

[REDACTED]

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**Sent:** 26 January 2024 10:34  
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**Cc:** [REDACTED]  
**Subject:** Consultation on the revised CIL Draft Charging Schedule  
**Attachments:** Letter to City of York Council NJ 26.01.2024.pdf - signed.pdf; CIL representations March 2023(1.0).pdf

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Good morning  
Please find attached our representations on behalf of British Sugar in relation to the above consultation. I enclose also for ease of reference our previous representations of March 2023. Please can you confirm receipt of these.

Regards

[REDACTED]  
[REDACTED]  
[REDACTED]  
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[REDACTED]  
Strategic Planning Policy Team  
City of York Council  
West Offices  
Station Rise  
York  
YO1 6GA

By email only to [localplan@york.gov.uk](mailto:localplan@york.gov.uk)

Our ref: NJ/1119/114/3  
Date: 27 March 2023

Dear [REDACTED]

**Re: City of York Council – Community Infrastructure Levy (CIL) Consultation 2023 – Representations on Behalf of British Sugar**

We write on behalf of our client, British Sugar Plc, to submit representations to the above CIL consultation. Please therefore find enclosed with this letter our formal representations.

By way of background, British Sugar is the owner of the Former British Sugar site (the Site), Boroughbridge Road, York. The British Sugar site forms the substantial part of site ST1 (British Sugar / Manor School) in the draft Local Plan. The British Sugar site and Manor School Site, together, are identified within draft Policy SS6 to deliver approximately 1,200 dwellings as part of a residential led mixed use development, incorporating significant community and neighbourhood facilities.

British Sugar has worked with City of York Council (CYC) since the closure of the former British Sugar site in 2007 to progress its sustainable redevelopment for residential led mixed uses. British Sugar has secured outline and full planning permissions (see below) to enable the residential led mixed use development of the site and has recently commenced ground works on site.

- Outline planning permission (ref 15/00524/OUTM, Appeal Ref 3177821) for up to 1,100 residential units and associated community uses
- Full planning permission (ref 20/00774/FULM) for engineering works, remediation and reclamation of the Site
- Full planning permission (ref 17/01072/FUL) for the construction of access roads at Boroughbridge Road and Millfield Lane and across the Former Manor School site

British Sugar remains committed to the delivery of the redevelopment of the Site and continues to work closely with Officers at City of York Council accordingly.

We trust that these representations will be taken into account in the further preparation of the draft CIL charging schedule. We wish to be notified of future updates to CIL by the Council and wish to participate in the CIL examination. We also reserve the right to provide further information, including supporting viability evidence, at or in advance of the CIL Examination.

Yours sincerely,

[Redacted signature]

[Redacted name]

Consultant - Town Planning

[Redacted contact information]

## City of York Community Infrastructure Levy Consultation Feb / Mar 2023

### Representations on Behalf of British Sugar March 2023

The following representations are submitted by Rapleys on behalf of British Sugar and are provided as responses to the specific questions set out in the Council's CIL Consultation Response Form.

#### 1a. The Community Infrastructure Levy (CIL) Viability Study informed the production of the proposed rates in the draft CIL Charging Schedule.

Do you have any comments on the content of the CIL Viability Study?

#### Response 1a:

1. Para 1.2 of the CIL Viability Study refers to the previous Local Plan and CIL viability testing undertaken by Peter Brett Associates 2017 and Porter PE in April 2018, and subsequent updates prepared for the local plan examination hearings. As acknowledged in para 1.2 of the Viability Study, these assessments focussed on viability testing the impacts of the draft Local Plan (rather than being prepared specifically for the purpose of informing a CIL tariff). Therefore, these assessments cannot be taken as robust evidence for the purpose of demonstrating the viability or otherwise of the proposed CIL tariffs.
2. It is important to note that Rapleys, on behalf of British Sugar, has previously made representations to the Peter Brett Associates 2017 assessment (in Rapleys Local Plan Reg 18 representations dated October 2017) which made it clear that British Sugar had significant concerns in relation to the assessment evidence base, and that British Sugar was therefore unable to confirm any of the inputs or assumptions that may have been used in the cited site specific assessment. British Sugar did not therefore accept that the document provided a correct approach to valuation of the site, but rather, based on our detailed knowledge of the site, the conclusions and viability results shown in respect of the British Sugar site were not considered to be correct.
3. These concerns on the viability evidence base for the draft Local Plan in respect of the British Sugar site were reiterated within Rapleys Hearing Statements for the draft Local Plan examination process. In particular, Rapleys Phase 2 Hearing Statement for Matter 6 – Infrastructure Requirements, Delivery and Development Viability (Ref HS/P2/M6/IR/6) set out that *'with specific reference to the viability and delivery of the British Sugar site, there are extant planning permissions informed by a bespoke site-specific viability assessment which demonstrate that the assumptions adopted by the Council in the Plan viability testing for this particular site are not accurate, particularly in respect of site preparation costs'*.
4. Therefore, it is clear that prior evidence on viability was prepared not for the purposes of CIL assessment, but rather, to inform Local Plan viability. Moreover, Rapleys on behalf of British Sugar has documented in previous representations its concerns as to the accuracy of these Local Plan viability assessments with regard to the findings for the British Sugar site.
5. This is important, as it is understood that the British Sugar site, unlike other strategic sites, has not been specifically assessed, in terms of viability assessment, within the CIL Viability Study. Rather, as explained at Para 4.5 of the Viability Study, strategic sites are tested, *'except for where they have an agreed planning application.'* It is our understanding, based on discussions with Officers undertaken as part of the preparation of these representations, that the British Sugar site was not therefore specifically tested within the Viability Study on

the basis that it benefits from an existing planning permission for residential led development (and therefore officers have assumed that as a pre-CIL permission, this development will not be subject to the proposed CIL tariff).

6. However, Section 6 of the Viability Study (Residential Viability Testing Results) then provides the viability results of the 'typologies' and the tested Strategic Sites, to identify the financial ability, or otherwise, of particular types of development, or Strategic Sites, to pay a CIL charge. However, the British Sugar site is not specifically tested in any of these strategic site assessments. Nor does it fit within any of the listed typologies assessed (the largest brownfield site typology being '140 dwellings'). In this respect there is no typology or site-specific assessment of the British Sugar site undertaken for the purposes of the CIL Viability Study.
7. Notwithstanding the above, para 6.22 of the Viability Study concludes that *'there is scope of setting a residential CIL charge on all strategic sites in the emerging Local Plan. After allowing a healthy financial buffer in the headroom, CIL could be comfortably set at around £100 psm on a number of strategic sites, without threatening delivery of these tested sites'*. However, as demonstrated in the preceding paragraphs, there is no site specific assessment of the British Sugar site in the CIL Viability Assessment that would support this conclusion for the British Sugar site, and as also identified above, previous viability assessments prepared for the draft Local Plan cannot be relied on as evidence for the CIL tariff, in particular given the serious concerns raised in respect of these previous viability assessment by Rapleys in the course of the draft Local Plan consultation process
8. At Section 4 of the CIL Viability Study, Porter Economics set out the Tested Viability Assumptions adopted to carry out their typology testing. It is acknowledged in the report that *'It is not always possible to get a perfect fit between a site, the site profile and cost/revenue categories for every site likely to come forward within the CYC area. So, in line with national guidance, a best-fit approach is used by testing typologies that reflect allocated sites within the emerging Local Plan and typical windfall sites, based on generic development assumptions relevant to the local area'*.
9. In fact, for the British Sugar site, it is possible to consider the specific viability constraints affecting the site as they were considered in detail during the Public Inquiry for the outline permission and are set out in the Viability Review Mechanism within the s.106 Agreement that accompanies that permission. One of the primary viability considerations relevant to the British Sugar Site is the cost of remediation and site preparation costs. These are identified as the Master Developer Works in the s.106 at £54,999,132. These costs date back to 2017 and would need to be subject to build cost inflation to current date. Based on a site area of 39.83 hectares, the Master Developer Works equate to £1,308,846 per gross hectare or £2,134,230 based on the net developable area of 25.77 hectares (these are unindexed costs).
10. However, at para 4.46 of the CIL Viability Study, Porter Economics have adopted a generic site costs rate of £400,000 per net developable hectare for their typology testing. It is understood that on the basis that there is no site-specific assessment of the British Sugar Strategic Site in the CIL Viability Study, it is this generic site cost rate that has been applied. It is evident therefore that adopting the actual Master Developer Costs would erode any 'Headroom per CIL Liable SQM' that may have been assumed for the British Sugar site within the Council's evidence.
11. Para 6.22 of the Viability Study acknowledges that *'there should be exceptions for several major sites since the CIL rate could potentially place these large strategic sites at risk of*

*non-delivery, and potentially undermine the emerging Local Plan. Also, these sites are already expected to support infrastructure investments that benefit the City through site specific s106 contributions.* These same justifications for exception apply wholeheartedly to the British Sugar site (ST1). The viability position for the British Sugar site is reflected in the bespoke viability review mechanism included within the s106 agreement associated with the approved outline planning permission for the development. This viability position reflects the commitment at the site to deliver significant social infrastructure that benefits the City through s106 contributions. In particular, the s106 agreement confirms that commitment, and contributions, for the delivery of the following social infrastructure, will be provided by the development:

- 2 x on site pre-schools
- 1 x on site primary school
- On site community / sports hall
- Community management organisation
- Secondary education contributions
- Offsite sport pitch improvements
- Local and strategic highways and infrastructure improvements

12. In summary therefore it is considered that the approach in the CIL viability study in respect of the British Sugar site is not a logical one, nor is it evidenced based, for the following reasons:

- The British Sugar site has not been specifically assessed within the CIL viability study, unlike other strategic sites.
- The site-specific viability assessments of the British Sugar site that have been undertaken for the Council previously (by Peter Brett and Porter Economics) were done primarily for the purposes of informing the draft Local Plan, rather than the proposed CIL charging schedule. Rapleys has documented the serious concerns with the robustness and accuracy of these assessments in their previous representations to the draft Local Plan.
- The justification given for not undertaking any site-specific viability assessment of the British Sugar site within the CIL Viability Study is that the site benefits from existing planning permissions (and therefore we understand that Officers have assumed that given these pre-CIL permissions, this scheme will not be CIL liable).
- Whilst it is accepted that there are arrangements in place for pre-CIL permissions, there remains the potential that amendments to the exiting permissions, or indeed fresh permissions, become necessary to ensure the further implementation and completion of the development at the British Sugar site. These permissions could become CIL liable.
- Despite not including any site specific assessment of the British Sugar site, the CIL Viability Study then fails to include it within the list of sites that where an exception is made. Rather, it is by default included with the strategic sites which would attract a CIL liability of £100 psm. However, there is no evidence contained within the CIL viability study to support this approach. Indeed as demonstrated in these representations, the

evidence on site preparation costs at the British Sugar site identifies that there would be no headroom to provide for CIL.

- Moreover, the justification for the identified 'exception' strategic sites in the charging schedule applies directly to the British Sugar site. Specifically, it is a large strategic site where the CIL rate could have an adverse impact on delivery and is a site that is supporting significant social infrastructure to the benefit of the City via a package of s106 obligations and contributions. These reasons for exception are therefore clearly applicable to the British Sugar site.

13. In this respect, it is considered that there is clear justification for the inclusion of the British Sugar Strategic Site (ST1) within the list of 'exception sites' that includes other strategic sites which are identified as having a £0 per sqm recommended charge in Table 8.1 of the Viability Study. The British Sugar site ST1 should therefore be included within this list of 'exception sites'.

**2a. Do the proposed levy rates set out in the draft CIL Charging Schedule appropriately reflect the conclusions of the CIL Viability Study?**

1. No. As set out in our response to Q1 above, there is no site-specific CIL viability evidence prepared in respect of the British Sugar strategic site ST1. The Council's reasoning for this is that the site benefits from an existing planning permission.
2. However as currently drafted, the Draft Charging Schedule does not include site ST1 in the list of 'excluded' strategic sites, and therefore, should it become necessary to secure a new outline or full permission for the development of the ST1 site in future, it would be included with other strategic sites deemed capable of funding a £100psm rate for new residential floorspace within the Draft Charging Schedule, despite there being no relevant CIL viability assessment evidence to support or justify this position.
3. The British Sugar site will provide significant social infrastructure, and the specific viability arrangements associated with the delivery of the site (including this extensive social infrastructure) is reflected in the bespoke viability mechanisms included within the s106 obligations for the approved planning permission (Ref 15/00524/OUTM).
4. In this respect, it is considered that there is clear justification for the inclusion of the British Sugar Strategic Site (ST1) within the list of 'exception sites' that includes other strategic sites identified as having a £0 per square m. charge in the Draft Charging Schedule.

**3a. Do the proposed levy rates set out in the draft CIL Charging Schedule provide an appropriate balance between securing infrastructure investment and supporting the financial viability of new development in the area?**

1. No. See response to Question 1a and 2a above.

**4a. CIL rates should not be set at a level which could render new development financially unviable. To ensure the financial viability of new development in the area, and to take into account variations in land prices and development costs throughout the authority's area, the draft CIL Charging Schedule proposes variable rates for different kinds of development. Do you have any comments on the proposed CIL rates?**

1. Yes – see responses to Questions 1a, 2a above.

5a. Should any types of development be charged a different CIL rate, and if so, why? Where alternative rates are proposed, please provide evidence to demonstrate why a proposed rate should be changed.

1. Yes – see responses to Questions 1a and 2 above.

6a. To support the financial viability of new development in the area, the draft CIL Charging Schedule includes an Instalments Policy which allows specified levels of levy charges to be paid in instalments over a set period of time. Do you have any comments on the draft Instalments Policy?

1. We support the proposed agreement of project specific payment schedules for sites with overall CIL liabilities of £500,000 or more.

7a. Part 6 of the CIL Regulations (as amended) allows the Council to give discretionary relief for certain types of development from paying the levy. The Council has not identified any types of development which may require this beyond the compulsory relief and exemptions outlined in the Regulations.

Is there a need to provide discretionary relief from the levy to any types of development, and if so, why?

1. N/A

8a. Do you have any other comments on the draft CIL Charging Schedule?

1. No

9a. Do you have any other comments on the CIL evidence base?

1. The Viability Study 2022 refers at para 1.2 to previous viability assessment work undertaken on behalf of the Council. As set out in our response to Question 1 above, this information was prepared for the purpose of informing the draft Local Plan, and not specifically prepared for the purposes of informing the CIL Charging Schedule. In particular, reference is made to the 'City of York Local Plan Viability Update Addendum' (Ref HS/P2/M6/IR/1b App 2). This document was prepared on behalf of the Council during the Local Plan Examination and included an assessment of the impact of changes to the draft Local Plan that had taken place since the publication of the Porter 2018 sites, assessing the strategic sites (including British Sugar). It is noted that this document was prepared for the purposes of the Local Plan rather than the CIL consultation. In addition, consistent with Rapleys previous representations to the Local Plan viability evidence base (cited in our response to question 1a above) it is not accepted that this document provides a correct approach to valuation of the British Sugar site, but rather, based on our detailed knowledge of the site, the conclusions and viability results shown in respect of the British Sugar site are not considered to be accurate. For this reason, this Local Plan evidence base material cannot be relied upon for the purposes of preparing the draft CIL Charging Schedule.







# Letter to [REDACTED] 27.03.2023

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Directorate of Place  
West Offices  
Station Rise  
York  
Y01 6GA

By email only to [localplan@york.gov.uk](mailto:localplan@york.gov.uk)

Our ref NJ/1119/114/3  
Date 26 January 2024

Dear Sir / Madam

## **City of York Council – Community Infrastructure Levy (CIL) Draft Charging Schedule – Proposed Modifications December 2023 – Representations on behalf of British Sugar Plc**

We write on behalf of our client, British Sugar Plc, to submit representations to the above consultation on the proposed modifications to the CIL draft charging schedule.

British Sugar remains committed to facilitating the redevelopment of the British Sugar site and continues to work closely with officers at City of York (CYC) accordingly.

The background and current planning framework for the British Sugar site was set out in our previous representations of 27 March 2023 (enclosed). Since that time, British Sugar has submitted a further 's73' application for the British Sugar site (ref 23/02302/FUL) which seeks approval for minor amendments to the approved outline masterplan permission at the site, to enable its onward delivery.

In terms of the consultation on the proposed modifications to the draft charging schedule, we **strongly object** to the proposed modifications. The reasons for this objection are set out below.

The previous version of the Draft Charging Schedule (December 2022), in effect, included the British Sugar Site (Strategic Site ST1) within the strategic sites to which the £100 per sq m CIL rate would be applicable.

Our representations of March 2023 set out the reasons for objection to this position, and the clear justification for the inclusion of the British Sugar site within the list of strategic sites to which the £0 per sq m CIL rating should apply.

Our previous representations have not however been reflected in the revised draft charging schedule.

Rather, following correspondence with officers in the Strategic Policy Team to clarify the potential application of the revised draft charging schedule to the British Sugar site, it is understood that future applications and development on the site could be subject to the £200 per sq m rate identified for residential dwellings, given that the site is not specifically identified as one of the strategic sites that benefits from the lower ratings.

In effect therefore, the CIL rate that could be applied to future residential development at the British Sugar site has doubled since the December 2022 consultation, to £200 per sq m, as a result of the proposed modifications to the draft charging schedule currently being consulted on.

However, as set out in our representations of March 2023, there was no evidence contained within the CIL Viability Study at that time to support the £100 per sq m rate proposed, and there is no assessment or evidence contained within the CYC CIL Viability Study Addendum Nov 2023 (the evidence base document used to justify the revised draft charging schedule) that supports the doubling of the CIL rate applicable to the British Sugar site.

Officers have confirmed in recent correspondence that they recognise that the viability position at the British Sugar site (as referenced in our March 2023 representations) would mean that an 'exceptional circumstances' case could apply in respect of the application of the CIL rate in the future. However this is not considered to represent a justified or evidenced based approach to the preparation of the CIL charging schedule as it relates to the British Sugar site.

Specifically therefore, we reiterate our representations made in March 2023, as follows:

- The British Sugar site has not been specifically assessed within the CIL viability study (or the addendum), unlike other strategic sites.
- The site-specific viability assessments of the British Sugar site that have been undertaken for the Council previously (by Peter Brett and Porter Economics) were done primarily for the purposes of informing the draft Local Plan, rather than the proposed CIL charging schedule. Rapleys has documented the serious concerns with the robustness and accuracy of these assessments in their previous representations to the draft Local Plan.
- The justification given for not undertaking any site-specific viability assessment of the British Sugar site within the CIL Viability Study is that the site benefits from existing planning permissions (and therefore we understand that Officers have assumed that given these pre-CIL permissions, the British Sugar development will not be CIL liable).
- Whilst it is accepted that there are arrangements in place for pre-CIL permissions, there remains the potential that amendments to the existing permissions, or indeed fresh permissions, become necessary to ensure the further implementation and completion of the development at the British Sugar site. These permissions could become CIL liable.
- Despite not including any site specific assessment of the British Sugar site, it is by default included in the revised draft charging schedule as a site which would potentially be subject to a CIL rate of £200 psm. There is no evidence contained within the CIL viability study or addendum to support this approach. Indeed as demonstrated in our March 2023 representations, the evidence on site preparation costs at the British Sugar site identifies that there would be no headroom to viably provide for CIL.
- Moreover, the justification for the identified £0 rated 'exception' strategic sites in the draft charging schedule applies equally to the British Sugar site. Specifically, it is a large strategic site where the CIL rate could have an adverse impact on delivery and is a site that is supporting significant social infrastructure to the benefit of the City via a package of s106 obligations and contributions. The cited reasons for exception at other sites are therefore clearly and equally applicable to the British Sugar site.

In this respect, it is considered that there is clear justification for the inclusion of the British Sugar Strategic Site (ST1) within the list of 'exception sites' which are identified as having a £0 per sqm CIL rate in the draft charging schedule. The British Sugar site ST1 should therefore be included within this list of 'exception sites'.

We trust these representations will be fully taken into account in the further preparation of the CIL charging schedule. We wish to be notified of any future updates to the draft CIL by the Council and wish to reserve the right to participate in the CIL examination.

In addition, at the time of writing we are awaiting a further response from the Strategic Policy Team in relation to our recent correspondence regarding this consultation. On this basis, we reserve the right to amend our representations, or make further comment, following receipt of this response, post the consultation deadline of 31<sup>st</sup> January 2024, as necessary.

Yours faithfully

A redacted signature block consisting of three lines of blacked-out text. The first line is a single horizontal bar. The second and third lines are longer and have a stepped, descending appearance from left to right, suggesting a signature or a name with a title.

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2024-01-26

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