

City of York Council
Examination of the City of York Local Plan
2017 – 2033

Phase I Hearings

Matter I

Legal Requirements

SUBMISSION ON BEHALF OF:

Galtres Garden Village Development Company

RESPONSE TO SCHEDULE OF MATTERS, ISSUES
AND QUESTIONS FOR THE EXAMINATION



Chartered Town Planning Consultants

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CONTENTS

I.0 RESPONSE TO MATTER I

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1.0 MATTER 1 – LEGAL REQUIREMENTS

Duty to Cooperate

In answering questions 1.1 to 1.5, 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).

*What are the strategic, cross-boundary issues of relevance to the Local Plan ('the Plan')?
How does the strategy address them?*

We will rely on our previous representations if we join the debate on this question at the Examination.

*1.1 What are the strategic, cross-boundary issues of relevance to the Local Plan ('the Plan')?
How does the strategy address them?*

We will rely on our previous representations if we join the debate on this question at the Examination.

1.2 What actions have been taken in relation to the 'duty to cooperate'?

We will rely on our previous representations if we join the debate on this question at the Examination.

1.3 What have been the outcomes of the actions taken in relation to the 'duty to cooperate'?

We will rely on our previous representations if we join the debate on this question at the Examination.

1.4 How does the Plan address those outcomes?

We will rely on our previous representations if we join the debate on this question at the Examination.

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)?

1.5.1 In our representations on the 2018 Publication Draft Plan we drew attention to the representations made on the Pre-Publication Draft Plan from adjoining District Councils (Hambleton and Selby) and other prescribed bodies such as the Leeds City Region LEP expressing concerns about the approach to Green Belt and housing provision.

1.5.2 The Inspectors are in no doubt aware of similar concerns from other neighbouring authorities, for example Harrogate BC, expressed at various stages of the Plan.

1.5.3 Section 33A of the Act, deals with duty to co-operate in relation to planning of sustainable development, and sets out the various legal requirements to fulfil that duty. In particular subsection 2 of Section 33A required that:

- (2) In particular, the duty imposed on a person by subsection (1) requires the person—*
 - (a) to engage constructively, actively and on an ongoing basis in any process by means of which activities within subsection (3) are undertaken, and*

1.5.4 In other words, the 'cooperation' must be meaningful and have a clear outcome and is more than consultation.

1.5.5 The response from some adjoining authorities to the proposed Modifications suggests they remain to be convinced about the approach to defining Green Belt Boundaries.

1.5.6 In that context we would question whether the requirement of subsection 2 of Section 33A of the Act have been complied with. We address this matter again in our response to question 2.2c.

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?

We will rely on our previous representations if we join the debate on this matter at the Examination.

- 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?*

We will rely on our previous representations if we join the debate on this question at the Examination.

- 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?*

We will rely on our previous representations if we join the debate on this question at the Examination.

- 1.9 Does the Plan comply with all other relevant legal requirements, including in the 2004 Act (as amended) and the 2012 Regulations?*

We will rely on our previous representations if we join the debate on this question at the Examination.

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;*

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- 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]:*

We will rely on our previous representations if we join the debate on this question at the Examination.

- 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?*