



EXAMINATION OF THE CITY OF YORK LOCAL PLAN

2017-2033

PHASE 1 HEARINGS

Matter 1: Legal Requirements

Other Legal Requirements

CITY OF YORK COUNCIL STATEMENT

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?

Response

- 1.6.1 Yes. The Council considers that the plan has been prepared in accordance with the Statement of Community Involvement and met the minimum consultation requirements in line with regulations.
- 1.6.2 The adopted Statement of Community Involvement (SCI) [CD016] sets out how the Council intends to achieve continuous community involvement in the preparation of all planning documents. It acts to guide consultation on planning documents and provides advice on how efficient and effective consultation can be achieved. Table 2 of the SCI sets out how the community will be involved at each stage of document production. At each stage of plan preparation the SCI has been taken into account in drawing up each consultation strategy. This has ensured that appropriate consultation methods have been utilised and that the consultation undertaken meets the provisions of the SCI.
- 1.6.3 The City of York Local Plan Consultation Statement – Regulation 22(c) of the Town & Country Planning (Local Planning) (England) Regulations 2012 (As amended) (2018) [CD103A] and Addendum (2019) [EX/CYC/22 and EX/CYC/22a] demonstrate how the Council have met the legal requirements for consultation during the preparation of the plan. It identifies who was consulted, how we consulted, the various methods used and a summary of the responses received. In meeting the legal requirements for consultation the Council has been proactive in engaging with the community through a range of methods. The consultation statements have been prepared in accordance with Regulation 22(1)(c) of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

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?

Response

A sound process of appraisal

- 1.7.1 Yes. The formulation of the plan has been based on a sound process of SA, as it:

- has been developed in accordance with best practice guidance¹;
- incorporates the requirements for Strategic Environmental Assessment (SEA) as set out in *The Environmental Assessment of Plans and Programmes Regulations 2004* (the SEA Regulations);
- reflects the judgements arising from relevant SEA case law²;
- has been developed from an analysis of the key issues arising from an evaluation of the evidence base (comprising of baseline information on the state of the environment, and its evolution without the Local Plan, as well as a review of plans and programmes) and subsequent updates for each iteration of the draft Local Plan;
- covers all the topics identified in Schedule 2 of the SEA Regulations to ensure all likely significant effects are identified, described and evaluated;
- provides an appraisal of the plan (and its components) and reasonable alternatives taking into account the plan's objectives and geographic scope;
- provides definitions of what constitutes a significant effect, when considering a local plan, and reasonable alternatives to it;
- has been amended to address consultation responses.

1.7.2 The following SA documents have been produced during the preparation of the York Local Plan:

- City of York Council Local Plan Preferred Options Sustainability Appraisal Scoping Report (May 2013) (SD008A) and Annexes (SD008B);
- Local Plan Preferred Options Sustainability Appraisal (June 2013) Main Document (SD007a), Non-Technical Summary (SD007b) and Appendices (SD007c);
- City of York Local Plan Preferred Sites Consultation Interim Sustainability Appraisal (July 2016) (SD020);
- LP Sustainability Appraisal Pre-Publication Draft Regulation 18 Consultation (Sep 2017) (SD023A), Non-Technical Summary (SD023B) and Appendices (SD023C – E);
- City of York Local Plan Sustainability Appraisal Publication Draft Regulation 19 Consultation (February 2018) (CD008), Appendices (CD009A – CD 009D) and Non-Technical Summary (CD010);
- City of York Local Plan Sustainability Appraisal Addendum (April 2018) (CD011); and
- City of York Local Plan Publication Draft (Regulation 19 Consultation) Sustainability Appraisal Report Addendum – Proposed Modifications

¹ Office of the Deputy Prime Minister (ODPM) et al (2005) *A Practical Guide to Strategic Environmental Assessment Directive* and Ministry for Housing, Communities and Local Government (MHCLG) (2015), *Planning Practice Guidance on Strategic Environmental Assessment and Sustainability Appraisal*

² *Save Historic Newmarket v Forest Heath District Council* [2011] EWHC 606 (Admin) (25 March 2011) and *Heard v Broadland District Council et al.* [2012] EWHC 344 (Admin) (24 February 2012)

Consultation (EX/CYC/24a), Appendices (EX/CYC/24b) and Non-Technical Summary (EX/CYC/24c).

- 1.7.3 The SA is based on the application of a SA Framework which comprises of 15 SA objectives and associated guide questions that have been developed taking into account a review of other relevant policies, plans and programmes as well as baseline information, the identification of key sustainability issues affecting the City of York area and the topics included in Schedule 2 of the SEA Regulations. Broadly, the SA objectives define the long term aspirations for the City with regard to social, economic and environmental considerations and it is against these objectives that the performance of the Local Plan (and reasonable alternatives) has been appraised. Section 5 of the SA Publication Draft Regulation 19 Consultation (February 2018) (CD008) provides a detailed overview of the approach to the SA of the Local Plan.
- 1.7.4 The approach to the SA of the Local Plan has been consulted upon. The Options Sustainability Appraisal Scoping Report (May 2013) (SD008A) and Annexes (SD008B) set out, and sought views on, the proposed approach to the appraisal of the Local Plan, including the SA Framework. The Scoping Report was subject to a 6 week public consultation period in May 2013. Overall, three responses were received to the consultation (two from the statutory SEA consultation bodies (English Heritage, now Historic England, Natural England) and one from North Yorkshire County Council. Responses related to all aspects of the Scoping Report and resulted in amendments to the SA Framework. A schedule containing the consultation responses received to the Scoping Report, the Council's response and the subsequent action taken has been included in the SA Report Publication Draft Regulation 19 Appendix B (CD009A).
- 1.7.5 The SA Framework has been used to appraise the following key components of the Local Plan:
- the Local Plan Vision and Outcomes;
 - the Key Development Principles;
 - the quantum of housing and employment growth to be provided over the plan period and the reasonable alternatives;
 - the spatial strategy and the reasonable alternatives;
 - the strategic site and land allocations to deliver the growth requirements for housing, employment, gypsy and travellers and student accommodation (including reasonable alternatives);
 - the Local Plan 'thematic' policies; and
 - the cumulative, synergistic and indirect effects of the Local Plan.
- 1.7.6 Consistent with the requirements of the SEA Regulations, the SA has identified the significant effects of the Local Plan and reasonable alternatives including consideration of the cumulative, synergistic and indirect effects as well as the geography, duration, temporary/permanence and likelihood of any effects. A qualitative scoring system has been adopted with specific definitions developed for what constitutes a significant effect, a minor effect or a neutral effect for each of the 15 SA objectives. Proposed site allocations and reasonable alternatives have been

appraised against the SA objectives using tailored appraisal criteria and associated thresholds of significance. Matrices have been used to record the findings of the SA of the emerging Local Plan, which include commentary on likely significant effects, proposed mitigation, assumptions and uncertainties.

Testing of reasonable alternatives

- 1.7.7 SEA Regulation 12 (2) (b) requires an environmental report "*to identify, describe and evaluate the likely significant*" environmental effects of implementing the plan, and of "*reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme*". The report has to include such of the information set out in Schedule 2 as is reasonably required although it can be provided by reference to relevant information obtained at other levels of decision-making. Item 8 in the Schedule is "*an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties...encountered in completing the information.*"
- 1.7.8 The following reasonable alternatives have been identified, described and appraised in the SA:
- the spatial strategy;
 - the quantum of housing and employment growth to be provided over the plan period;
 - the strategic site and land allocations to deliver the growth requirements for housing, employment, gypsy and travellers and student accommodation .
- 1.7.9 All of the preferred options and reasonable alternatives have been appraised against the 15 SA objectives that comprise the SA Framework. The strategic sites and land allocations have been appraised using tailored appraisal criteria and associated thresholds of significance, as per the approach set out in section 5.5.6 to 5.5.9 and Table 5.4 of the SA Publication Draft Regulation 19 Consultation (CD008).
- 1.7.10 **Section 2 of the SA Publication Draft Regulation 19 Consultation (CD008) provides an overview of the development of the City of York Local Plan,** including reference to the earlier discontinued Core Strategy and Local Plan. For each stage of the plan development, the section outlines: the reasonable alternatives when considering the scale of growth, the spatial strategy and sites; the findings of the SA; the consultation responses; and the reasons for selecting the preferred option from the alternatives.
- 1.7.11 In all instances, the methodology has been applied consistently to all options.
- Spatial strategy
- 1.7.12 **Table 4.3 of the Local Plan Preferred Options SA (SD007a) presents the preferred spatial strategy and reasonable alternatives.** It comprises five interrelated policy areas and their reasonable alternatives:
- York Sub Area;
 - factors which shape growth;
 - spatial distribution;

- strategic site development principles; and
 - the role of York's Green Belt and safeguarded Land.
- 1.7.13 Paragraph 4.3.4 of the Local Plan Preferred Options SA (SD007a) states that the appraisal "*focussed on the alternative approaches to policy as opposed to the preferred policy wording to ensure a full understanding of how changing the policy approach could impact on its sustainability*".
- 1.7.14 With regard to the factors that shape growth, four alternatives were considered and appraised:
- Option 1: prioritise the socio-economic spatial principles;
 - Option 2: prioritise the environmental principles;
 - Option 3: take a balanced approach to the identified spatial principles; and
 - Option 4: prioritise viability and deliverability.
- 1.7.15 The option 'taking a balanced approach' was taken forward as the preferred option. This continued to use the Spatial Shapers as outlined through the Core Strategy Process, amended to reflect the evidence base and reflected in SS1 as the spatial principles. This ensured that York's growth was allocated in a way that:
- recognises character and setting of York including the role of centres and the relationship between York and its surrounding settlements;
 - conserves and enhances York's special historic and natural environment;
 - protects York's Green Infrastructure;
 - minimises flood risk.; and
 - mitigates against climate change through locating development in the most sustainable locations.
- 1.7.16 Pages 47 to 57 of the City of York Local Plan Preferred Options (June 2013) (SD005) provides the detail which underpins these factors.
- 1.7.17 The preferred option to shape growth along with the evidence base were used to develop the alternatives for the spatial distribution of growth considered:
- Option 1: Prioritise development within and/or as an extension to the urban area and through the provision of a single new settlement;
 - Option 2: Prioritise development within and/or as an extension to the urban area and through provision in the villages subject to levels of services;
 - Option 3: Prioritise development within and/or as an extension to the urban area and through the provision of new settlements;
 - Option 4: Prioritise development within and/or as an extension to the urban area along key sustainable transport corridors.
- 1.7.18 Option 1 was taken forward as none of the reasonable alternatives appraised as part of the SA were considered to perform better in sustainability terms, than the preferred option. To meet this requirement 24 strategic sites (including 1 new

settlement) were identified along with 45 housing allocations and 13 employment allocations.

- 1.7.19 Paragraphs 4.3.15 to 4.3.22 of the report (SD007a) present a summary of the findings with the detailed appraisal contained in Appendix 6 (SD007c).
- 1.7.20 The preferred spatial strategy has then been brought forward for each subsequent stage of the plan. Section 2 of the SA Publication Draft Regulation 19 Consultation (CD008) and specifically Tables 2.2, 2.3, 2.4, and 2.13 summarise the approach, appraisal and consultation responses. Paragraph 2.3.81 of CD008 identifies that at Local plan Publication stage, the Council was allocating 21 strategic sites, 23 general housing sites, 7 general employment sites, 1 student Housing site; and 1 travelling showpeople site. Whilst the majority of sites that comprise the original preferred spatial strategy (2013) remain, some have been changed or removed following consultation in 2016 on preferred sites (SD018) and 2017 (on the Pre-Publication Draft (SD021)) and to reflect that some sites have been consented for development or built out .

Housing and employment growth

- 1.7.21 **Section 6.4 of the SA Publication Draft Regulation 19 Consultation (CD008) provides a summary of the appraisal of the housing and employment growth options.** Following a detailed review of the emerging evidence base, three housing growth options were considered:
- 867 dwellings per annum (dpa) – Ministry for Housing and local Government (MHCLG) Baseline based on the 2014 based household projections, released July 2016.
 - 953dpa – GL Hearn recommended figure (SHMA update, 2017). This reflects the demographic starting point of 867 per annum (based upon the July 2016 household projections). The figure also includes a 10% adjustment to include provision for affordable housing, in line with NPPG’s guidance for reasonable adjustments to the household projections to be made in light of market signals which may include land prices, house prices, rents, affordability, the rate of development and overcrowding.
 - 1,070dpa – as set out in the *Housing Need Consultation Data Table*¹ published for consultation by MHCLG in September 2017 as part of Planning for the right homes in the right places: consultation proposals 54. This includes the household projections baseline at the time with an upwards adjustment based on the Government’s proposed formula for taking account of housing affordability ratios. The figure for dwellings per annum is for the period 2016-2026.
- 1.7.22 Paragraphs 6.4.3 to 6.4.8 of the SA Publication Draft Regulation 19 Consultation (CD008) presents the reasons for selecting the options, with the findings of the appraisal then presented in paragraphs 6.4.10 to 6.4.27.

¹ MHCLG (2017) Available via:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/644783/Housing_Need_Consultation_Data_Table.xlsx

- 1.7.23 Paragraph 6.4.28 concludes that the “*Given the significant positive effects identified for the 2017 SHMA recommended alternative figure against the SA objectives for housing (Objective 1), employment (Objective 4) and equality of access (Objective 5) (with a similar performance for the remaining objectives to the preferred housing figure), the 2017 SHMA Update figure is considered to perform marginally better in sustainability terms than the preferred option*”. The detailed findings of the appraisal the options are presented in Appendix N (CD 009D).
- 1.7.24 Section 3 of the SA Report Addendum – Proposed Modifications Consultation (EX/CYC/24a) provides an update to the options for the housing requirements, reflecting changes in planning policy and the evidence base. This adds a further option to be considered and appraised:
- Proposed housing figure: 790 dwellings per annum (dpa) - Based on the Housing Needs Update, January 2019, prepared for the Council by G L Hearn.
- 1.7.25 The revised appraisal findings are presented in paragraph 5.3.4 to 5.3.28 of the report (EX/CYC/24a). This reaffirms the conclusion that the 2017 SHMA Update figure is considered to perform marginally better in sustainability terms than the preferred option.
- 1.7.26 Paragraphs 6.4.37 to 6.4.39 of the SA Publication Draft Regulation 19 Consultation (CD008) presents the outline reasons for selecting the three options for employment growth. The options reflect the scenarios developed by Oxford Economics for forecasts for employment land demand over the Local Plan period:
- Baseline Scenario – 10,500 new jobs;
 - Employment Land Review (ELR) Option 1 – Higher Migration and Faster UK Recovery – 15,400 new jobs;
 - ELR Option 2 – Re-profiled sector growth – 650 jobs per annum between 2017 and 2038 (around 13,650 over the period).
- 1.7.27 The findings of the appraisal then presented in paragraphs 6.4.41 to 6.4.56 with the conclusion that “*The Council rejected the alternatives as they would not meet the economic needs of the City of York and not achieve the outcomes of the York Economic Strategy. The alternatives did not perform as well as the Preferred Option in SA terms*”.

Site allocations

- 1.7.28 **The SA of site allocations and reasonable alternatives** are presented in:
- Section 4.4 of the Local Plan Preferred Options SA Report (SD007a);
 - Section 3 of the Preferred Sites Consultation Interim SA (July 2016) (SD020);
 - Paragraphs 6.5.18 to 6.5.53 of the SA Pre-Publication Draft Regulation 18 Consultation (Sep 2017) (SD023A);
 - Paragraphs 6.5.20 to 6.5.58 of the SA Publication Draft Regulation 19 Consultation (February 2018) (CD008); Appendix H (Appraisal of allocations and alternatives) and Appendix I (Appraisal of strategic sites) (CD009B) and Appraisal K (Policy and site audit trail) (CD009C);
 - Section 4.2 and 4.3 of the SA Addendum (April 2018) (CD011); and

- Paragraphs 5.4.10 to 5.4.23 of the SA Report Addendum – Proposed Modifications Consultation (EX/CYC/24a).

1.7.29 In total some 136 strategic and smaller scale (local) housing sites and 29 employment sites were considered in the SA Publication Draft Regulation 19 Consultation (February 2018) (CD008). The updated reasons for allocation or rejection of housing sites are presented in Appendix E (Updated Audit Trail) of the SA Report Addendum (Appendices (EX/CYC/24b). Whilst reasons are site specific, examples include:

- Rejected - The site was rejected due to concerns over availability.
- Rejected - The site was rejected due to landscape and cultural heritage impacts.
- Selected - The site passed the CYC site selection criteria and is a brownfield site in a sustainable location for housing development.
- Selected - The site passed the CYC site selection criteria and represents a suitable site for housing as a natural extension to the village and in a sustainable location close to local facilities

1.7.30 The appraisal of sites has not taken into account the mitigation that could be provided by the draft Local Plan policies or has been proposed by the developer. This is to ensure that all sites are treated in the same manner. However, where factual (baseline) information has been provided by developers/site promoters, this has informed the SA, to ensure that the site SA is based on the most up to date information.

The SA is adequate

1.7.31 The resulting SA Reports have been prepared in accordance will best practice guidance¹ and the reporting requirements of SEA Regulations (Schedule 2). A completed Quality Assurance Checklist (taken from Appendix 9 of the ODPM SEA guidance) has been included in Appendix A of each of the main published reports covering the Regulation 18 and Regulation 19 versions of the Local Plan (and subsequent modifications).

1.7.32 Natural England commented on the SA Publication Draft Regulation 19 Consultation (CD008) that "*Natural England considers that the SA provides a good framework for assessing the impacts resulting from the Local Plan and we have no further comments to make*". Consultation comments received from Historic England "*broadly endorse the evaluation of the likely impact which the Policies and proposals of the Plan might have upon the historic environment and, where an adverse effect has been identified, the proposed mitigation measures which have been proposed to reduce that harm. We are pleased to note that many of the comments which we made to the previous version of the Appraisal have been incorporated into this latest iteration of the document*". Comments received by the Council from the Environment Agency did not directly relate to the SA.

¹ Office of the Deputy Prime Minister (ODPM) et al (2005) *A Practical Guide to Strategic Environmental Assessment Directive* and Ministry for Housing, Communities and Local Government (MHCLG) (2015), *Planning Practice Guidance on Strategic Environmental Assessment and Sustainability Appraisal*

- 1.7.33 In response to the consultation on the SA Report Addendum – Proposed Modifications Consultation (EX/CYC/24a), where a response was made, the statutory SEA consultees stated the following:
- Historic England “*We would agree with the conclusions of the screening process about which aspects of the Plan may need reviewing, and we would concur with the conclusions regarding the likely significant effects which the ‘screened-in’ Modifications would be likely to have upon the historic environment.*”
 - Natural England “*Natural England welcomes the updated Sustainability Appraisal. In particular we welcome the consideration given to the findings of the Habitats Regulations Assessment in the context of sustainability*”.
- 1.7.34 The SA has been an integral part of the preparation of the Local Plan. It has helped to ensure that the likely significant social, economic and environmental effects of the plan have been identified, described, appraised and communicated. Where negative effects have been identified, mitigation measures have been proposed to avoid, or where that is not possible, minimise such effects. Where positive effects have been identified, measures have been that could enhance such effects. In this context, the SA process has supported the Council’s selection of preferred options relating to the broad distribution of that growth (the Spatial Strategy), quantum of growth to be delivered and site allocations. It has also helped informed the ongoing refinement of plan policies as part of an iterative process where SA Reports have been produced to accompany each stage of the Local Plan consultation.

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?

Response

- 1.8.1 Yes. Tackling climate change is a key theme throughout the Local Plan to ensure development is “*delivered in a sustainable way that recognises the challenge of climate change*”¹. Section 11 ‘Climate change’ includes 3 policies, which directly detail how York will tackle climate change. These policies focus on delivering carbon reduction and renewable energy (Policy CC1), sustainable design and construction (policy CC2) and facilitating district heating infrastructure (policy CC3). In addition, policy SS1 ‘Delivering sustainable growth for York’ spatially directs development to minimise the effects of flood risk and which has access to, or the potential for, access to facilities and sustainable transport reducing the need for a car.

¹ Local Plan Vision, Page 16

1.8.2 Other policies also contribute to climate change mitigation and adaptation, in particular:

- DP2 – Sustainable Development
- ENV4 – Flood risk
- ENV5 – Sustainable Drainage
- T1 – Sustainable Access

1.8.3 All policies have been tested against objectives in the sustainability appraisal [CD008] which evaluate the impact and response to climate change directly (objective 7 – Climate Change) or indirectly (objectives 6, 8 and 13). For policies CC1-CC3, the SA recognises the positive effects on most of the SA objectives, including Objective 7. Effects of the spatial strategy policies are likely to be mixed owing to increased emissions associated with new development but also opportunities for limiting carbon dioxide emissions through energy efficiency measures, renewable energy generation and facilitating sustainable travel.

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

Response

1.9.1 Yes, the Plan is considered to comply with all other relevant legal requirements. This is demonstrated in the City of York Local Plan Legal Compliance Checklist (2018) [CD022] which was submitted alongside the Plan.

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;

a) Have mitigation measures been taken into account at the Screening stage (Stage 1)? If so, why?

Response

1.10.1 No. The preparation of the HRA has been in accordance with the Conservation of Habitats and Species Regulations 2017 as amended), taking into account the case of People Over Wind and Sweetman v Coillte Teoranta (C-323/17): See Section 1 of the HRA [CD012 and EX/CYC/14c].

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

Response

1.10.2 Yes; as per question 1.10a.

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

Response

1.10.3 Yes. By way of context, the screening exercise in Chapter 3 of the HRA concluded that it was necessary to conduct an appropriate assessment in relation to the effects of identified policies on the aquatic environment (Strensall Common SAC), mobile species (Lower Derwent Valley SAC), recreation (Lower Derwent Valley SPA, Strensall Common SAC) and air pollution (River Derwent SAC, Strensall Common SAC). As regards in-combination effects, these were screened in for appropriate assessment in relation to air quality effects, having regard to an air quality assessment commissioned by the Council which evaluated data from across the City of York as well as neighbouring authorities (see paragraph 3.79). The screening assessment found that there were no other effects which required in-combination assessment. It was recognised that insignificant effects could combine into in-combination effects which required assessment (page 1.24 of the HRA 2019), but it was found in the case of this plan that individual effects could be ruled out such that there was no need for a further consideration of in-combination effects (see Table 5 and entry L in Table 6).

1.10.4 As part of the appropriate assessment, the HRA considered the need for combination effects and found that, taking into account air quality data from within and beyond the plan area, in combination effects of air pollution could be ruled out (see para.s 4.65-6, 4.106-7). It was also found that (with the exception of recreational effects on Strensall Common) other residual effects could be ruled out allowing for mitigation, such that no in-combination effects would arise (see para.s 4.14, 4.80, 4.84). The appropriate assessment was unable to rule out residual adverse effects on the integrity of Strensall Common arising from recreational effects and recommended the removal of relevant allocations from the Plan, with the result that no in-combination effects would arise in this respect (see par. 4.47).

d. Have any other possible mitigation measures been considered?

Response

- 1.10.5 A range of mitigation measures have been considered for a number of proposals across the lifetime of the emerging Plan. For example, the development of a comprehensive mitigation plan for ST15 has allowed a conclusion of no likely significant effect despite its proximity to the Lower Derwent Valley SPA and use of the allocation by mobile bird populations from the European site.
- 1.10.6 In terms of ST35, a broad range of mitigating measures were evaluated and considered acceptable in the 2018 HRA such as a wardening service, improved education, a reduction in the net gross development and an increase to 12ha in the extent of natural greenspace within the allocation. However, evidence provided by Footprint led to the conclusion that their effectiveness could not be relied upon, and that adverse effects on the integrity of Strensall Common SAC could not be ruled out beyond reasonable scientific doubt in the HRA of 2019 (see para.s 4.15-4.47 of the HRA).
- 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 to be acceptable?

Response

- 1.11.1 Mitigation embedded within Policy ST35 in the 2018 Plan (comprising a reduced net:gross development ratio, the requirement to produce a Visitor Impact Mitigation Strategy (to be informed by further visitor surveys), restrictions on direct access to the Common to the north, west and south, provision of publicity and education to raise awareness amongst visitors, and the provision of circa 12 ha of open space within the footprint of development, including new allocation OS12 which would allow the provision of a circular walk, were taken into account initially. All were to be secured and operational and functional prior to the commencement of building, underpinned by an ongoing monitoring programme that would allow prompt remedial measures such as the closure of access points, for instance, should adverse effects be identified). These were not meant to be comprehensive and the Visitor Impact Mitigation Strategy was expected to identify further measures as appropriate.
- 1.11.2 All these measures were taken account of, initially, in the 2018 HRA which observed that whilst mitigation measures embedded in the Policy could reduce the scale of recreational pressure at Strensall Common, they would not remove it entirely and therefore recommended that additional mitigation, in the form of an effective warden

service should also be secured. On the basis of the evidence available at the time, the HRA concluded that should all these measures be adopted, then it would allow the Council to ascertain that an adverse effect on the integrity of the site could be avoided. The council committed to this policy amendment in proposed minor modifications submitted alongside the plan [CD003].

1.11.3 However, upon consultation, Natural England advised that even with these modifications, adverse effects on integrity could not be ruled out and recommended a visitor assessment to quantify the scale and impact of recreational pressure and recommend further mitigation measures if necessary. Accordingly, the Council commissioned Footprint Ecology to conduct this further work which reported in February 2019. This identified further concerns and on the basis of this new evidence, the 2019 HRA (see para.s 4.18-4.39) concluded that whilst all the suggested measures could contribute to a reduction in recreational pressure on Strensall Common, they would not allow the Council to ascertain that an adverse effect on the integrity of the SAC could be ruled out.

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

Response

- 1.11.4 Evidence subsequently gathered by the Strensall Common Visitor Survey [appendix D to EX/CYC/14c] suggested that visitor numbers would increase by a quarter (24%) largely as a consequence of ST35 (17%). This far exceeded expectations at the time of the 'original' HRA [CD012; see the references above]. This report identified that the majority of visitors, were local and were particularly attracted to the site by the ability to enjoy long circular walks in a natural landscape, frequently in the company of their dogs. Of the visitors interviewed, many (who lived locally) visited regularly. In addition, the report highlighted the effect of sheep-worrying by dogs off the lead and the frequency which visitors were accompanied by their dogs despite a number of signs requesting that dogs were kept on a lead (to align with prohibited acts in local byelaws to avoid "*wilfully disturbing, injuring or taking any animal, bird or egg*"); grazing by sheep is the main management tool at Strensall. When disturbed, stock typically retreat to cover resulting in uneven grazing across the site and so threatens the achievement of the conservation objectives for the SAC. This issue has been recorded many times in the Strensall Common conservation management meetings.
- 1.11.5 Given the proximity of the allocation, the anticipated increase in visitors with dogs, and the expected increase in sheep-worrying, the HRA concluded [section 5] that it would be impossible for the Council to ascertain (beyond reasonable scientific doubt) that an adverse effect on the integrity of the site would not result.

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

Response

- 1.11.6 A range of mitigation measures had already been considered both within the Plan and HRA set out in policy ST35 and CD003 (see also answers to questions 1.10d and 1.11a above). Subsequently, the Visitor Survey report prompted the consideration of additional measures utilised elsewhere in consultation with Natural England. However, doubts about their effectiveness at Strensall remained, for instance, re-wetting the site to restrict access was not considered feasible in what is, typically, a very wet heathland. Consequently, reasonable scientific doubt remained and accordingly, the outcome of the original HRA was changed to recommend that adverse effects on the integrity of the SAC could not be ruled out. This is because, fundamentally, the additional evidence provided by the Visitor Survey suggests the intensity, behaviour and type of use of the Common would exceed the ability of traditional measures to reduce this to an acceptable level.
- 1.11.7 DIO has subsequently recommended the adoption of a suite of mitigation measures. These are addressed in the emerging Statement of Common Ground but importantly, the majority have already been considered by the HRA and found unable to provide the confidence required. The Council is not convinced that even with the application of the mitigation measures identified by the DIO, development of the site under the policy would not adversely affect the integrity of the SAC.