

City of York Council

Examination of the City of York Local Plan 2017 – 2033

Schedule of Matters, Issues and Questions for the Examination

Phase 1 Hearings

Legal Requirements The Housing Strategy: Need, Requirement & Spatial Distribution The Approach to the Green Belt

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Where respondents answering the following questions identify a deficiency in the Local Plan they should make clear how it should be changed.

In accordance with the Transitional Arrangements set out in Annex 1 of the revised National Planning Policy Framework (February 2019), where a plan is being examined that was submitted on or before 24 January 2019, the policies in the previous 2012 version of the Framework will continue to apply, as will any previous guidance which has been superseded. Accordingly, the Local Plan is being examined against the National Planning Policy Framework 2012. As such, all further references in this document to the 'National Planning Policy Framework' and 'the Framework' are to the 2012 version.

Matter 1 – Legal requirements

Duty to cooperate

- 1.1 What are the strategic, cross-boundary issues of relevance to the Local Plan ('the Plan')? How does the strategy address them?
- 1.2 What actions have been taken in relation to the 'duty to cooperate'?
- 1.3 What have been the outcomes of the actions taken in relation to the 'duty to cooperate'?
- 1.4 How does the Plan address those outcomes?
- 1.5 Overall, has the Plan been prepared in accordance with the 'duty to cooperate' imposed by Section 33A of the Planning & Compulsory Purchase Act 2004 (as amended)?

In answering the above questions, we ask that the Council includes specific reference to identifying Housing and Functional Economic Market Areas, meeting housing needs, the Green Belt approach and the delivery of necessary infrastructure (e.g. school places).

Other legal requirements

- 1.6 Has the Plan been prepared in accordance with the Council's Statement of Community Involvement and met the minimum consultation requirements in the relevant Regulations?
- 1.7 Has the Plan's formulation been based on a sound process of sustainability appraisal and testing of reasonable alternatives, and is the Sustainability Appraisal (SA) [CD009, CD010 & CD011] adequate?
- 1.8 Does the Plan include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change?
- 1.9 Does the Plan comply with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations?

In answering the following questions, we ask respondents to have regard to the submitted Habitat Regulations Assessment (HRA) [CD012] and the updated HRA [EX/CYC/14c], dated February 2019. Discussions at the hearings will be based on these documents.

- 1.10 Has the Habitats Regulations Assessment (HRA) [CD012] and its Update [EX/CYC/14c] been undertaken in accordance with the Regulations? Has Natural England confirmed that the information set out in the HRA and the Updated HRA is sufficient and that the conclusions drawn are supported? Specifically;
- a) Have mitigation measures been taken into account at the Screening stage (Stage 1)? If so, why?
 - b) Have all mitigation measures been considered as part of Appropriate Assessment (Stage 2)?
 - c) Have any 'in combination' effects been taken into consideration?
 - d) Have any other possible mitigation measures been considered?
- 1.11 With regard to the impact on Sites ST35 and H59, as a result of the *Updated HRA* [EX/CYC/14c]:
- a) What mitigation measures for those sites were initially considered to be acceptable?
 - b) Why are these mitigation measures relating to those sites no longer considered acceptable?
 - c) Have alternative mitigation measures been considered? If so, are there any that would satisfactorily address the problems identified?

Matter 2 – The housing strategy: the objectively assessed need for housing, the housing requirement and the spatial distribution of housing

The Housing Market Area (HMA)

- 2.1 We understand that the Council considers York to be within an HMA which includes the City of York and the area of Selby District Council, but that the two Councils are identifying housing need within their administrative areas separately.
- a) Is that correct? If so:
 - b) Is the identification of the HMA formed on a robust evidential basis?
 - c) What is the justification for assessing housing needs separately?

The objectively assessed housing need

- 2.2 Policy SS1 and Paragraph 3.3 of the Plan say that the objectively assessed housing need ('the OAHN') is 867 dwellings per annum (dpa) in the Plan Area for the plan period to (2017 to 2033) (16 years). However, since the submission of the Plan for examination, the Council has put forward further evidence to indicate that the OAHN is now considered to be 790 dpa in the Plan Area for 2017 to 2033.
- a) We understand that this calculation initially was derived from the conclusions of Technical Work carried out by GL Hearn in the *Strategic Housing Market Assessment Update (2017)* [SD050] which updated the demographic baseline for York based on the July 2016 household projections. However, the revised OAHN is now based on further work undertaken by GL Hearn presented within the *City of York – Housing Needs Update (January 2019)* [EX/CYC/9]. Is this correct? Is this a robust evidential basis?
 - b) Does the 13,152 total housing figure identified at the year '2032/33' in the *SHLAA Figure 6: Detailed Housing Trajectory Updated (790dpa OAHN)* [EX/CYC/16] include meeting housing need arising in parts of adjoining districts (e.g. Hambleton, Harrogate, East Riding, Ryedale and Selby) which fall within the York Housing Market Area, as set out in the *City of York Strategic Housing Market Assessment 2016* [SD051]?
 - c) Do the adjoining local planning authorities accept the initial OAHN of 867 dwellings per annum, as Policy SS1 indicates in the submission Local Plan? Do the adjoining local planning authorities accept the revised OAHN of 790 dpa, and if so, are they basing their housing need in the context of that OAHN figure?
- 2.3 What methodological approach has been used to establish the OAHN, and does it follow the advice set out in the Planning Practice Guidance (under the heading '*Methodology: assessing housing need*')? In particular:
- a) Have market signals been taken into account?
 - b) Have employment trends been taken into account? If so, how, and what conclusions are drawn in this regard?
 - c) Does the OAHN provide enough new homes to cater for those taking up the new jobs expected over the plan period?
 - d) Overall, has the OAHN figure been arrived at on the basis of a robust methodology?
 - e) Does the revised OAHN figure (790 dpa) take account of all housing needs, including the need for affordable housing and any need that may be the consequence of any shortfall in housing delivery before the plan period?
- 2.4 Policy SS1 aims to ensure that around 650 new jobs are provided annually. Does either the OAHN identified or the housing requirement set out in Policy SS1 cater for the homes

needed to meet this level of economic growth? What is the relationship between the number of new jobs anticipated and the OAHN and/or the housing requirement?

The housing strategy: the housing requirement

- 2.5 Policy SS1 aims to ensure that *“a minimum annual provision of 867 new dwellings [are delivered] over the plan period to 2032/33 and post plan period to 2037/38”*.
- a) Is this 867 figure an annual average, or is it a commitment to providing at least that number during every year of the plan period and post plan period? Is it intended to be a net figure?
 - b) For the avoidance of any doubt, what period of time is the plan period?
 - c) Is the “plan period” the period of time for which the Plan and its policies will be in force as part of the development plan? Related to this, is it legitimate, or possible, for a development plan to include policies which purport to dictate or direct development beyond the “plan period”, as Policy SS1 appears to?
 - d) At 867 dpa, the housing requirement is higher than the OAHN of 790 dpa. Why?
 - e) Does setting a housing requirement that is higher than the OAHN undermine the Council’s arguments in relation to the justification for releasing land from the Green Belt for housing purposes – that is to say, does it reduce the degree to which “exceptional circumstances” exist, in principle, for amending the Green Belt boundaries for housing delivery purposes?
- 2.6 Will the housing requirement ensure that the need for affordable housing will be met?
- 2.7 Overall, is the housing requirement set out in the plan underpinned by robust evidence and is the Plan sound in this regard?

The housing strategy: spatial distribution

- 2.8 The Plan’s development strategy is set out in Policy SS1. This provides five spatial principles to guide the location of development through the plan. In broad terms, is this the most appropriate spatial strategy?
- 2.9 Policy SS1 says that the location of development will be guided by the five spatial principles. However, the Plan strategy does not quantify the spatial distribution of new housing across the Plan area.
- a) What is the overall distribution of new housing proposed through the Plan? Should it be clearer in this regard? Does the Key Diagram provide sufficient illustration of the broad distribution of new housing across the Plan Area?

- b) What level of new housing is directed towards the city centre and other parts of the Plan Area?
- c) How has this distribution been arrived at and what is the justification for it?
- d) Is the distribution consistent with the overall approach set out in Policy SS1?
- e) Is the distribution of housing supported by the SA and will it lead to the most sustainable pattern of housing growth?
- f) Has the Green Belt and/or any other constraints influenced the distribution of housing and, if so, how?

2.10 Overall, is the spatial distribution of housing justified and is the Plan sound in this regard?

Matter 3 – Green Belt: principles, the approach to defining the Green Belt boundaries, exceptional circumstances and the approach to identifying land to be ‘released’ from the Green Belt for development

The questions concerning Green Belt are aimed at the strategic level. Later questions during the Phase 2 hearings will address the issue of exceptional circumstances and other issues in relation to specific sites. In responding to the following questions, consideration should be in the context of the Council’s Topic Paper 1 relating to the Green Belt [CD021], the Council’s Topic Paper 1: Addendum [EX/CYC/18] and the proposed alterations and modifications to the Plan resulting from that document, set out in Annex 6 [EX/CYC/18a].

Principles

- 3.1 Paragraph 10.1 of the Plan states that “*the plan creates a Green Belt for York that will provide a lasting framework to shape the future development of the city*”. For the purposes of Paragraph 82 of the National Planning Policy Framework, is the Local Plan proposing to establish any new Green Belt?
- a) If so, what are the exceptional circumstances for so doing, and where is the evidence required by the five bullet points set out at Paragraph 82 of the Framework?
 - b) If not, does the Local Plan propose to remove any land from the established general extent of the Green Belt? If it does, is it necessary to demonstrate that exceptional circumstances exist to warrant that approach? Or is it the case that the Local Plan establishes the Green Belt boundaries for the first time, such that the exclusion of land from the Green Belt – such as at the ‘garden villages’, for example – is a matter of establishing Green Belt boundaries rather than altering them, in the terms of Paragraph 82 of the Framework?

We recognise that the Council has responded to us on this point previously. As such, a concise summary is all we require from the Council in relation to the above questions.

The approach to defining the Green Belt boundaries

The questions under this heading relate to the proposed broad 'inner' and 'outer' Green Belt boundaries. They do not relate to Green Belt boundaries around land proposed to be 'removed' from the Green Belt.

- 3.2 Paragraph 1.1.1 of the Council's "Approach to defining York's Green Belt" Topic Paper (TP1) [CD021] says "York's Local Plan will formally define the boundary of the York Green Belt for the first time." How has the Council approached the task of delineating the Green Belt boundaries shown on the Policies Map? In particular:
- a) How has the need to promote sustainable patterns of development been taken into account?
 - b) With regard to Paragraph 84 of the Framework, how have the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary been considered?
 - c) How do the defined Green Belt boundaries ensure consistency with the Local Plan strategy for meeting identified requirements for sustainable development and/or include any land which it is unnecessary to keep permanently open?
- 3.3 Will the proposed Green Belt boundaries need to be altered at the end of the Plan period? To this end, are the boundaries clearly defined, using physical features that are readily recognisable and likely to be permanent? What approach has the Council taken in this regard?
- 3.4 Should the Plan identify areas of 'safeguarded land' between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period?
- 3.5 Overall, are the Green Belt boundaries in the plan appropriately defined and consistent with national policy in the National Planning Policy Framework, and is the Plan sound in this regard?

Exceptional circumstances

- 3.6 Paragraph 83 of the National Planning Policy Framework is clear that Green Belt boundaries should only be altered in exceptional circumstances. It appears that the Plan proposes to 'release' some land from the Green Belt by altering its boundaries. In broad terms:
- a) Do the necessary exceptional circumstances exist to warrant the proposed alterations to Green Belt boundaries, in terms of removing land from the Green Belt? If so, what are they?
 - b) What relationship, if any, is there between the exceptional circumstances leading to the

alterations proposed to the Green Belt and the proposed spatial strategy/distribution of new housing?

- c) What is the capacity of existing urban areas to meet the need for housing and employment uses?
- d) Is there any non-Green Belt rural land which could meet all or part of the District's housing and employment needs in a sustainable manner (having regard to any other significant constraints)?
- e) What is the justification for excluding the identified Strategic Sites (e.g. ST7, ST8, ST14 and ST15) from the Green Belt?

In answering the above questions, we ask the Council to explain:

- (i) The acuteness of the objectively assessed need for housing and the need for employment land*
- (ii) The inherent constraints on supply/availability of land for sustainable development (housing and employment development)*
- (iii) The consequent difficulties in achieving sustainable housing and employment development without impinging on the Green Belt*
- (iv) The nature and extent of the harm to the Green Belt (or those parts of it that would be lost)*
- (v) The extent to which the consequent impacts on the purposes of the Green Belt may be ameliorated or reduced to the lowest reasonably practicable extent.*

Points (iv) and (v) should be dealt with in general terms – we ask this question on a site-specific basis under future matters.

The approach to identifying land to be 'released' from the Green Belt for development

- 3.7 How has the land proposed to be removed from the Green Belt been selected? Has the process of selecting the land in question been based on a robust assessment methodology that:
- a) reflects the fundamental aim of Green Belts, being to prevent urban sprawl by keeping land permanently open;
 - b) reflects the essential characteristics of Green Belts, being their openness and permanence;
 - c) takes account of both the spatial and visual aspects of the openness of the Green Belt, in the light of the judgements in *Turner*¹ and *Samuel Smith Old Brewery*²;

¹ *Turner v SSCLG & East Dorset Council* [2016] EWCA Civ 466

² *Samuel Smith Old Brewery (Tadcaster) & Oxtan Farm v North Yorkshire CC & Darrington Quarries Ltd* [2018] EWCA Civ 489

- d) reflects the five purposes that the Green Belt serves, as set out in Paragraph 80 of the Framework; and
- e) takes account of the need to promote sustainable patterns of development?

We ask that the Council's response to the above questions addresses all the points mentioned in Paragraph 84 of the National Planning Policy Framework.

- 3.8 Have the Green Belt boundaries - as proposed to be altered - been considered having regard to their intended permanence in the long term? Are they capable of enduring beyond the plan period?
- 3.9 In this regard, what is the justification for the proposed alterations to the Green Belt boundary, as set out in *Annex 6* of the *Topic Paper 1: Addendum [EX/CYC/18]*?
- 3.10 Overall, is the approach to identifying land to be 'released' from the Green Belt robust, and is the Plan sound in this regard?

The above questions are aimed at the strategic level. Later questions for the Phase 2 hearings will address the issue of long term permanence in relation to specific sites.