

City of York Local Plan 2017-2033

Hearing Statement prepared on behalf of Level Developments Limited (Reference ID:260 (CD014A))

Matter 1 – Legal Requirements

1. Introduction and Context

- 1.1 This Hearing Statement has been produced by Pegasus Group on behalf of our client, Level Developments Limited.
- 1.2 In accordance with the transitional arrangements set out in Annex 1 of the revised National Planning Policy Framework (February 2019), it is understood that the plan is being examined against the previous 2012 version of the Framework. All references within this hearing statement to the National Planning Policy Framework (NPPF) therefore relate to the 2012 version, unless otherwise stated.
- 1.3 Our client wishes to ensure that the City of York Local Plan (CYLP) is prepared in a robust manner that passes the tests of soundness contained in paragraph 182 of the NPPF, namely that the plan is:
 - Positively Prepared;
 - Justified;
 - Effective; and
 - Consistent with national policy.
- 1.4 The CYLP also needs to be legally compliant and adhere to the Duty to Cooperate.
- 1.5 Our client submitted representations to the various stages of plan production including the Publication Draft and Proposed Modifications. These representations identified several elements where we believe the CYLP is unsound and not legally compliant.

2. Response to the Inspector's Matter1 Issues and Questions

2.1 We welcome the opportunity to comment on the Inspector's Matters, Issues and Questions and provide the following responses to selected questions in so far as they relate to our previous representations.

Duty to Cooperate

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

2.2 Throughout the production of the CYLP we have raised concerns with regards to the housing requirement and Green Belt. These are both cross-boundary issues which require cooperation from neighbouring authorities.

2.3 The NPPF, paragraph 156, identifies that the homes and jobs needed within an area is a strategic priority. The NPPF further emphasises that for local planning authorities to have a clear understanding of housing needs in their area they should;

*"...prepare a Strategic Housing Market Assessment to assess their full housing needs, **working with neighbouring authorities where housing market areas cross administrative boundaries...**"* (Pegasus emphasis, NPPF paragraph 159)

2.4 In addition, they have;

*"...a duty to cooperate on planning issues that cross administrative boundaries, particularly those which relate to the **strategic priorities** set out in paragraph 156"* (Pegasus emphasis, NPPF, paragraph 178); and *"Local planning authorities should work collaboratively with other bodies to ensure that strategic priorities across local boundaries are properly coordinated and clearly reflected in individual Local Plans..."* (NPPF paragraph 179)

2.5 The September 2014 Duty to Cooperate Statement (SD013) is clear that housing growth and the Green Belt boundary are strategic issues for York which require cooperation with neighbouring authorities (table 5.3).

2.6 The 2016 Strategic Housing Market Assessment (2016 SHMA) (SD051) identifies that the City of York interacts with all neighbouring authorities but concludes that it

is within a housing market area which also covers Selby (paragraphs 2.103 and 2.106). Subsequent iterations of the SHMA and Duty to Cooperate statements have not sought to demur from this position.

- 2.7 Given these clear links it is imperative that housing need is adequately assessed across administrative boundaries.

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

- 2.8 Despite the housing market area conclusions of the 2016 SHMA the Council's assessment of housing need and all following iterations have been undertaken upon a sole authority basis. This is despite the NPPF requirement for local authorities "*..to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries..*" (paragraph 159). It is acknowledged that it may not always be practical, due to differing plan preparation timescales, for joint commissioning of such studies. However, the relevant assessment of housing need should consider the requirements across the full housing market area, rather than a portion of that area. This is discussed in greater detail within our matter 2 hearing statement and comments upon the CYLP Proposed Modifications consultation.
- 2.9 The 2016 SHMA and following iterations fail to consider the whole housing market area and as such are not considered sound. In terms of the duty to cooperate the Council has engaged in meetings and has consulted neighbouring authorities. It is the efficacy of this engagement that raises concern.
- 2.10 In addition, some authorities, including Harrogate also raise the issue of Green Belt and the longevity that the proposed boundary will provide (table 1, EX/CYC/23). Our client has similar concerns, this is discussed in greater detail within our matter 3 statement and comments upon the CYLP Publication consultation.

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

- 2.11 The National Planning Practice Guidance (PPG) provides advice upon compliance with the duty to co-operate, it states;
"...Local Planning Authorities should have explored all available options for delivering the planning strategy within their own planning area. They should also have approached other authorities with whom it would be sensible to seek to work to deliver the planning strategy..." (ID 9-003); and

"Cooperation between local planning authorities, county councils and other public bodies should produce effective policies on strategic cross boundary matters.

Inspectors testing compliance with the duty at examination will assess the outcomes of cooperation and not just whether local planning authorities have approached others." (ID 9-010)
- 2.12 In response to the Council's latest iteration of the proposed housing requirement the responses from statutory consultees are generally passive. Whilst most do not object to the revised housing need it is unclear what, if any, active engagement there has been to assess the likely impact across the housing market area. Some comments simply state; *"...will need to satisfy itself that, in light of its refreshed evidence on housing need, the City of York Local Plan will meet the tests of soundness"*.
- 2.13 In terms of Green Belt it is notable that Harrogate BC continue to raise concerns regarding the longevity of the Green Belt. We share this concern.
- 2.14 The lack of evidence or joint working upon housing need and consideration of longer-term development needs through the provision of safeguarded land are considered to be a flaws in the outcomes from the engagement undertaken by the Council.

Question 1.4) How does the Plan address those outcomes?

- 2.15 This is covered in detail within our matter 2 and 3 hearing statements.

Question 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)?

2.16 I refer the Inspectors to the comments provided above.

Questions 1.6 to 1.11

2.17 Our Client does not have any specific comments to make in response to these questions, nevertheless they reserve the right to make further representations in so far as they may affect their land interest.