



# STATEMENT IN RESPONSE TO INSPECTOR'S MATTERS, ISSUES AND QUESTION TO THE EXAMINATION OF THE YORK LOCAL PLAN

MATTER 1

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NOVEMBER 2019

LANGWITH DEVELOPMENT PARTNERSHIP LTD

PARTICIPANT REF: 378

Q70385

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# 1 Introduction

- 1.1 Langwith Development Partnership (LDP<sup>1</sup>) is the principle landholder of the land proposed to be allocated under Policy ST15, which is a strategic allocation (Policy SS13), in the draft submitted City of York Local Plan (“Local Plan”). A new sustainable garden village proposed in the south east of the City is a key component of the Local Plan’s spatial strategy for housing delivery. The allocation of a new garden village in this part of the City is based on sound and sustainable planning principles. A new settlement is necessary, sustainable and appropriate in this part of the City if the City of York Council (CYC) are to meet their housing needs sustainably.
- 1.2 LDP have made representations to each of the relevant stages of the Local Plan preparation (Regulation 18, Regulation 19 and the more recent Modifications to the Regulation 19 Plan)<sup>2</sup>.
- 1.3 LDP have demonstrated throughout the Local Plan process the Local Plan’s spatial strategy in part based on delivering a new garden village in this general location, south east of the City is sound in principle.
- 1.4 Whilst this Hearing Statement is not specifically concerned with the specifics of the allocation, Matter 2 of the first stage of Hearings are of relevance to the strategic allocation of a new garden village in this part of the City.
- 1.5 This Statement deals with the various questions raised under Matter 1 including those under the following sections:
  - 1.5.1 Duty to Co-operate
  - 1.5.2 Other Legal Requirements
- 1.6 This Statement has been prepared by Quod, but with input from Understanding Data (who prepared a critique of CYC’s OAHN analysis in 2016 and 2019, submitted in response to the consultation on the Regulation 18 Local Plan and the Main Modifications to the Regulation 19 Plan respectively).

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<sup>1</sup> Langwith Development Partnership Ltd (participant ref: 378) (LDP) is a joint venture formed by Sandby and the Oakgate/Caddick Group who control all the land required to deliver the new garden village known as Langwith. LDP have joint land holding interests in the south east part of the City, to the north of Elvington (south of the A64). Both parties, have jointly, and individually, been participants in the preparation of the City of York Local Plan (the Local Plan) for over six years.

<sup>2</sup> Representations were submitted by LDP (or companies that constitute LDF), including those (i) in September 2016 to the City of York Local Plan – Preferred Sites Consultation (June 2016), (ii) and the later submission of a Site Promotion Document (Quod) in October 2017, followed by (iii) representations (in March 2018) to the City of York Local Plan - Publication Draft (February 2018) and finally (iv) representations to the York Local Plan Proposed Modifications (June 2019) and associated Background Documents, in July 2019.

## 2 Duty to Co-operate

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

- 2.1 LDP do not comment on this matter, other than to note that the City of York is central to the Yorkshire and Humber area, and the functional extent of York's influence on the economic<sup>3</sup> and housing<sup>4</sup> markets extend beyond its administrative area. It falls within two LEP areas (see Figure 2.1 below).

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

- 2.2 CYC have outlined their actions under the duty to co-operate ('DtC') in documents CD020 (and previously SD024), which explains the various parties with whom they have jointly worked in preparation of the Local Plan. With the exception of the consultation on the Proposed Modifications to the Local Plan (June 2019), there is no evidence, however, of any further joint working, post the submission of the Local Plan in Spring 2018.
- 2.3 Notably, and as referred in LDP's Statement on Matter 2, the urban area of York's influence on housing markets extends into nearby/adjacent Local Authorities<sup>5</sup>, and most notably Selby District Council (SDC), which together are a homogenous housing market area. Cooperation, notably in respect of housing, with SDC has therefore been important. SDC have been an active participant in the Local Plan process, and evidently a key party to the DtC. LDP note SDC have no outstanding objections (or remaining concerns with the Local Plan, in respect of its approach to Green Belt and housing issues.

Figure 2.1: The York Sub – Area



<sup>3</sup> Paragraphs 4.07 -4.12 of CD020.

<sup>4</sup> Paragraph 4.13 of CD020.

<sup>5</sup> Paragraph 4.13 of CD020.

- 2.4 LDP's response to Matter 2, demonstrates that despite the cross-boundary influences on housing, especially between SDC and CYC, that it was appropriate for a pragmatic decision to be taken by CYC and adjoining Local Authorities (via the North Yorkshire and York Spatial Planning and Transport Board) in dealing with housing delivery, this was primarily due to the differing stages of progress of the Local Plans for each Local Authority. As a consequence, it was determined that the City of York Local Plan would meet its OAHN wholly within its own authority area<sup>6</sup>.
- 2.5 Consequently, it is imperative that CYC have a robust understanding of their OAHN, and that this is properly planned for in their administrative area if they are not to place any undue development pressure on adjoining Local Authorities. In this respect, please see LDP's Statement on Matter 2, where it is demonstrated that CYC are not planning to meet their true OAHN. In such circumstances, the consequences are to constrain housing growth, and the Local Plan is, as a result, not sound (namely, it is not positively prepared, justified, effective, nor consistent with National Policy).
- 2.6 Whilst the Matter 1 issues are not concerned with site specific issues, LDP have undertaken their own consultation with various statutory and non-statutory bodies, as part of the promotion of Langwith (as an alternative to ST15). This is a matter to which LDP will return at the second stage of Hearings.

*[Question 1.3: What have been the outcomes of the actions taken in relation to the 'duty to cooperate'?](#)*

- 2.7 The spatial strategy of the Local Plan is a product of the DtC. Notably, the housing strategy (in terms of CYC meeting their own housing needs) and the strategy in terms of the spatial distribution of development heavily influenced by Historic England's (HE) views on protecting the integrity of the City's heritage fabric.
- 2.8 LDP note that as part of the DtC, a number of bodies have commented on the provision of a new settlement in the south east of the City. It is demonstrated in CD020 and SC024 that there is no objection, in principle, to a new settlement in this part of the City. Notably, a range of parties made specific comments in relation to ST15, including:
- 2.8.1 East Riding Council confirmed that subject to the provision of additional evidence to confirm the deliverability of ST15, ERC would not wish to be involved in the Examination of the Plan<sup>7</sup>.
- 2.8.2 Historic England confirmed in their representations to the Regulation 19 Plan that they support the principle of accommodating a proportion of the City's development needs in a new settlement<sup>8</sup>.
- 2.8.3 Highways England have indicated they need more clarity on parking, public transport links and reserve their position on the impact of the strategic highway network until further evidence is prepared (and which is currently in preparation)<sup>9</sup>.
- 2.8.4 Environment Agency requested consideration of a SUDs scheme<sup>10</sup>.

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<sup>6</sup> Paragraph 4.34 and 4.35 of CD020.

<sup>7</sup> Page 91 of CD020.

<sup>8</sup> Page 25 of PM SID 118 (EX CYC 21C).

<sup>9</sup> PM SID 850 (CD014U).

<sup>10</sup> Page 34 of CD020.

- 2.8.5 North Yorkshire County Council noted that cross-boundary discussions were required in relation to highway matters<sup>11</sup>.
- 2.8.6 SDC have queried the highways implications, especially on the A64, public transport and potential landscape and visual intrusion<sup>12</sup>.
- 2.8.7 Natural England noted in response to the Regulation 19 Local Plan that greater clarity was required in relation to mitigation and have welcomed the subsequent clarification made following the Proposed Modifications (July 2019)<sup>13</sup>.
- 2.8.8 Yorkshire Wildlife Trust have noted concerns with the unacceptable impacts of the present configuration of ST15 on the Elvington Airfield SINC, suggesting that an alternative boundary for ST15 using the eastern end of the Airfield for a development would be more appropriate<sup>14</sup>.
- 2.9 In summary, whilst in principle a new settlement is not considered unsound by those parties engaged through the DtC process, some evident concerns remain in relation to some of the detailed aspects of the proposed allocation. It is demonstrated in SID 378 that matters of concern by the various bodies are addressed through the alternative allocation of Langwith. This is a matter to which LDP will return throughout this Examination.

*[Question 1.4: How does the Plan address those outcomes?](#)*

- 2.10 The spatial strategy of, amongst other matters, allocating a new settlement in the south east of the City is a product of the DtC.

*[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 \(as amended\)?](#)*

- 2.11 It is clear from CD020 that CYC have conscientiously undertaken their duty under the requirement to cooperate with and to engage constructively, actively and ongoing with relevant bodies under Section 33a of the P and CP Act 2004. This cooperation with adjoining authorities and other bodies has continued through consultation on changes to the Local Plan.
- 2.12 One of the key outcomes of this work has been mutual agreement that the Local Plan should meet the City's own housing need without placing any undue pressure on nearby authorities. For the reasons outlined above it is therefore fundamental that the OAHN is based on a robust understanding of housing need, which LDP suggest is not currently the case.

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<sup>11</sup> Page 43 of CD020.

<sup>12</sup> Page 46 of CD020.

<sup>13</sup> PM SID 383 (CD14G).

<sup>14</sup> PM SID 381 (CD014G).

### 3 Other Legal Requirements

- 3.1 In answering the following questions LDP have commented on the spatial strategy of a proposed new settlement in the south east of the City rather than the satisfaction of the wider HRA and legal requirements.

*Question 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?*

- 3.2 LDP do not comment on this matter.

*Question 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?*

- 3.3 LDP do not comment on the soundness of the scoring system underlying the SA, but note that in relation to testing reasonable alternatives, CYC have not tested Langwith as a reasonable alternative, despite Langwith being demonstrably a reasonable alternative and indeed more suitable than ST15, having regard to the SA criteria (see Appendix 1 of LDP Representations July 2019).
- 3.4 Consequently, there is an absence testing of reasonable alternatives in relation to the boundary of the new garden village in south east York.
- 3.5 The Local Plan contains few policies (only draft Policies CC1 and CC2) which require an express obligation for developments to demonstrate how they have been designed to incorporate measures to adapt to, as well as mitigate climate change. Given CYC have declared a climate emergency (and a target of achieving net carbon neutrality by 2030), LDP consider that a positive obligation should be placed on developments to address the following:
- Wherever possible, new buildings shall be orientated to maximise the opportunities for both natural heating and ventilation and reducing exposure to wind and other elements;
  - Proposals involving both new and existing buildings shall demonstrate how they have been designed to maximise resistance and resilience to climate change for example by including measures such as solar shading, thermal mass, heating and ventilation of the building and appropriately coloured materials in areas exposed to direct sunlight, green and brown roofs, green walls, etc;
  - Use of trees and other planting, where appropriate as part of green and blue infrastructure schemes, to provide shading of amenity areas, buildings and streets and to help to connect habitat, designed with native plants that are carefully selected, managed and adaptable to meet the predicted changed climatic conditions; and
  - All development shall minimise the impact of surface water runoff from the development in the design of the drainage system, and where possible incorporate mitigation and resilience measures for any increases in river flooding levels as a result of climate change.
- 3.6 It is open to CYC to update their SA by assessing Langwith as a reasonable alternative. We would invite the Inspectors to request an SA for Langwith, for the sake of efficiency and effectiveness of the Examination of the Local Plan.

*Question 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?*

- 3.7 In the case of a new settlement in south east York, significant biodiversity off-setting is proposed which will help mitigate climate change. Land identified in the Local Plan under Policy OS10 is presently unproven in its biodiversity merits for ST15.
- 3.8 In the alternative, Langwith is proposed to include 192ha of new wetland and grassland habitat provides significant positive benefits for climate change adaptation and resilience through a) the sequestration of carbon as a result of the habitats created, b) provision of land that will take water during periods of heavy rainfall which will offer flood risk mitigation in the area<sup>15</sup>. These provisions are unavailable within the existing intensively farmed arable land where carbon storage is currently poor, nutrient and soil run-off will be high, and water retention is very limited.

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

- 3.9 LDP have nothing further to add on this matter.

*Question 1.10: Has the Habitats Regulation 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?*

- 3.10 Mitigation measures do not appear to have been taken into account at the screening stage. This is evident from the updated HRA's review of ST15, where it noted '*...the screening exercise therefore concluded that likely significant effects could not be ruled out for SS13/ST15 because of uncertainty surrounding the deliverability of (extensive) mitigation proposed in OS10*'<sup>16</sup>.

*b) Have all mitigation measures been considered as part of Appropriate Assessment (Stage 2)?*

- 3.11 LDP do not comment on the whole of the AA. However, it appears, in the case of ST15 that, mitigation was addressed in the AA. Notably, Policy OS10 was modified as the detailed management required for ST15's mitigation was considered as part of the AA. Notably, it found that '*... it can be concluded that the adoption of this modification would allow the Council to conclude that an adverse effect could be avoided. There would be no residual effects and no need for an in combination assessment*'<sup>17</sup>.

*c) Have any 'in combination' effects been taken into consideration?*

- 3.12 Similar to the response to Q1.10(b) above, it appears that CYC's evidence concluded that in combination effects did not need considering.

*d) Have any other possible mitigation measures been considered?*

- 3.13 LDP do not comment on this matter.

<sup>15</sup> Appendix 7 of SID 378 (CD014G).

<sup>16</sup> Paragraph 4.76 of EX/CYC/14C.

<sup>17</sup> Paragraph 4.72 of EX/CYC/14C.



*Question 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 acceptable?*

3.14 LDP do not comment on this matter.

*b) Why are these mitigation measures relating to those sites no longer considered acceptable?*

3.15 LDP do not comment on this matter.

*c) Have alternative mitigation measures been considered? If so, are there any that would satisfactorily address the problems identified?*

3.16 LDP do not comment on this matter.