hearings sessions were held on 23 October 2019 is the submitted schedule of August 2019, which is effectively the same as the document published for public consultation in January 2019 with the exception of the introduction of a new CIL charging rate of £40/m² for small supermarkets.
3. Harrogate Borough Council [the Council] propose the following CIL rates:
Residential
 - Zone 1 and sites of 10 units or fewer in all areas - £50/m²
 - Zone 2 - £0/m²
 - Zone 3 - £0/m²

- Sheltered Housing - £60/m²
- Sheltered Housing in Zone 2 - £40/m²

Employment Development

- Distribution - £20/m²

Retail Development

- Shops – Central Harrogate - £120/m²
- Shops – Other – Zone 1 and Zone 3 - £40/m²
- Shops – Other – Zone - £0/m²
- Supermarkets - £120/m²
- Small Supermarkets - £40/m²
- Retail Warehouses - £120/m²

All other development uses

- Borough Wide - £0/m²

Is the charging schedule supported by background documents containing appropriate available evidence?

Infrastructure planning evidence

4. The Harrogate district Local Plan (HdLP) has been examined alongside the charging schedule and was adopted on the 4 March 2020. It sets out the spatial vision and development strategy for the Harrogate district. In doing this it seeks to make provision for 13,377 new homes and 40 hectares of employment land over the plan period (2014 to 2035). The provision of new homes and jobs will be met as far as possible by focusing growth within the district's main settlements (Harrogate, Knaresborough and Ripon), settlements on the key public transport corridors and a new settlement within the Green Hammerton/Cattal area.
5. The Council's Infrastructure Delivery Plan August 2018 (IDP) outlines the new/improved infrastructure required to facilitate the planned growth within the district to the end of the plan period. The CIL would amongst other things contribute towards education facilities, green infrastructure, community, cultural and leisure facilities, transport schemes and health all of which will contribute towards implementing the objectives of the HdLP.
6. Taking into account other likely funding sources, including direct from government, the Council currently estimates a shortfall of around £90m. The IDP demonstrates a clear funding gap between the provision of infrastructure required to support development required by HdLP, and funds available to provide this infrastructure. It is anticipated that the CIL charges, as proposed, would raise around £10.5m in total up to 2035 towards infrastructure needs.

In the light of this evidence, the proposed CIL charges would make a meaningful contribution towards meeting the likely funding gap. The figures demonstrate the need to levy CIL in Harrogate Borough.

Economic viability evidence

7. The Council commissioned the Harrogate Local Plan Whole Plan Viability Assessment (October 2016) and the Local Plan Viability Update and CIL Viability Assessment (January 2019). The assessments use a residual valuation approach, using reasonable standard assumptions for a range of factors such as building costs, profit levels, fees and changes in relation to local and national policy.
8. The model was adapted by relevant local data on existing land values; including Land Registry data and some recent transactions, taking into account that there are variations in average land values across the HdLP plan area. In general, the benchmark land values used are sufficiently realistic for comparison purposes in a generic study of this type.
9. The Community Infrastructure Levy Draft Charging Schedule: Statement of Consultation and Key Issues (August 2019) and the subsequent Statement of Modifications consultation (January 2020) demonstrate that an adequate and proportionate approach in relation to local stakeholder participation was taken by the Council. Moreover, it is clear that discussions with stakeholders and consideration of their representations contributed towards informing the charging schedule. This was further reinforced by local developers and interested parties including the Ripon Neighbourhood Plan team being represented at the examination hearings.
10. The viability assessments seek to establish a residual value by subtracting all costs including developers profit (except for land purchase) from the value of the completed development (the Gross Development Value). The price at which a typical willing landowner would be prepared to sell the land (the Benchmark Land Value) is then subtracted from the residual value to arrive at the overage or 'theoretical maximum charge'. This is the sum from which the CIL charge can be taken provided that there is a sufficient viability buffer or margin.
11. The Guidance states that it would be appropriate to include a buffer or margin so that the levy rates are not set at the margins of viability and are able to support development when economic circumstances adjust. This can also provide some degree of safeguard in the event that gross development values have been over-estimated or costs under-estimated and to allow for variations in costs and values between sites. As discussed below, the Council has proposed CIL charges that provide a reasonable viability margin or buffer commensurate with the type of development being brought forward.

Conclusion

12. The draft Charging Schedule is supported by detailed evidence of community infrastructure needs. On this basis, the evidence which has been used to inform the Charging Schedule is robust, proportionate and appropriate.

Is the charging rate informed by and consistent with the evidence?

CIL rates for residential development

13. The strategy and projected requirement of 13,377 new homes including affordable housing over the plan period 2014 – 2035 is set out in HdLP Policies GS1 Providing New Homes and Jobs and GS2 Growth Strategy to 2035. The Harrogate Local Plan Whole Plan Viability Assessment (October 2016) and the Local Plan Viability Update and CIL Viability Assessment (January 2019) draw upon a wide range of evidence sources that includes amongst other things price paid data from the Land Registry, floor size data from the EPC Register, asking prices from current development schemes and property websites.
14. The viability testing considered a full range of values and costs data that are adequately reflective of the new residential projects likely to come forward. These are consistent with national guidance and are based on the BCIS costs, with a series of adjustments and allowances being made to reflect the full cost of development with an allowance for developer's return. Furthermore, development typologies were modelled to represent the planned development under the HdLP. In addition, the key (strategic) sites to be allocated were also modelled, taking into account the best estimate of the infrastructure costs (s106) required to deliver the sites.
15. Assumptions were factored into the viability testing to reflect the policy requirements of the HdLP. These included amongst other things affordable housing requirements (30% brownfield and 40% greenfield), housing mix and density, along with a contingency for planning obligations (s106). Finally, a viability buffer of approximately 50% is applied that produces a theoretical CIL charging range. As such, the viability testing has properly examined the most likely scenarios although clearly cannot address all possible eventualities surrounding new development projects.
16. The evidence demonstrates the differences in the ability of residential development in different parts of Harrogate district to viably support a CIL charge, therefore, the Council are justified in the use of a zoned approach to charging. On this basis they propose three charging zones for residential development in the HdLP plan area. The charging schedule defines the zones as follows;
 - Zone 1 - All areas that are not in Zone 2 or Zone 3
 - Zone 2 – The main urban areas of Harrogate, Boroughbridge, Knaresborough, Masham, Pateley Bridge and Ripon. The allocations that are adjacent to the main urban area of Ripon.
 - Zone 3 - The strategic sites at Boroughbridge (B4, B12 and B21), Green Hammerton/Cattal New Settlement, West Harrogate (H49, H51, H70 allocations and H50, H46, H36, H45 commitments), Manse Farm (K25 allocation and K31 commitment) and Ripon (R24, R25, R27)

Residential - Zone 1 and sites of 10 units or fewer in all areas - £50/m²

17. Zone 1 includes all areas that are not in Zone 2 (main urban areas), Zone 3

(strategic sites) and sites of 10 units or fewer in all areas. The viability evidence demonstrates that a levy of £60/m² for the greenfield sites (not adjacent to Ripon) and a maximum rate of £70/m² for the smaller sites (including those in the Ripon area) would generally maintain a viability buffer of around 50%. However, the viability testing demonstrated that the margins are tighter for larger greenfield sites when factoring in affordable housing requirements. Taking this into account the Council have taken a cautious approach and are proposing a levy rate of £50/m² for residential development located within Zone 1 and sites of 10 units or fewer in all areas. Based on the evidence before me I consider that this approach would ensure that the vast majority of new residential development within Zone 1 could be delivered in accordance with the HdLP. I am therefore satisfied the proposed rate of £50/m² for Zone 1 is justified on viability grounds.

Residential - Zone 2 - £0/m²

18. Zone 2 relates to the main urban areas of Harrogate, Boroughbridge, Knaresborough, Masham, Pateley Bridge and Ripon; along with the allocations that are adjacent to the main urban area of Ripon. The Council's viability testing included a range of residential schemes consistent with those identified within the HdLP including both brownfield and greenfield sites. The evidence derived from the testing demonstrates that within these areas brownfield sites that are subject to the affordable housing requirements (30%) and greenfield sites within the Ripon area (modelled as adjacent to Ripon with 40% affordable housing) do not have capacity to absorb CIL. Moreover, these findings were in turn generally supported by developers. Therefore, based on the evidence submitted, I am satisfied that setting a rate of £0/m² for Zone 2 is justified by the available evidence and is appropriate.

Residential - Zone 3 - £0/m²

19. Zone 3 relates to the strategic sites identified within the HdLP to deliver significant growth. The Infrastructure Delivery Plan (August 2018) identifies the infrastructure projects necessary to accommodate the growth identified within the HdLP. A significant proportion of this will need to be provided through the development of the Strategic Sites. This includes amongst other things the provision of new primary schools, secondary school contributions, major highway network improvements (strategic and local), rail line and station improvements, new cycling and pedestrian provision, bus station improvements, sports and open space provision and a significant amount of affordable housing. Consequently, representative (strategic) sites were modelled, taking into account the best estimate of the infrastructure costs (s106) required to deliver the sites. It is concluded that there is little scope for a CIL charge, even before factoring in any viability buffer. Therefore, based on the evidence submitted, I am satisfied that the Council's proposed levy rate of £0/m² for Zone 3 is appropriate.

Sheltered Housing - Zone 1 and Zone 3 £60/m² – Zone 2 £40/m²

20. When considering Sheltered Housing; the Council modelled sheltered/retirement and extra care schemes in a variety of scenarios (brownfield and greenfield). The testing took into account, construction costs and the implications of non-saleable proportions of overall floor area

(communal space). However, this is balanced against amongst other things higher sales values, increased densities and reduced external works. The testing also included a built-in viability buffer of around 50%. The analysis confirms that whilst there is scope to levy a charge in relation to sheltered housing on a zoned basis, the evidence does not support CIL for extra care schemes in any of the 3 zones. I therefore consider that the zoned approach taken by the Council in setting sheltered housing rates of £60/m² for Zone 1 and Zone 3 and £40/m² for Zone 2 is a balanced one which takes into account market conditions. As such, it is justified by the available evidence and strikes an appropriate balance.

21. Notwithstanding this, in written representations and at the hearings developers raised concerns with regard to the CIL charging schedule category description and the definition applied to what could be broadly described as sheltered housing. Therefore, to ensure clarity and certainty it is necessary to provide amended and additional explanatory text within the charging schedule to clearly define the types of development that would be subject to the application of this CIL charge (**MM3**).

Employment Development – Distribution – £20/m²

22. Policies GS1, GS2 and GS5 of the HdLP set out the strategy and requirement for future employment development in Harrogate district. The Harrogate Local Plan Whole Plan Viability Assessment (October 2016) tested a variety of employment generating uses including Office, Industrial, Distribution and Hotel. The testing demonstrated that Office, Industrial and Hotel uses were shown as unviable in relation to CIL, although found that Distribution uses could viably sustain CIL. The findings in relation to Distribution were subsequently reviewed in the Local Plan Viability Update and CIL Viability Assessment (January 2019). Cumulatively, the testing confirmed that a theoretical CIL of up to £60/m² was viable for distribution uses, albeit with a small margin. Therefore, to ensure an adequate viability buffer of approximately 50% the Council have proposed a levy of £20/m² for Distribution. This prudent approach would ensure that the proposed CIL would be unlikely to prevent new distribution schemes being brought forward in the Borough. I therefore consider that the levy rate of £20/m² for Distribution is justified by the evidence and would strike an appropriate balance.

Retail Development

23. The Council's viability testing considered a sufficient range and number of size and type of retail development schemes (brownfield and greenfield) to be suitably reflective of retail projects likely to come forward in the HdLP plan area and provide the necessary information against which to assess viability. Activity in the retail property market is highly concentrated in the core of Harrogate and the assessments make clear that viability in the retail market is sensitive to specific location/setting, type and investment models. The viability testing also examines out of town retail activity, albeit limited. Taking this all into account the Council have proposed differential rates for retail development in the district.

Shops – Central Harrogate – £120/m²

24. Central Harrogate has a successful high-quality retail offer with a range of specialist and national shops. Notwithstanding this, rents for town centre shops vary, particularly between primary and secondary locations. Moreover, future retail development in Central Harrogate is likely to be largely through the redevelopment of existing sites (brownfield land). Taking this into account the viability testing considered both greenfield and brownfield sites; demonstrating that the proposed levy of £120/m² would ensure that retail development would remain viable in this specific area. In this regard the levy would be less than 7% of the Residual Value (RV) or 3% of the Gross Development Value (GDV) therefore maintaining a viability buffer in the region of 50%. I am therefore satisfied the proposed rate of £120/m² for Shops – Central Harrogate is justified on viability grounds and strikes an appropriate balance.

Shops – Other – Zone 1 and Zone 3 - £40/m²

25. The Council have proposed a levy of £40/m² for new shops that are located within Zone 1 and Zone 3. The evidence presented at the hearings suggested that there is limited demand for new retail shop development in the wider borough, with the exception of the new settlement at Green Hammerton which will incorporate various neighbourhood centres that will include retail development. The viability testing suggests that a levy of £40/m² would amount to around 2% of GDV and therefore would ensure that an adequate viability buffer of around 50% would be maintained. On this basis I am satisfied the proposed rate of £40/m² for Shops – Zone 1 and Zone 3 is justified on viability grounds and strikes an appropriate balance.

Shops – Other – Zone - £0/m²

26. The proposed rate for shops relates to all other areas outside Central Harrogate, Zone 1 and Zone 3. The Council's decision not to charge a levy on Shops – Other – Zone is consistent with the evidence in the viability assessments. This demonstrates that current market rents for shops in these locations are too low to absorb any level of CIL. Therefore, I am satisfied that for the reasons given setting a rate of £0/m² for Shops – Other – Zone is evidence based and appropriate.

Supermarkets - £120/m²

27. The viability testing confirms that the Council's proposed levy of £120/m² for Supermarkets (larger format) would be viable, whilst maintaining an adequate viability buffer. I consider that this represents a balanced approach given that no substantive viability evidence has been presented to indicate otherwise. However, with the Council's decision to introduce a levy rate for small supermarkets mean that it is necessary for certainty in the application of the CIL to modify the text to include a threshold (over 2500 sq. m gross) to define the point at which the charge for supermarkets should be applied (**MM2**).

28. On this basis, I am satisfied that subject to the modification the proposed rate of £120/m² for Supermarkets (larger format) development is justified on viability grounds.

Small Supermarkets - £40/m2

29. With regard to small supermarkets the Council's viability testing demonstrates that the capacity to absorb CIL is materially reduced when compared to large format supermarkets. In this regard the analysis indicates that a theoretical levy rate of £80/m² would be viable for small supermarkets, with the residual value being at least 50% above the viability threshold. However, the Council have taken a cautious approach and proposed a levy of £40/m². These findings were subsequently consulted upon and were in turn generally supported by developers. However, to ensure certainty in the application of the CIL it is necessary to modify the text in the charging schedule to include a threshold to define the point at which the charge should be applied. It was initially considered that setting the threshold to below 2000 sq. m gross would be appropriate. However, following representations received in response to the Statement of Modifications consultation (January 2020), I consider that it is necessary to increase the Small Supermarket threshold to below 2500 sq. m gross. This is to ensure that the CIL levy is pragmatic, reasonable and does not create an uneven playing field with regard to the spectrum of small format supermarket operators (**MM1**). This conclusion is consistent with that of the Council who have raised no objection to the increase in the threshold.
30. Therefore, based on the evidence submitted, subject to the above modification I am satisfied that setting a rate of £40/m² for Small Supermarkets is justified by the available evidence and appropriate.

Retail Warehouses - £120/m2

31. The Council describes retail warehouses as large stores specialising in the sale of comparison goods (such as carpets, furniture and electrical goods), DIY items and other ranges of goods catering mainly for car borne customers. The Council at the hearing confirmed that there had been significant growth in the retail warehouse sector in the Borough and have therefore viability tested this type of development. The findings demonstrating that at the maximum level of £120/m², retail warehouse development remains viable, with the residual value being at least 50% above the Viability Threshold. Based on these findings the Council's proposed levy rate of £120/m² would safeguard the development of retail warehouses consistent with the objectives of the HdLP and is therefore justified by the evidence.

All other development uses - £0/m2

32. The Council's decision not to charge a levy on office, industrial and hotel development is consistent with the evidence in the viability assessments. This demonstrates that current market rents for these uses are too low to absorb any level of CIL. I am satisfied that for the reasons given in the Harrogate Local Plan Whole Plan Viability Assessment (October 2016) setting a rate of £0/m² for these uses is evidence based and appropriate.

Does the evidence demonstrate that the proposed charge rate would not put the overall development of the area at serious risk?

33. The Council's decision to set rates for the following development;

Residential

- Zone 1 and sites of 10 units or fewer in all areas
- Zone 2
- Zone 3
- Sheltered Housing
- Sheltered Housing in Zone 2

Employment Development

- Distribution

Retail Development

- Shops – Central Harrogate
- Shops – Other – Zone 1 and Zone 3
- Shops – Other – Zone
- Supermarkets
- Small Supermarkets
- Retail Warehouses

is based on reasonable assumptions about development values and likely costs. The evidence suggests that residential and commercial development will remain viable across most of the HdLP plan area if the charge is applied. Only if development sales values are at the lowest end of the predicted spectrum would development in some parts of the Borough be at risk, however, considering the Council's prudent approach I consider this to be unlikely.

Conclusion

34. In setting the CIL charging rates the Council has had regard to detailed evidence on infrastructure planning and the economic viability evidence of the development market in Harrogate Borough. The Council has tried to be realistic in terms of achieving a reasonable level of income to address an acknowledged gap in infrastructure funding, while ensuring that a range of development remains viable across the authority area.

LEGAL REQUIREMENTS	
National Policy/Guidance	The Charging Schedule complies with national policy/guidance.
2008 Planning Act and 2010 Regulations (as amended)	The Charging Schedule complies with the Act and the Regulations, including in respect of the statutory processes and public consultation, consistency with the adopted Harrogate district Local Plan and Infrastructure Delivery Plan and is supported by an adequate financial appraisal. I have taken

	account of the CIL (Amendment) Regulations which came into force on 1 September 2019 and am satisfied that the Charging Schedule remains legally compliant.
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35. I conclude that subject to the modifications set out in Appendix A the Harrogate Borough Council Community Infrastructure Levy Charging Schedule satisfies the requirements of Section 212 of the 2008 Act and meets the criteria for viability in the 2010 Regulations (as amended). I therefore recommend that the Charging Schedule be approved.

Jameson Bridgwater

Examiner

This report is accompanied by:

Appendix A (attached) – Modifications that the examiner specifies so that the Charging Schedule may be approved.

Appendix A

Proposed text is shown underlined Deleted text is shown struck through.

Ref No.	Page	Para/table	Modification
MM1	10	Appendix 1 – Table 1.1 – Charging Schedule	Add the small supermarket threshold into the charging schedule as follows: <u>"Small Supermarkets (under 2000 2500 sq. m gross) £40</u>
MM2	10		Add the supermarket threshold into the charging schedule as follows as follows: <u>"Supermarkets (over 2000 2500 sq. m gross)"</u>
MM3	11		Delete all footnotes relating to Table 10.1 and add the following section: <u>Definitions</u> <u>Residential</u> - <u>excludes purpose-built rental or static caravan units within holiday park or holiday resort</u> <u>Sheltered Housing</u> - <u>whilst the term Sheltered Housing is a generic term, CIL will only be applied to those developments falling under the 'Age-restricted general market housing' and 'Retirement living or sheltered housing' types of older persons housing included within Paragraph 010 (Reference ID: 63-010-20190626) of the NPPG which are detailed below. The 'Extra care housing</u>

		<p>or housing-with-care' and 'Residential care homes and nursing homes' types of older persons housing will not be liable for CIL.</p> <ul style="list-style-type: none"> • <u>Age-restricted general market housing:</u> this type of housing is generally for people aged 55 and over and the active elderly. It may include some shared amenities such as communal gardens, but does not include support or care services • <u>Retirement living or sheltered housing:</u> this usually consists of purpose-built flats or bungalows with limited communal facilities such as a lounge, laundry room and guest room. It does not generally provide care services, but provides some support to enable residents to live independently. This can include 24-hour on-site assistance (alarm) and a warden or house manager • <u>Extra care housing or housing-with-care:</u> This usually consists of purpose-built or adapted flats or bungalows with a medium to high level of care available if required, through an onsite care agency registered through the Care Quality Commission (CQC). Residents are able to live independently with 24-hour access to support services and staff, and meals are also available. There are often extensive communal areas, such as space to socialise or a wellbeing centre. In some cases, these developments are known as retirement communities or villages - the intention is for residents to benefit from varying levels of care as time progresses • <u>Residential care homes and nursing homes:</u> These have individual rooms within a residential building and provide a high level of care meeting all activities of daily living. They do not usually include support services for independent living. This type of housing can also include dementia care homes. <p><u>Distribution</u> - Storage or Distribution</p> <p><u>Supermarkets</u> - 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.</p> <p><u>Retail Warehouses</u> -large stores specialising in the sale of comparison goods (such as carpets, furniture and electrical goods) DIY items and other ranges of goods catering mainly for car borne customers</p>
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