

# MATTER 3



**JohnsonMowat**  
Planning & Development Consultants

Examination of the City of York Local Plan

Matters, Issues and Questions for the Examination

## **Matter 3 – Green Belt**

November 2019

CLIENT: KCS Development Ltd



## **CONTENTS**

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1.0 INTRODUCTION

2.0 TEST OF SOUNDNESS

3.0 RESPONSE TO INSPECTOR'S QUESTIONS



## **1.0 INTRODUCTION**

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- 1.1 This response has been prepared on behalf of KCS Development Ltd in relation to their continued land interest west of Chapelfield, Knapton, York on the western edge of the York urban area.
  
- 1.2 This response should be read alongside previous submissions made to the Local Plan, namely the July 2019 response to the City of York Local Plan Proposed Modifications and prior to that the submissions made to the Publication Draft Local Plan in March 2018. In addition to this statement relating to Examination Matter 3, it should be noted that a statement has also been prepared for Matter 2 on behalf of KCS Development Ltd.



## 2.0 TEST OF SOUNDNESS

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2.1 The City of York Local Plan is being tested against the 2012 National Planning Policy Framework (NPPF 2012) which at Paragraph 182 states that:

“The Local Plan will be examined by an independent inspector whose role is to assess whether the plan has been prepared in accordance with the Duty to Cooperate, legal and procedural requirements, and whether it is sound. A local planning authority should submit a plan for examination which it considers is “sound” – namely that it is:

- Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
- Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.”



### 3.0 RESPONSE TO INSPECTOR'S QUESTIONS

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**Matter 3 – Green Belt: principles, the approach to defining the Green Belt boundaries, exceptional circumstances and the approach to identifying land to be ‘released’ from the Green Belt for development.**

#### **Principles**

***Q3.1 Paragraph 10.1 of the Plan states that “the plan creates a Green Belt for York that will provide a lasting framework to shape the future development of the city”. For the purposes of Paragraph 82 of the National Planning Policy Framework, is the Local Plan proposing to establish any new Green Belt?***

3.1 The Council in their response to the Inspectors 24<sup>th</sup> July 2018 letter replied on 13<sup>th</sup> November 2018 referring to Green Belt as follows:

“The Local Plan is not proposing to establish any new Green Belt. The principle and general extent of York’s Green Belt is set through the saved aspects of the Yorkshire and Humber Regional Spatial Strategy (RSS), which tasks the Plan with formally defining the detailed inner and (outstanding sections of the) outer boundary of the York green belt for the first time.”

3.2 The Topic Paper TP1 Addendum (March 2019) at paragraph 2.3 states:

“Saved RSS policies YH9 ( C ) and Y1 (C1 and C2) and the key diagram (insofar as it illustrates general extent of the Green Belt) establish the general extent of the Green Belt around York. This exercise has therefore already been completed; there is an existing Green Belt. The York Local Plan is tasked with formally defining the detailed inner and (outstanding section of the) outer boundary of the York Green Belt for the first time.”

3.3 We do not disagree with this summary. Paragraph 10.1 of the Local Plan should be amended to make it clear that a Green Belt for York is not being created but that its detailed boundaries are being defined for the first time.

3.4 It is important that the Green Belt discussions at the Examination do not waste time on the previous 40 year old Green Belt discussions and background that has led to the current position the Council find themselves in regarding the undefined Green Belt in the City of York. Given



that the City of York Council have declared a Climate Emergency it is essential that the Local Plan looks ahead with the Climate Emergency Agenda in mind and its approach is one of sustainability and carbon reduction solutions ahead of Green Belt considerations.

- a) ***If so, what are the exceptional circumstances for so doing, and where is the evidence required by the five bullet points set out at Paragraph 82 of the Framework?***
  
- b) ***If no, does the Local Plan propose to remove any land from the established general extent of the Green Belt? If it does, is it necessary to demonstrate that exceptional circumstances exist to warrant that approach? Or is it the case that the Local Plan establishes the Green Belt boundaries for the first time, such that the exclusion of land from the Green Belt – such as the ‘garden villages’, for example – is a matter of establishing Green Belt boundaries rather than altering them, in the terms of Paragraph 82 of the Framework?***

3.5 Paragraph 2.14 of TP1 Addendum explains that:

“The NPPF (2012) does not contain specific advice on circumstances where the need to provide for new development to meet the plan strategy may justify incursions into the general extent of the Green Belt alongside the process of defining the inner and outer boundaries. However, the Council has assumed for the purposes of preparing the draft plan, that exceptional circumstances would have to be shown, as they would be if a defined boundary were to be reviewed and altered (under paragraph 83).”  
(underlining is our emphasis)

3.6 Section 7 of the TP1 Addendum runs through the exceptional circumstances, concluding that:

“This Addendum examines how the Council has considered York’s development needs and fully examined all reasonable options for meeting development needs, taking into account the use of Brownfield and underutilised land, the application of different densities and discussions with neighbouring authorities. This section explores the Council’s approach and concludes that it would not be possible to meet the housing needs, employment land requirements, gypsy and traveller and travelling showpeople housing needs and educational needs in York across the Plan period without releasing land from the Green Belt.” (underlining is our emphasis)

3.7 We agree with the exceptional circumstances set out by the Council, however, given the unique situation in the City of York whereby the general extent of the Green Belt is set but the formal



detailed inner and outer boundaries are not yet defined, there is no simple answer as to whether exceptional circumstances are actually required.

**The approach to defining the Green Belt boundaries**

**Q 3.2 Paragraph 1.1.1 of the Council's "Approach to defining York's Green Belt" Topic Paper (TP1) says "York's Local Plan will formally define the boundary of the York Green Belt for the first time." How has the Council approached the task of delineating the Green Belt boundaries shown on the Policies Map? In particular:**

**a) Is the approach taken in general conformity with those parts of the Regional Spatial Strategy for Yorkshire and Humber ('the RSS') that have not been revoked, namely Section C of Policy YH9, Sections C1 and C2 of Policy Y1, and the Key Diagram of the RSS insofar as it illustrates the RSS York Green Belt policies and the general extent of the Green Belt around the City of York?**

3.8 The Council are seeking to define the detailed inner boundaries of the Green Belt and the outstanding sections of the outer boundary of the York Green Belt in the Local Plan in accordance with YSS Policy YH9C and Y1. That is not to say that we agree with the detail of the defined boundaries. We do not agree that the most appropriate boundary has been defined in relation to the western boundary of the City west of Chapelfields.

**b) How has the need to promote sustainable patterns of development been taken into account?**

3.9 It is considered that the need to promote sustainable patterns of development has not been fully taken into account. This is apparent in the identification of land to be kept permanently open in Figure 7 of the TP1 Addendum (EX/CYC/18a) which identifies a number of examples where unsustainable patterns of development could occur based on the application of 'access to services' criteria. Further information is contained in response to Question 3.7.

**c) With regard to Paragraph 138 of the Framework, how have the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary been considered?**

3.10 In the first instance, it is presumed this question should refer to paragraph 84 of the 2012 Framework (rather than paragraph 138 of the 2019 Framework).



3.11 It is considered that more opportunities could be explored for the utilisation of land contained within the Outer Ring Road (subject to the consideration of river corridors, green wedges and coalescence matters, as identified in the Green Belt Appraisal Map contained in the Historic Character and Setting Technical Paper – SD106 and repeated in TP1 Figure 4 and TP1 Addendum Figure 3 ). There is land available and contained within the Outer Ring Road that is in close proximity to existing urban areas and existing established infrastructure. Development opportunities exist within the Outer Ring Road that are not subject to other constraints that would constitute sustainable development. Now is the appropriate time to establish the inner Green Belt boundary to ensure the most sustainable development sites are allocated and a long term Green Belt boundary is established.

***d) How do the defined Green Belt boundaries ensure consistency with the Local Plan strategy for meeting identified requirements for sustainable development and/or include any land which it is unnecessary to keep permanently open?***

3.12 We consider there is a missed opportunity in that the Local Plan proposes to define Green Belt land within the Outer Ring Road, when there is the opportunity to designate land to remain undeveloped (green wedge, rural setting, river corridor) within the Outer Ring Road but allow other unconstrained land to be considered for development. Utilising the Outer Ring Road as a defensible inner Green Belt boundary would ensure the delivery of sustainable development.

3.13 In sustainability terms, we still consider it more appropriate to focus growth in the York urban area and expand existing settlements. This approach would make best use of existing infrastructure and resources, as well as ensuring that the needs of the local community are met. In particular, the failure to allocate land in existing settlements will increase affordability pressures in the City.

***Q3.3 Will the proposed Green Belt boundaries need to be altered at the end of the Plan period? To this end, are the boundaries clearly defined, using physical features that are readily recognisable and likely to be permanent? What approach has the Council taken in this regard?***

3.14 In our Matter 2 Statement in relation to the Plan Period, we recommend that the Plan Period is extended to 2035 to ensure a 15 year plan period upon adoption, with the requirement of at least 5 years worth of safeguarded land in the Plan for development beyond 2035 (or before 2035 if required) to ensure longer term permanence to Green Belt boundaries. Without safeguarded land, even if the plan period is extended to 2035, it is still considered that the Green Belt boundaries will need to be altered at the end of the plan period to accommodate additional growth requirements.





- 3.15 We have concerns with the Green Belt boundaries as proposed and as mentioned, consider that an appropriate approach would be to set the Outer Ring Road as the Green Belt inner boundary.

**Q 3.4 Should the Plan identify areas of ‘safeguarded land’ between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period?**

- 3.16 Yes. In our previous representations we have suggested the Council need to identify safeguarded land in the Local Plan.

- 3.17 The identification of Safeguarded Land is considered particularly important as the Local Plan will set detailed Green Belt boundaries for the first time and an appropriate and sound strategy is therefore required to enable flexibility up to and beyond the plan period. We consider that Safeguarded Land is required in the City to provide a degree of permanence to the Green Belt boundary and avoid the need for future reviews. It would also provide flexibility and allow land to be brought forward quickly without a fundamental review of the whole Local Plan if allocated sites were unable to deliver the quantum of development envisaged. This is particularly important when considering the complex nature of some of the sites that are proposed for allocation in the Plan e.g. York Central and land to the West of Elvington Lane, as well as potential heritage issues with other sites across the City which may prevent the deliverability of some allocated sites coming forward as envisaged. Flexibility is therefore essential, with a contingency of sites required to not only provide a buffer of sites but in addition, respond to the fact that the housing requirement is a minimum target rather than a maximum figure.

- 3.18 Included within the Council’s evidence base is Counsel opinion (EX/CYC/11a), which was sought by the Council in relation to the determination of the Green Belt boundary. This advise included the opinion that safeguarding land was appropriate in respect of land which is required to meet the longer term development needs of the area beyond the Plan period. John Hobson QC (Landmark Chambers) concluded that:

*“In my opinion if no safeguarded land is identified in the emerging Local Plan this would give rise to a serious risk of the Plan being found unsound. There would be a failure to identify how the longer term needs of the areas could be met, and in particular a failure to indicate how those longer term needs could be met without encroaching into the Green Belt and eroding its boundaries”*



**Q3.5 Overall, are the Green Belt boundaries in the plan appropriately defined and consistent with national policy in the National Planning Policy Framework, and is the Plan sound in this regard?**

3.19 No it is not considered the Green Belt boundaries are appropriately defined. It is considered that the Local Plan fails to make the best use of land within the Outer Ring Road and there is a missed opportunity of taking advantage of existing infrastructure. It is considered that an alternative and appropriate approach would be to fix the Outer Ring Road as the Green Belt boundary with fixed landscape corridors within the Outer Ring Road, which would allow the use of remaining undeveloped non Green Belt land contained within the Outer Ring Road boundary to be utilised for development. This alternative approach would be consistent with national policy guidance at paragraph 85 in relation to defining Green Belt boundaries.

**Exceptional Circumstances**

**Q3.6 Paragraph 83 of the National Planning Policy Framework is clear that Green Belt boundaries should only be altered in exceptional circumstances. It appears that the Plan proposes to 'release' some land from the Green Belt by altering its boundaries. In broad terms:**

**a) Do the necessary exceptional circumstances exist to warrant the proposed alterations to Green Belt boundaries, in terms of removing land from the Green Belt? If so, what are they?**

3.20 Yes, namely housing need, however see answer to question 3.1.

**b) What relationship, if any, is there between the exceptional circumstances leading to the alterations proposed to the Green Belt and the proposed spatial strategy / distribution of new housing?**

3.21 We have expressed concern in relation to the lack of explanation in the Local Plan to the distribution of housing across the City (See answer to Matter 2 Question 2.9 c). The exceptional circumstances relate to the need to deliver housing that warrants the need to remove land from the Green Belt.

3.22 The Council's May 2018 Topic Paper (TP1) – Approach to defining York's Green Belt, informs that the primary purpose of Green Belt for the City of York is to protect the setting and special character of the historic city. The Addendum to TP1 (EX/CYC/18) provides further explanation and analysis of the approach taken to define the Green Belt. There does however appear to be



poor linkages between the spatial strategy and the exceptional circumstances leading to the Green Belt proposals.

**c) *What is the capacity of existing urban areas to meet the need for housing and employment uses?***

3.23 At a recent Appeal (APP/C2741/W/19/3227359) north of Boroughbridge road, south of Millfield Lane, York the existing housing land supply was considered. The Inspector in her Decision at paragraph 38 states:

“There is a clear need for housing, with the main parties agreeing that the current housing land supply for the City of York is either 3.28 years or 3.82 years, depending on whether the emerging Local Plan allocations within the urban area are included or not. The evidence therefore shows that the Council is currently unable to demonstrate a 5 year housing land supply without bringing forward sites outside the urban area.”

3.24 It is however unknown what housing requirement these supply figures are based on, nor is it known how the extent of student accommodation is considered in the calculation.

**d) *Is there any non Green Belt rural land which could meet all or part of the District's housing and employment needs in a sustainable manner (having regard to any other significant constraints)?***

3.25 This question is for the Council to answer.



**The approach to identifying land to be ‘released’ from the Green Belt for development**

**Q 3.7 How has the land proposed to be removed from the Green Belt been selected? Has the process of selecting the land in question been based on a robust assessment methodology that:**

- a) Reflects the fundamental aim of Green Belts, being to prevent urban sprawl by keeping land permanently open;**
- b) Reflects the essential characteristics of Green Belt, being their openness and permanence;**
- c) Takes account of both the spatial and visual aspects of the openness of the Green Belt, in the light of the judgements in *Turner and Samuel Smith Old Brewery*;**
- d) Reflects the five purposes that the Green Belt serves, as set out in Paragraph 80 of the Framework, particularly that of preserving the setting and special character of the historic city (in answering this question, we ask that the Council refers specifically to the ‘wedges’ of Green Belt that would be created, for example those between the main urban area and Sites ST7 and ST8);**
- e) Is in general conformity with RSS Policy Y1, which aims to protect the nationally significant historical and environmental character of York, including its historic setting, the need to safeguard the special character and setting of the historic city and to protect views of the Minster and important open areas; and**
- f) Takes account of the need to promote sustainable patterns of development?**

3.26 ‘Spatial shapers’ are referred to in the Council’s TP1 Addendum (EX/CYC/18) as the spatial strategy used in the proposed spatial distribution of growth. The spatial shapers include historic character and setting, flood risk and green infrastructure. (TP1 paragraph 5.35).

3.27 TP1 Addendum Figure 7 ‘Strategic areas to keep permanently open’ is important in setting the context behind how the Council have identified sites in the Local Plan. This figure combines 4 other plans to show land which, when assessed against the five purposes of the Green Belt, has been identified as strategically important to keep permanently open. Figure 7 showing land to be kept permanently open is a combination of the following:

- Areas important to York’s special character and setting
- Access to services (land which does not have access to 2 or more services within 800m)
- Areas of the city essential for preventing coalescence
- Yorks Green Infrastructure, Nature conservation, Green Corridors and Open space



- 3.28 It therefore figures that land that is not identified as being needed to be kept permanently open is suitable for development. However caution should be applied to the application of Figure 7, as there are clear examples of areas that lie outside of areas to be kept permanently open based on 'access to services' yet their development would create illogical unsustainable patterns of development in comparison to sites contained within the Outer Ring Road.
- 3.29 The TP1 Addendum makes reference to the Council's approach to separating new settlements from the urban edge and refers to the Heritage impact assessments carried out in line with the principles of the Heritage Topic Paper Update which made it clear that "while new free standing settlements may have an impact on the openness of the Green Belt, greater harm could be caused to the historic character and setting of York when building extensively on the periphery of the main urban area." While this approach is acknowledged, there do remain opportunities to extend on the periphery of the main urban area without harming the setting and special character of the historic city. Land west of Chapelfields is such an example.
- 3.30 The land west of Chapelfields was not identified in either the York Green Belt Appraisal (2003) or the Historic Character and Setting Technical Paper (2011) as land being important to any of these functions. In 2013 the Council produced an 'Historical Character and Setting Technical Paper' as an update to the 2011 Technical Paper. In this paper the 'Area Retaining Rural Setting' was extended to include the site, however there was no landscape based assessment for the extension of this area, which appears to have been made on the presumption that the land must perform the same role due to its adjacency to other land that lies within the 'retaining Rural Setting' area. We maintain our concerns with the manner in which the sudden inclusion of this site within the 'Area Retaining Rural Setting' has occurred. This remains the only criteria within Section 4 of the TP1 Addendum that results in the site being identified in Figure 7 as 'Strategic areas to keep permanently open.'
- 3.31 The identification of land west of Chapelfields as non Green Belt land would be a logical approach and would represent sustainable development, given the relationship of the land to the existing urban area, and containment within the Outer Ring Road.

***Q 3.8 Have the Green Belt boundaries – as proposed to be altered – been considered having regard to their intended permanence in the long term? Are they capable of enduring beyond the plan period?***

- 3.32 As referred to in answer to previous Matter 3 questions, it is considered that the Outer Ring Road would represent a logical inner Green Belt boundary, with land contained within the Outer Ring Road identified as non Green Belt. In particular the site west of Chapelfields performs none of the five purposes of Green Belt:-



- The site does not promote urban sprawl given it appears as a logical 'rounding off' of the urban form.
- The site does not create a threat to merging neighbouring towns.
- The site does not represent an encroachment into the countryside given the Outer Ring Road represents the point for more open countryside.
- The site has not been kept open in order to preserve any historic setting.
- Not developing the site would not otherwise result in urban regeneration.

***Q 3.9 In this regard, what is the justification for the proposed alterations to the Green Belt boundary, as set out in Annex 6 of the Topic Paper 1: Addendum***

***Q 3.10 Overall, is the approach to identifying land to be 'released' from the Green Belt robust, and is the Plan sound in this regard?***

3.33 It is not considered that the approach to identifying Green Belt land in the Plan is sound. An appropriate alternative strategy is the identification of the Outer Ring Road as the inner Green Belt boundary. With this in mind it is considered the site at Chapelfields, contained within the Outer Ring Road, immediately adjacent to the existing urban edge would be a suitable site to allocate for housing. This would form a logical urban extension to the existing settlement of Chapelfields. The site west of Chapelfields is an appropriate and available site with the ability to deliver circa 90 dwellings, as a small urban extension to the existing settlement edge on the western side of York. In seeking to achieve the delivery of sustainable development via the Local Plan, we maintain our support to focus growth in the York urban area, and to expand the existing main urban edge and outlying existing settlements before considering isolated new settlements outside of the Ring Road. This approach would make best use of existing infrastructure and resources and lessen potential congestion concerns. The site at Chapelfields would fit comfortably with this approach, as a logical and contained extension to the existing urban edge.