



AIREDON
PLANNING & DESIGN

York Local Plan Examination

Matter 1 Statement

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November 2019



Matter 1 – legal requirements

1.0.1 Summary of representations:

- **The City of York Council has failed to adequately assess proposed housing development sites within its authority area and has subsequently chosen sites for housing development that are wholly unsustainable. There are sustainable alternatives within the Authority area that have been discounted. As a result, the evidence base to support the Sustainability Appraisal and therefore the Sustainability Appraisal itself are unsound.**
- **Notwithstanding the above, the Plan has also not been prepared in-line with the Duty to Cooperate and is therefore unsound and not legally compliant. The City of York and Selby District Councils have failed in adequately assessing the possibility of some of York's housing requirement being met in Selby on more appropriate and sustainable sites without the need to release the quantum of Green Belt that York is proposing to the severe detriment of the historic and sensitive nature of the area.**
- **The general principles of the Sustainability Appraisal appear to be sound. However, the evidence base feeding into the SA is flawed, particularly in terms of the site selection process, which has inadvertently rendered the SA inadequate and unsound.**
- **The Plan does include policies designed to secure that the development and use of land in the local planning authority's area contributes to the mitigation of, and adaptation to, climate change. However, the application of such policies is unsound. This is particularly relevant in the context of the site selection process.**
- **The Plan is fundamentally flawed and not legally compliant. The only reasonable action that should be taken is a complete restructure of the Plan and to start again in the Plan making process.**

Duty to cooperate

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

1.1.1 York and Selby fall within the same housing market area. It is therefore very important that the two authorities work proactively together to bring forward housing in an appropriate manner. Whilst Selby had progressed its local plan, it has decided to reconsult and bring forward a new local plan in the New Year and this gives York a good opportunity to cooperate



fully, something that should have been achieved from the start in order to create legally compliant and sound plans.

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

1.2.1 It is not obvious from the evidence base what clear and transparent actions have been taken in relation to the 'duty to cooperate'. The evidence base shows that meetings were held between the City of York and Selby District Councils. However, the actions are not transparent, which provides the general public and other interested parties with little reassurance that such matters have been taken seriously and dealt with properly.

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

1.3.1 Paragraph E1.7 of the Council's Statement to Demonstrate Compliance with the Duty to Cooperate (ref: CD020) confirms that the Council intends to meet its own housing need (like the local development plans of its neighbouring authorities). The document appears to suggest that this is to avoid putting undue pressure on York's neighbouring authorities.

1.3.2 Paragraph 10 of advice prepared by John Hobson QC on behalf of the Council (ref: EX CYC 11a) makes it clear that once the need for development has been established, a further judgement is required as to the extent to which the objectively assessed needs should be met. In the case of York, a judgement should have been reached to ascertain whether the authority is capable of meeting its own requirement.

1.3.3 In attempting to comply with the Duty to Cooperate and ensuring no undue pressure is placed on its neighbouring authorities, the Council has inadvertently failed to adequately consider the pressures that are placed on its own authority area. It is widely accepted that York is heavily restricted by Green Belt, which encompasses the entire City, the historic fabric of the City itself and its hinterland, and flood risk issues, as well as other less prominent constraints, all of which significantly reduce the scope for new development within the authority boundary without unavoidable impacts upon its delicate nature.

1.3.4 For example, it should be noted that, based on the adopted Selby Core Strategy Key Diagram (2013) attached at Appendix 1 of this Statement, only approximately a third of Selby's authority area is constrained by Green Belt. Furthermore, the unconstrained areas contain large swathes of undeveloped land, which would be considered 'greenfield' in planning terms. In stark contrast, the general extent of York's Green Belt, shown on the Key Diagram in the Publication Draft Local Plan (page 5 of ref: CD001), surrounds the entire City limits, leaving very little, if any, greenfield land for development in a sequential capacity. The table below shows what is a polarised comparison between York and Selby as authority areas and demonstrates, based on the type of land available for development, the need to work collaboratively in terms of housing need and meeting requirements within the same HMA.



Table 1:

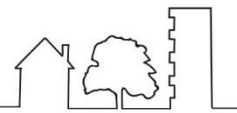
| | City of York Council | Selby District Council |
|---------------------------------|-----------------------------|-------------------------------|
| Population ¹ | 206.9k | 86.9k |
| Square Kilometers ² | 272 | 6,190 |
| Approx. Green Belt ³ | 4/5 | 1/3 |

- 1.3.5 It is admirable of the Council to attempt to meet its own housing need. However, it would appear that this was an attempt to make the whole Plan making process simpler and to avoid the need to properly cooperate with its neighbouring authorities. It is clear that York's authority area is the most constrained in the area and it would therefore be prudent for neighbouring authorities such as Selby to consider taking at least some of York's housing requirement, which has not occurred.
- 1.3.6 Furthermore, Selby Council was further progressed with its Local Plan than York. However, circumstances have changed, and Selby is revisiting its evidence base to create a new draft Local Plan. The first consultation is due to commence in January 2020, which will present York with a perfect opportunity to revisit its Duty to Cooperate with the intention of negotiating properly with Selby.
- 1.3.7 Furthermore, there does not appear to be any concrete evidence base to explain why the individual authorities decided to meet their own housing requirements. The lack of a Statement of Common Ground between the two authorities highlights this shortcoming. One of the purposes of the Duty to Cooperate is to ensure those authority areas which are disadvantaged in terms of the potential for development have the opportunity to negotiate with their neighbours to ensure new housing is located in the most appropriate place, avoiding unnecessary development in areas constrained for various reasons.
- 1.3.8 In this instance, the decisions of York and Selby to meet their own housing requirements appears to have been made unilaterally by the North Yorkshire and York Spatial Planning and Transport Board in 2015 with very little justification given. Further consideration is provided in our Matter 2 Statement.
- 1.3.9 Unfortunately, in this case, the outcome has been that York and Selby Councils, despite being within the same HMA have taken the decision to meet their own housing requirements at the severe expense of York's Green Belt.

¹ Population figures derived from ONS 2016-based subnational population projections

² Local authority areas derived from adopted Selby Core Strategy paragraph 2.16 and City of York Local Plan Publication Draft (2018) paragraph 1.26

³ Green Belt areas estimated from Key Diagrams in adopted Selby Core Strategy and City of York Local Plan Publication Draft



1.4 *How does the Plan address those outcomes?*

1.4.1 As a result of the lack of poor decision making, York Council has prepared a Local Plan that proposes to allocate unsustainable sites notwithstanding other sustainable sites being available within its own administrative area. The Council has then compounded the issue by failing to work proactively and constructively with its neighbouring authorities in seeking to relocate some of York's housing requirement to Selby. York has allocated a significant number of sites, some of which are significant in scale and impact, within its Green Belt over and above that which would have been necessary had Selby agreed to accommodate a percentage of York's housing requirement in less sensitive areas.

1.4.2 Selby has a much smaller amount of Green Belt as set out above and a higher percentage of greenfield land and is within the same Housing Market Area as York.

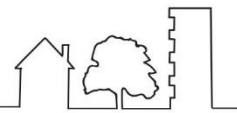
1.4.3 York Council wishes to retain workers within the City, rather than increase the number of inward commuters from neighbouring locations. Whilst this is advocated in principle to reduce journey times and improve the City's economic base, the constraints as mentioned above prohibit this from working effectively. Furthermore, the public transport networks into York from the Sherburn in Elmet, Ulleskelf and Church Fenton corridor are excellent, with regular train services, as well as those running out of Selby Train Station. It would be more sustainable and quick for new residents from these areas to commute into York City Centre than from many of the proposed Green Belt development locations. Furthermore, it should be noted that neither Ulleskelf nor Church Fenton are located within Selby's Green Belt.

1.4.4 It is clear that York has failed to adequately assess these alternative options for development and has therefore failed to address the shortcomings of the Local Plan.

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 No, the Plan has not been prepared in accordance with the 'duty to cooperate' imposed by Section 33A of the Planning & Compulsory Purchase Act 2004 (as amended). Subsection (1) of the Section specifically states that each person (including a local planning authority) must cooperate with every other person in maximizing the effectiveness with which activities within subsection (3) are undertaking, which includes the preparation of development plan document.

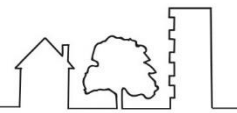
1.5.2 It is not disputed that York has engaged with Selby Council to some degree, otherwise they would not have been in a position to agree to meet their own respective housing requirements. However, in doing so they have failed to take account of the specific circumstances that York found itself in having to release a large amount of Green Belt in order to meet its requirements, which could have been easily avoided by some of the housing requirement being taken by Selby. It is therefore clear that York has failed to maximise the effectiveness of the plan making process.



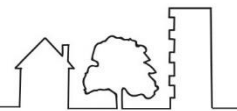
- 1.5.3 The PPG (ref: 61-022-20190315) makes it clear that an authority needs to submit comprehensive and robust evidence of the efforts it has made to cooperate, and any outcomes achieved, which will be thoroughly tested at the plan examination.
- 1.5.4 There is very little evidence, typified by the absence of a Statement of Common Ground, to suggest what efforts have been made to cooperate with Selby District Council on the matter of housing need and meeting requirements. It is unclear to what extent such conversations have been had regarding the subject other than single sentences saying that they have, and it is therefore concluded that York has failed in its duty under national planning policy, guidance and legislation.

Other legal requirements

- 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?*
- 1.7.1 The general principle of York's Sustainability Appraisal appears to be sound but the document has been produced on the basis of a flawed evidence base and so cannot reasonably come to the correct conclusions in terms of assessing and testing of reasonable alternatives. It is flawed and unsound on that basis.
- 1.7.2 The Council has failed to apply its own site selection methodology in a fair, transparent and objective way, resulting in ST14 (land west of Wigginton Road) being put forward for strategic allocation when it should have failed at the initial stage of the process. This failure of the Council to undertake a proper, objective assessment of the sustainability of sites coming forward for potential allocation fails to meet the requirements of national planning policy and renders the plan unsound.
- 1.7.3 As set out in more detail in our Publication Local Plan representations, sites over 100ha that could provide a minimum of 3,000 dwellings were deemed large enough to provide all the local services required and would therefore not need to go through the stringent assessment of sustainability that all other sites were subjected to (Paragraph 15.1 of ref: SD072A). ST14 was originally one of these sites. However, since the original assessment, the site has been significantly reduced in scale and now falls well short of the above thresholds. Based on the Council's own assessment of what constitutes a sustainable standalone settlement, ST14 cannot rationally be seen as appropriate.
- 1.7.4 Furthermore, the Council failed to re-assess ST14 against the various sustainability and accessibility criteria that all other smaller sites were subjected to. This is a clear failing in the Council's assessment of sites and demonstrates at least one significant error within the Sustainability Appraisal and associated evidence base documents, which render the Plan unsound.



- 1.7.5 The Preferred Options Sustainability Appraisal (ref: SD007C) confirms at Appendix 9c that had ST14 not been fast tracked through the system because of the above thresholds, it would have failed Assessment Criteria 4a and 4b and would not have been taken forward as a proposed allocation.
- 1.7.6 It is clear that the Council has failed to objectively and appropriately apply its own site selection methodology. As a result, fundamental flaws exist in the preparation of the Local Plan and the Sustainability Appraisal at a very early stage, which have not been rectified through the Plan making process.
- 1.7.7 ST14 cannot reasonably be said to contribute to ensuring that York meets the sustainability policies set out in the NPPF. Alternative smaller sites in more sustainable locations should be brought forward to ensure that the Council meets its OAN. The risk of a significant percentage of the City's housing requirement failing to come forward because ST14 is not delivered should be removed.
- 1.7.8 All reasonable alternatives have not been considered correctly due to the failure of the Council to adequately test sites that have been put forward for allocation.
- 1.8 *Does the Plan include policies designed to secure that the development and use of and in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change?*
- 1.8.1 The Plan does include policies designed to secure that the development and use of and in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change. However, the way in which sites put forward for allocation are assessed against these policies is problematic. For example, a number of sites put forward for allocation (including ST14) are not of a large enough scale to be self-supporting in terms of the provision of local facilities within them and existing facilities in the surrounding areas are not accessible from these sites via a sustainable mode of transport within recommended distances. As such local facilities would have to be accessed via the private car which would have a negative contribution to climate change.
- 1.8.2 As a result, it becomes abundantly clear that the draft Local Plan does not contribute to the mitigation of, and adaptation to, climate change. From a practical point of view, ST14 as an example of a strategic housing allocation, is incapable of accommodating the correct level of development to reasonably call itself a standalone sustainable garden village. In order to do so, and to ensure residents use alternative modes of transport as little as possible, the site would need to be considerably larger. However, it is common ground that enlarging the site would render it unsuitable for development on the basis of surrounding constraints that the Council has themselves identified.
- 1.8.3 When it was originally put forward to YCC by the landowner ST14 was over 100 hectares in size. As such, it had local facilities proposed within it, including a school, doctors and shops and the introduction of a new bus service was also proposed. The site was exempt from further accessibility and sustainability testing.



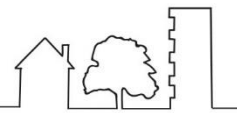
- 1.8.4 ST14 has since been significantly reduced and is now not of a sufficient size to accommodate integrated local facilities or a new bus service. Should the site, in its current form, be reassessed against these policies, it would clearly fail. As such and as a matter of procedural fairness, it should not be considered suitable for residential development and allocated within the local plan.
- 1.8.5 ST14, which will be accessed via a proposed northern arm from an upgraded Clifton Moor Roundabout and from Wigginton Road, has an unacceptable level of accessibility by sustainable modes of transport, which will result in the vast majority of trips to and from the site being made by single occupancy vehicle and in turn negatively contribute to carbon emissions.
- 1.8.6 The Manual for Streets (DfT, 2007) promoted the concept of walkable neighbourhoods and these are typically characterised by having a range of facilities within 10 minutes' walking distance (about 800m) of residential areas. The Manual also advised that 800m is not "an upper limit" (DfT, 2007, paragraph 4.4.1) and referred back to the 2km advice in PPG13.
- 1.8.7 The Guidelines for Providing for Journeys on Foot (IHT, 2000, paragraph 3.30) includes some evidence on walking distances taken from the NTS's summary findings "approximately 80% of walk journeys and walk stages in urban areas are less than one mile. The average length of a walk journey is one kilometre (0.6 miles). This differs little by age or sex and has remained constant since 1975/76. However, this varies according to location. Average walking distances are longest in Inner London".
- 1.8.8 The same guidelines produced a table of suggested acceptable walking distances, which is reproduced below.

Table 2:

| | Town centres (m) | Commuting/school Sight-seeing (m) | Elsewhere (m) |
|-------------------|------------------|--------------------------------------|------------------|
| Desirable | 200 | 500 | 400 |
| Acceptable | 400 | 1,000 | 800 |
| Preferred maximum | 800 | 2,000 | 1,200 |

Table 1.1 – Suggested Acceptable Walking Distance (IHT, 2000, Table 3.2)

- 1.8.9 The nearest facilities to ST14 are located within the neighbouring settlements of Clifton Moor and Skelton. The most southern extent of ST14 is c.1.2km walking distance from the Clifton Moor town centre and the most southern section of ST14 in excess of a 2.4km walking distance. The most southern extent of ST14 is c.3.6km walking distance from the Skelton town centre and the most southern section of ST14 in excess of a 4.8km walking distance.
- 1.8.10 In terms of schools the two closest primary schools to ST14 are Rawcliffe and Skelton. The most southern extent of ST14 is c.2.1km walking distance from the Rawcliffe Primary and the most southern section of ST14 in excess of a 3.3km walking distance. The most southern extent of ST14 is c.3.8km walking distance from the Skelton Primary and the most southern section of ST14 in excess of a 5.0km walking distance.
- 1.8.11 Planning for Public Transport in New Development (IHT, 1999, paragraph 5.21) advises that, "New developments should be located so that public transport trips involving a walking



- distance of less than 400m from the nearest bus stop or 800m from the nearest railway station”; advice which has been widely adopted by Local Authorities.
- 1.8.12 IHT (1999) bases its recommended walking distance to a bus stop on DoE Circular 82/73. This circular advised that “Estates should be designed so that the walking distance along the footpath system to the bus stops should not be more than 400m from the furthest houses and workplaces that they serve.
- 1.8.13 Planning for Walking (CIHT 2015, p.30) advises that, “The power of a destination determines how far people will walk to get to it. For bus stops in residential areas, 400m has traditionally been regarded as a cut - off point, in town centres, 200m. People will walk up to 800m to get to a railway station, which reflects the greater perceived quality or importance
- 1.8.14 There are no public transport facilities accessible from ST14 within a reasonable walking distance and as such future residents would be unlikely to use public transport to gain access to facilities further afield.
- 1.8.15 As shown on the plan attached at Appendix 2 the nearest bus stops to ST14 are located within Clifton Moor Retail Park, to the south of ST14. The recommended maximum walking distance to a bus stop is 400m. The most southern extent of ST14 is c.1.1km walking distance from the closest of the bus stops located within the retail park and the most southern section of ST14 in excess of a 2.3km walking distance.
- 1.8.16 As shown on the plan attached at Appendix 2, the nearest Railway Station to ST14 is located within Poppleton, to the south west of ST14. The recommended maximum walking distance to a railway station is 800m. The most southern extent of ST14 is c.5.0km walking distance from the Poppleton railway station and the most southern section of ST14 in excess of a 6.3km walking distance.
- 1.8.17 This argument is reflected by the promoters and proposed developers of the site, Barratt David Wilson and their representatives. Throughout the various consultation responses, they have made it clear that in order for ST14 to be sustainable, deliverable and viable, it would have to be considerably larger. This stance was reflected in their attendance and participation of the Council’s Executive Committee meeting on 25th January 2018. The minutes of the meeting (ref: CD013D) clearly state that *“Richard Ward spoke in relation to sites ST7 and ST14, stressing the need to increase the site boundaries to make the ‘garden village’ development deliverable”*.
- 1.8.18 Notwithstanding this representation, Members accepted Officers’ recommendations to further reduce the size of the allocation at that meeting. Notwithstanding the fact that we disagree that it should be increased in size due to various surrounding constraints, it is clear that the proposed allocation of ST14 has not been thought about in a sensible manner.