

# CITY OF YORK LOCAL PLAN EXAMINATION

## MATTER 1: LEGAL REQUIREMENTS

### STATEMENT BY FULFORD AND HESLINGTON PARISH COUNCILS

NOVEMBER 2019

#### **Q1.1: Strategic Cross-Boundary Issues**

- 1 One of the main strategic cross-boundary issues is how development requirements over the relevant housing and economic market areas should be met. These market areas extend well beyond the boundaries of the City of York. The York housing market area includes large parts of Ryedale, Hambleton, Selby and East Riding. Our Matter 2 Statement gives more details. Similarly the York economic market area corresponds approximately to the York Travel-to-Work Area which again extends into the same districts.
  
- 2 Submitted Local Plan (SLP) Policy SS1 takes the view that York should meet all its development needs within its own boundaries. This assumption has been a constant since the start of the plan-making process at least ten years ago. Consequently, CYC has not attempted to examine whether it would be more sustainable to meet needs over a wider area. EX/CYC/018 (7.85-7.94) refers to discussions with neighbouring local authorities but the only reference to a request by CYC for these authorities to consider taking some of York's development needs was in September 2015. By that time the plan preparation process in the neighbouring authorities was so well-advanced that it was too late for them to respond positively (7.89). After this there was no further attempt by CYC to ask neighbouring authorities to consider meeting part of York's needs.
  
- 3 Linked to this, the Council has not carried out (or at least documented) the test set out in NPPF1 paragraph 14 second paragraph second bullet point of assessing whether fully meeting needs would have "*adverse impacts*" that "*would significantly and demonstrably outweigh the benefits, when assessed against the policies in (the) Framework taken as a whole*" or would contravene "*specific policies in (the) Framework (which) indicate development should be restricted.*" If either circumstance applies, NPPF1 paragraph 14 would support the position that at least part of York's development needs should be met outside its administrative boundaries.
  
- 4 The SLP accepts that York is a historic city of international importance. The City Vision 2030 refers to it as a "*world-famous historic city.*" From this, it must follow that protection of the

special qualities of the historic city is a matter which must be given the greatest weight in planning decisions, including those where NPPF1 paragraph 14 arises. There is also evidence of significant harm to these special qualities. The Heritage Impact Appraisal [SD101] accepts that the open land setting of York is an integral part of its special character. However much of this open land setting will be damaged by the SLP development proposals. Also, there would also be substantial harm to the quality of life in the City through worse air quality and traffic congestion, including within some of its conservation areas. We give further details in our Matter 3 Statement. FPC therefore considers that the adverse impacts of fully meeting needs within York's boundaries would significantly and demonstrably outweigh the benefits, and some of these needs should be met elsewhere in the housing and economic market areas.

- 5 Despite attempts to the contrary (EX/CYC/18 paras 7.116 and 7.117), the Council cannot credibly argue that the proposed development allocations would cause little harm to the setting and special character of the City. We analyse this at some depth in our Matter 3 statement. Even the Council's own documentation does not support the case that little harm would be caused. EX/CYC/18 Figure 7 shows some of the SLP development allocations as lying within "*strategic areas*" which need to be kept "*permanently open*", including ST14 and ST15. Similarly, SD101 does not argue that significant harm would not be caused to the special character and setting of the historic city by the development of the large strategic sites such as ST14 and ST15. Instead it merely asserts that the harm would be less than the development of some peripheral sites. There is no attempt to examine whether the harm is sufficient to justify locating some development needs beyond the boundaries of the York local authority.
- 6 For these reasons, FPC considers that some of York's development needs should be met outside its administrative area and that this would be consistent with NPPF1(14). It is a significant cross-boundary issue that should have been addressed in the plan-making process.

### **Qs 1.2 to 1.5: The Duty to Co-operate**

- 7 FPC considers that the above matters go to the soundness of the Plan, including the issue of exceptional circumstances. It has not sought to argue in its representations that the Council has failed to comply with the Duty to Co-operate.

### **Q1.6: Statement of Community Involvement**

- 8 No comments

## **Q1.7: Sustainability Appraisal**

- 9 FPC considers that the sustainability appraisal (SA) accompanying the Proposed Modifications (EX/CYC/24a-c] is significantly flawed in respect of its assessment of the amended housing requirement, the failure to reduce the housing provision made by the Plan in the light of the reduced OAHN, and the deletion of Policy SS19 for Queen Elizabeth Barracks, Strensall. Similar comments can be made about inadequacy of the assessment in the SA accompanying the SLP but FPC did not make representations about it at Publication stage because of lack of time.
- 10 A SA should appraise the relevant local plan proposal/policy and the reasonable alternatives to it. However, the June 2019 PMSA does not appraise any of the up-to-date reasonable alterations to the 790dpa requirement which are set out in the January 2019 GL Hearn report including the demographic starting point or a variant of it with a market signals adjustment. The only alternatives appraised are higher requirements which are agreed by the Council either to be out-of-date (867dpa derived from the 2014-based SNHP and the 953dpa derived from the 2014-based SNHP plus a market signals adjustment) or not in accord with Government policy (the 1070dpa based on the standard methodology which is not applicable to this Plan).
- 11 The PMSA does not appraise the sustainability implications of the decision of the Council not to reduce the amount of the proposed housing supply in the light of the significantly lower housing requirement (1262 dwellings less than the SLP requirement). If it had done so, it would have found very substantial benefits from reducing supply to most of the SA objectives, especially objectives 8, 9, 11, 14 and 15. There would be no harm to other SA objectives as housing needs would continue to be met. This failure means that the conclusions set out in paragraph 5.4.8 of the PMSA are incorrect and cannot be justified.
- 12 The PMSA fails to recognise the environmental harm which will be caused by the deletion of the Queen Elizabeth Barracks Strensall site as a strategic site for housing development and its inclusion within the Green Belt. The site is mainly brownfield. Its inclusion in the Green Belt and the lack of any enabling policy will make its redevelopment very difficult, specifically contrary to SA Objective 9.

## **Qs 1.8 and 1.9: Other legal requirements**

- 13 No comments

## **Qs 1.10 to 1.11: Habitats Regulations Assessment**

- 14 FPC made representations that the Proposed Modifications affecting Strensall Barracks are unsound on the basis that appropriate mitigation (coupled with a possible reduction in housing numbers) could ensure that there would be no adverse effect on the integrity of the European

site. This mitigation could take the form of better habitat management, habitat restoration, improved wardening and more effective visitor controls. However it has not sought to argue that the Council has failed to comply with the HRA, primarily because it is unsure of the proper legal test to be applied.