

Hearing Statement for the Examination in Public: Matter Three – Green Belt

Land at Moor Lane, York

Ref. PM SID 581

November 2019

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For and on behalf of GVA Grimley Limited t/a Avison Young

1. Introduction

- 1.1 Avison Young has been instructed by Barwood Strategic Land II LLP ("Barwood") to prepare and submit a Hearing Statement to the Examination of the City of York Local Plan. This Statement should be read in conjunction with all previous representations made on behalf of Barwood in relation to Land at Moor Lane, York ("the Site").
- 1.2 In November 2018, a hybrid planning application was submitted to City of York Council for a residential-led development under application ref: 18/02687/OUTM on a small part of the wider Barwood site which has been the subject of previous representations. A masterplan is included at **Appendix 1**.
- 1.3 The planning application was refused at Planning Committee in July 2019. The application has subsequently proceeded to appeal (Ref. APP/C2741/W/19/3233973) with an Inquiry ongoing at the time of writing this statement between 12th and 28th November 2019.
- 1.4 This Statement addresses a number of the questions raised by the Inspectors under Matter 3: Green Belt. It sets out a summary position on the issues to be expanded upon where appropriate at the Hearing sessions.

2. Matter 3: Green Belt

Question 3.1: 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?

- a) If so, what are the exceptional circumstances for so doing, and where is the evidence required by the five bullet points set out in paragraph 82 of the Framework?**
- b) If not, 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 at 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?**

2.1 Paragraph 82 states that the “general extent of Green Belts across the country is already established”. Barwood agree that the general extent of the York Green Belt has been established through RSS and that the challenge for the draft Local Plan is to establish the inner and outer boundaries given the broad nature of the Green Belt shown on the RSS Key Diagram. Accordingly, the Green Belt boundary around York is being defined for the first time. It is not being altered.

2.2 Adopting the Council's approach to OAN (which we consider is flawed) highlights there is insufficient land to meet Plan requirements from various sources and within the urban areas to avoid the need to take Green Belt land. The extent of release needed depends partly on the level of need which the Plan requires to be met and the robustness of other assumptions i.e. windfalls, delivery of strategic sites etc. This is considered in our hearing statement for Matter 2. Notwithstanding the extent of eventual land release required, exceptional circumstances have been justified by the Council.

Question 3.2: Paragraph 1.1.1 of the Council's “Approach to defining York's Green Belt” Topic Paper (TP1) [TP001] 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, Section 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?**
- (b) How has the need to promote sustainable patterns of development been taken into account?**
- (c) With regard to Paragraph 84 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?**

(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?

- 2.3 Whilst we appreciate that the questions are aimed at the strategic level, we wish to highlight the inadequacies in the Council's approach through the approach adopted to our client's site. Paragraph 5.42 of the Addendum highlights that the Council's approach to site selection uses "spatial shapers" to establish the best sites for development "by avoiding areas which it is necessary to keep permanently open". Annex 3, considers in detail the definition of inner Green Belt boundaries within the seven sub-areas. Land in which Barwood has a controlling interest falls within section 1 and specifically boundary 2 (page ref: A3: 9). The associated plan shows the inner boundary proposed by the Council notated as "Section 1". A significant portion of Barwood's site lies outside any of the areas identified as fulfilling Green Belt purposes, and crucially outside the area identified as protecting special character and setting (including coalescence). This is land which is regarded as important to keep permanently open in order to protect York's special historic character.
- 2.4 The tabulated/pro forma assessment of the inner boundary (section 1, boundary 2 at page A3:9) fails to distinguish between this part of the land, which lies outside any of the areas identified as fulfilling Green Belt purposes, and other land which it considers does meet one or more purposes. In relation to both the approach to Strategic Openness and Local Openness discussed in the Addendum, the Council's approach to defining the inner boundary at this point simply fails to reflect its own evidence base and fails to justify why it might be appropriate to depart from it.

Question 3.3: 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?

- 2.5 Undoubtedly yes based on the Council's approach to date. The draft Local Plan has sought to "over identify" housing sites which the Council believe will continue to deliver after the 15-year plan period and endure beyond the Plan period. However, as set out previously, significant concerns exist with a number of sites and therefore that it is likely that the boundaries will need to be altered earlier than forecast in order to meet development needs; thus not representing permanent boundaries in accordance with paragraph 83 of the NPPF.
- 2.6 With regard to defining the boundaries, Topic Paper 1 Addendum sets out the approach which does not include a comprehensive review of all reasonable opportunities for the allocation of sites. It can therefore be concluded that a comprehensive Green Belt review has not been carried out to define permanent boundaries.
- 2.7 Further detail is also provided at Question 3.7 of this Statement.

Question 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?

- 2.8 Yes. Barwood are firmly of the view that safeguarded land is essential if the boundaries of the Green Belt are to endure. National policy is clear that safeguarded land should be provided "where necessary" in order to

meet longer-term development needs stretching “well beyond” the plan period so that local planning authorities can be satisfied that Green Belt boundaries “will not” need to be altered again at the end of the plan period.

2.9 York are merely seeking to adopt a Plan with a plan period of 15 years, up to 2032/33 which is the ‘minimum period’¹ in accordance with National Policy. In the context that the Local Plan is unlikely to be adopted until 2021, in practice the Local Plan will only be shaping development ten years before a full review of all policies, as most likely the Green Belt, will be required. As set out in the table below, there are many Local Plans which have been adopted recently with a plan period longer than the minimum 15-year requirement.

Local Authority	Plan period timeframe	Plan period (years)	Adoption Date	Years left post adoption
Birmingham Development Plan	2011 to 2031	20 years	January 2017	14 years
South East Lincolnshire Local Plan	2011 to 2036	25 years	March 2019	17 years
Local Plan for the Broads Authority	2015 to 2035	20 years	May 2019	17 years
East Hertfordshire District Plan	2011 to 2033	22 years	October 2018	15 years
Hull Local Plan	2016 to 2032	16 years	November 2017	15 years
Peterborough Local Plan	2016 to 2036	20 years	July 2019	17 years

2.10 Moreover, whilst the Local Plan has sought to “over identify” housing sites (unconfirmed developable areas of key strategic sites and questionably high densities for several other strategic sites) which the Council believe will continue to deliver after the 15-year plan period, together with windfall housing sites, there are significant concerns with a number of strategic sites which we believe will not deliver the yields or within the Local Plan trajectory timeframes. As such, the resulting impact is that additional allocations will be required in order for the Council to meet the housing need; however, this is not accounted for in the Local Plan (particularly in the absence of safeguarded land) – (see April 2018 reps, chapter 2 for more information).

2.11 York’s failure to identify safeguarded land and instead “over allocating” on several strategic sites is fundamentally unsound and the wrong approach for a number of reasons as set out below.

¹ Paragraph 22 of the NPPF (2019)

- 2.12 Firstly, several Local Plan Inspectors² have indicated that a 15-year plan period, followed by 10 to 15 years' worth of safeguarded land will ensure that Green Belt boundaries retain a degree of permanence.
- 2.13 Secondly, the halted draft Publication Local Plan (September 2014) recognised the merit in including safeguarded land. By proposing allocations then safeguarded land (including the Barwood site) the Council has expressly acknowledged that those areas do not perform a Green Belt function.
- 2.14 Thirdly, the need for safeguarded land was clearly stated in legal advice sought by Officers of the Council³ which was clear that if no safeguarded land is identified the emerging Local Plan is likely to be found unsound.
- 2.15 Fourthly, safeguarded land will provide flexibility. Given the particular circumstance of York and the politics influencing the plan-making process, it is even more important to get the balance right now. Safeguarded land will provide the headroom required to meet future development strategies as a resource in sustainable locations which can be drawn upon should circumstances require it. Such circumstances might include higher levels of growth than anticipated, an unrealistic windfall allowance being confirmed and strategic allocations not delivering as anticipated - another likely scenario.
- 2.16 In the absence of safeguarded land, the Council are leaving themselves no flexibility or reserve land in sustainable locations which it can look to should circumstances (as outlined above) require it. We therefore do not believe that the Council's position to omit a safeguarded land policy is sound, flexible to respond to such eventualities or durable beyond the plan period. The risk is not simply pressure to revise the Green Belt boundaries but if the supply falls below five years, applicants will bring forward sites in the Green Belt. They will have to establish very special circumstances – a highly undesirable burden for applicants to face in order to simply maintain an adequate rolling supply in an area of past, and present, acute unmet housing need. The scenario implied by an absence of safeguarded land is the real risk of a repeat of the housing shortfalls which have characterised CYC for years and planning by appeal.

Question 3.5: 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?

- 2.13 As outlined in this statement and previous representations, there remains significant objection to the Council's approach to precisely defining the Green Belt which fails to meet the following tests of soundness:
- The Local Plan has **not been positively prepared**. Fundamental technical work such as a comprehensive Green Belt assessment is incomplete; and much technical work has been undertaken after the site selection process was completed so evidence has been retrofitted to justify the pre-existing housing strategy and does not represent the most appropriate strategy;
 - **It is not justified** as the Council's approach to defining the inner boundary simply fails to reflect its own evidence base. There is no transparent logic or justification as to how the sites identified for allocation and their respective boundaries have been defined;

² Ashfield Local Plan; Cheshire East Local Plan Strategy and Leeds Core Strategy

³ As presented at the Local Plan Working Group – 29 January 2015

- The Local Plan is **not effective** as the “oversupply” of housing sites identified is not considered to be an “oversupply” in reality which results in no flexibility to meet the development needs in York without additional Green Belt release; or the allocation of safeguarded land to ensure that Green Belt boundaries will not need to be altered at the end of the plan period; and
- The Local Plan’s approach to Green Belt is **inconsistent with national policy** as the amount of land proposed to be released from the Green Belt is insufficient and further land is required in sustainable locations in order to meet the delivery of sustainable development objectives set out in the Framework.

Question 3.6: 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?

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

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

(d) What is the justification for excluding the identified Strategic Sites (e.g. ST7, ST8, ST14 and ST15) from the Green Belt?

As stated above, it is considered that exceptional circumstances exist. However, paragraph 83 of the NPPF refers to local planning authorities establishing Green Belt boundaries in their Local Plans. The only part of the adopted development plan in York is the RSS; no Local Plan exists as yet. The draft Plan will establish the boundaries of the Green Belt for the first time around the urban area and the freestanding new settlements. Paragraph 83 notes that “once established, Green Belt boundaries should only be altered in exceptional circumstances”. The boundaries are not being altered as they are being defined (or established) for the first time hence no exceptional circumstances need apply, notwithstanding that they exist.

Question 3.7: How was 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:

- reflects the fundamental aim of Green Belts, being to prevent urban sprawl by keeping land permanently open;**
- reflects the essential characteristics of Green Belts, being their openness and permanence;**
- takes account of both the spatial and visual aspects of openness of the Green Belt, in the light of the judgments in Turner and Samuel Smith Old Brewery;**
- 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);**
- 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, that need to safeguard the special**

***character and setting of the historic city and to protect views of the Minister and important open space;
and***

f) *takes account of the need to promote sustainable patterns of development.*

- 2.17 As set out in our previous representations, we do not believe that York's methodology for defining the Green Belt precisely and selecting sites for Green Belt release is robust and sound.
- 2.18 York relies heavily on 'The Approach to the Green Belt Appraisal' (2003) and incremental updates⁴ as the evidence base upon which the Council's site selection process is based. which we do not believe accords with a sound methodology. The 2003 report states that it sought to identify those areas either York's Draft Green Belt that were key to the City's historic character and setting. The areas of land subsequently established by this exercise still form the basis of the Council's approach to site selection and Green Belt boundaries.
- 2.19 The Topic Paper Addendum (which by its sheer volume highlights the extent of the retrofitting exercise being undertaken) was subsequently produced and confirms that there has been no new fieldwork or assessment to consider whether land originally identified in 2003 as fulfilling one or more Green Belt purpose still does so today. Given that the purposes are assessed on changing factors, such as views and landscape, clearly this should have been updated by the Council.
- 2.20 The Topic Paper Addendum only selectively reviews York's Green Belt and retrospectively seeks to justify the already identified Local Plan allocations which is completely contrary to the NPPG which states "evidence needs to inform what is in the plan and shape its developments, rather than being collected retrospectively"⁵. As submitted, the Local Plan evidence base only includes a selective review of York's Green Belt, which has been carried out retrospectively to justify a pre-existing housing strategy. As such, all reasonable opportunities have not been reviewed prior to the allocation of sites and York are not in a position where they have the evidence to showcase that they have considered all reasonable alternatives and selected the most suitable and sustainable sites based on evidence, with justification for discounting others.
- 2.21 There has been changes in policy and best practice approach, as well as physical circumstances on the ground, which should have caused the Council to carry out a proper comprehensive reappraisal of the open land around York, especially the historic character and setting areas originally identified, and the extent to which it still fulfils Green Belt purpose. Instead, the Council are proposing site allocations by using an evidence base that was prepared approximately 16 years ago which is wholly inadequate.
- 2.22 As such, it is concluded that the 2003 Green Belt study and subsequent incremental updates do not accord with the above methodology and national policy and instead retrofits evidence. A comprehensive review is necessary to ensure consistency with the spatial strategy and to ensure that the boundaries will not be reviewed again at the end of the Plan period.

⁴ Historic Character and Setting Technical Paper Update (June 2013; Heritage Topic Paper Update (September 2014) and Heritage Impact Assessment (September 2014)

⁵ Planning Practice Guidance Paragraph 014 Reference ID: 12-014-20140306

- 2.23 Paragraph 8.3 of the Addendum outlines that the Council has undertaken a site selection process to identify potentially suitable sites and reviewed them against Green Belt purposes. It has sought, it claims, to identify sites to come forward for housing, employment and other uses which are all in sustainable locations "offering least harm to the Green Belt when considered against the purposes set out in paragraph 80 of the NPPF".
- 2.24 The issue of harm is normally associated with planning applications within Green Belt. This is not an approach adopted when considering and identifying land for Green Belt release.
- 2.25 Table 2 which presents 21 sites in the Local Plan, considered by York to be the most suitable and sustainable and causing the least harm to the Green Belt. Although a key purpose of this document is to illuminate and detail the means by which site allocations in the Green Belt were chosen in our view the Addendum fails to do so. The process of site selection, from a Green Belt perspective, remains obscure and not justified, and this is a significant failing of the Plan. By way of example, Annex 3 identifies a significant portion of the Barwood objection site at Moor Lane as lying outside any area identified in the Council's evidence base as being important to keep permanently open.
- 2.26 The Council's preferred site allocations are detailed in Annex 5 to the Addendum. Many of these lie within areas identified in the evidence base as fulfilling one or more Green Belt purposes and which should be kept permanently open. By way of example, Site ST31 (land at Tadcaster Road, Copmanthorpe) (7.5 ha, 158 dwellings) lies partly within an area identified as important to prevent sprawl, and partly within an area protecting special character and setting (including coalescence). The latter is regarded as crucial to the preservation of the setting and special character of York; the proforma accompanying this site confirms that this notation derives from the 2003 Green Belt evidence base. It goes on to note that "development would have a detrimental impact on the separation between Copmanthorpe and the urban fringe while reducing the gap between the village and the main urban area of York". In relation to purpose 4 (preserving the setting and special character of historic towns) similar text is included, with the importance of its separating role highlighted, "in order to retain the separation of settlements with a separate identity and physical character and retain the pattern of York's villages within a rural setting".
- 2.27 The Council's evidence base and assessment of it falls short of what might be expected of a comprehensive assessment given that Green Belt boundaries in York are being established for the first time. The timing of the Addendum in particular post publication of the Plan highlights that crucial evidence did not inform the drafting of the Plan. The evidence which did exist is dated.

Question 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?

- 2.28 No additional points to add as per answer to question 3.4 above.

Question 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?

- 2.29 The approach is not robust and the Plan is not sound in this regard for reasons given above.

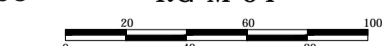
Appendix I

Planning Application Masterplan



Project
**MOOR LANE,
 YORK**
 Drawing Title
ILLUSTRATIVE MASTERPLAN

Date	Scale	Drawn by	Check by
27.06.18	1:2500@A1	M.D.	I.S.
Project No	Drawing No	Revision	
23258	RG-M-54	H	



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