

Green Belt Clarification Note

Introduction

1. This document provides further clarification of the approach taken by the Council to defining the boundaries of the York Green Belt.
2. During discussion at the Phase 1 examination hearings on 18th December 2019, concern was raised about land being included within the York Green Belt which appears to fall outside the scope of policy in the Yorkshire and Humber Regional Spatial Strategy (RSS), in particular policy requiring the outer boundary to be defined “*about 6 miles from York city centre*”.
3. It was also argued that having regard to RSS policy and the NPPF, the Council did not need to demonstrate exceptional circumstances to justify allocations to meet housing needs, when the identification of land to meet housing needs was to be considered as part of the process of defining Green Belt boundaries as required by policy.
4. These issues are addressed in turn below.

Outer boundary definition

5. The approach taken by the Council, in defining the sections of the outer York Green Belt boundaries which have not already been established by adjacent local authority adopted plans, is set out in the Green Belt TP1 Addendum [EX/CYC/18].
6. The principle and general extent of a Green Belt around York is established by the RSS (adopted May 2008). As a matter of planning principle and policy, there is a Green Belt area around York, as established through the RSS (see Wedgewood v. City of York [2020] EWHC 780 (Admin) at [21] and [39]).
7. The Regional Strategy for Yorkshire and Humber (Partial Revocation) Order 2013 [CD13] retained policy Y1(C) which states that:

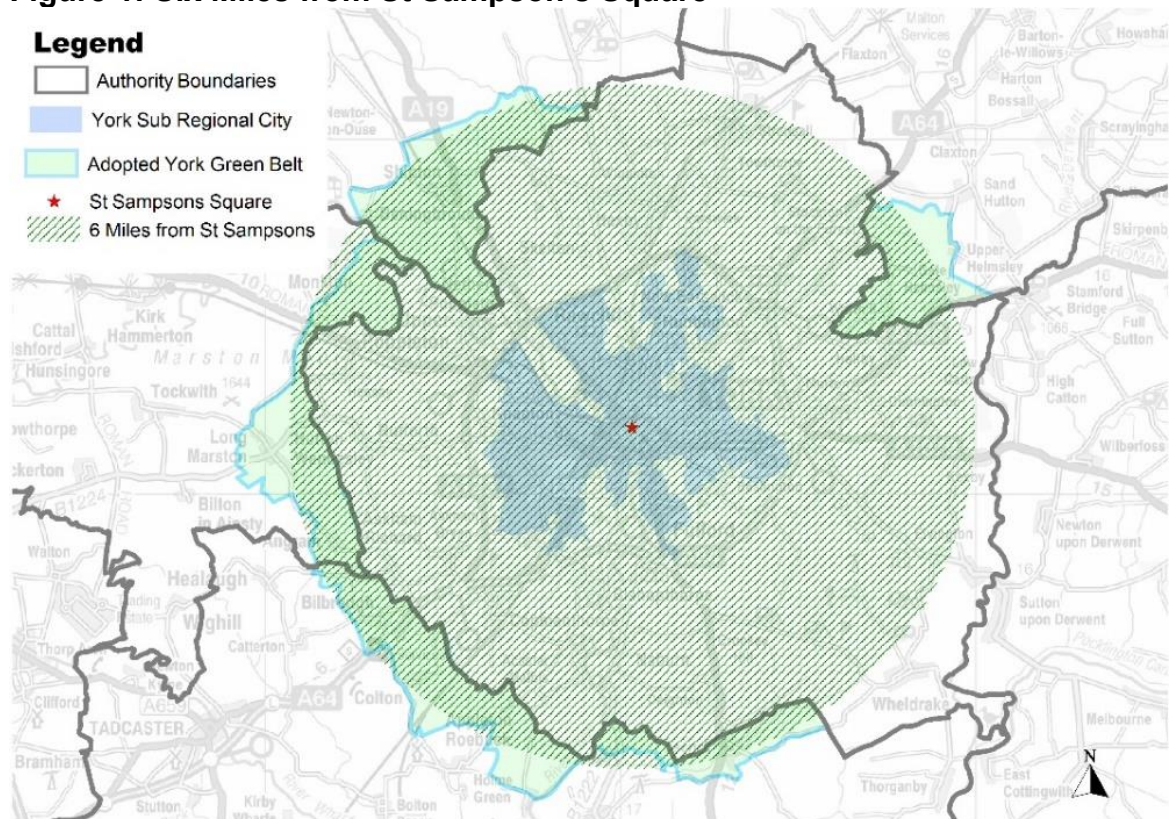
“Plans, Strategies, investment decisions and programmes for the York sub area should:

 1. *In the City of York LDF, define the detailed boundaries of the outstanding sections of the outer boundary of the York Green Belt about 6 miles from York City centre and the inner boundary in line with policy YH9C”.*
 2. *Protect and enhance the nationally significant historical and environmental character of York, including its historic setting, views of the Minster and important open areas.”*
8. While the illustrative RSS key diagram was also saved, it was the intention of the RSS, that the detailed inner and outer boundaries would be established through an adopted local plan. That key diagram was not prepared by reference to a plan base and the “city centre”, from which to measure “*about 6 miles*”, is not precisely defined in the saved RSS policy. It was equally a fundamental policy consideration to protect and enhance the historical and

environmental character of York. Policy should always be considered in context and, as one limb of a two part policy, it is necessary to approach the two limbs together and to have regard to the second when approaching the first.

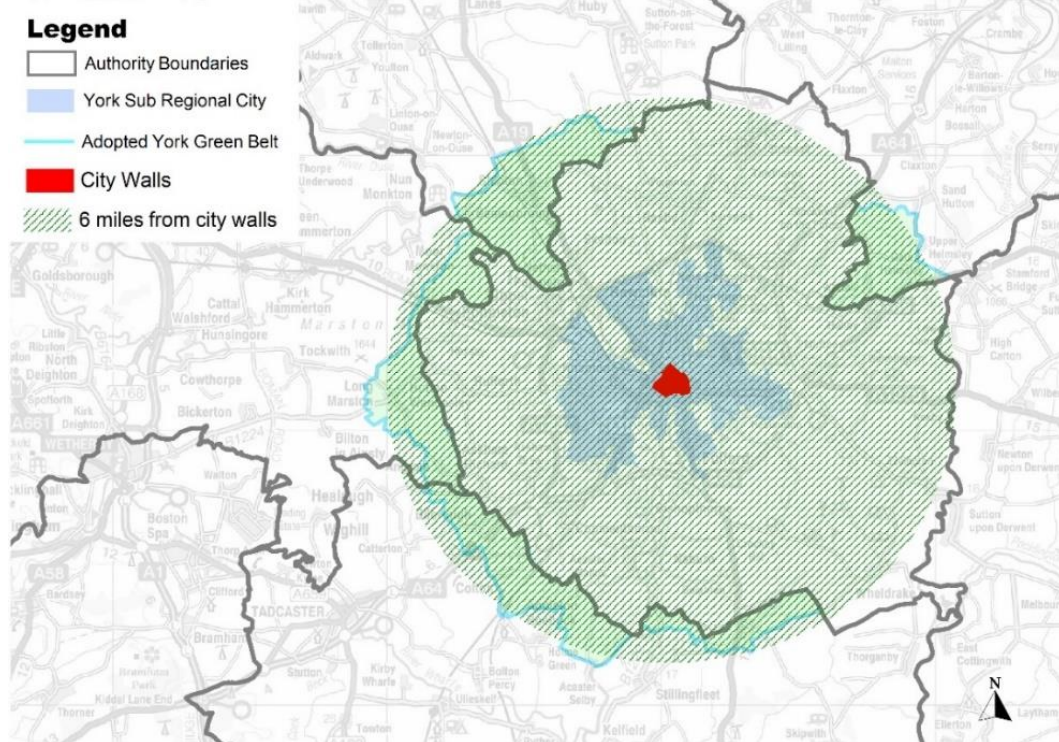
- At the Phase 1 examination hearings, the Council explained that a reference had been made to St Sampson's Square (a public open area within the city centre), as a central point from which to measure. This reference was made at a planning appeal in 2015 (for 102 dwellings on land at Brecks Lane, Strensall York), where an independent planning agent employed by the Council suggested the use of this central point. The application of this central point to a 6 mile boundary is illustrated below in Figure 1.

Figure 1: Six Miles from St Sampson's Square



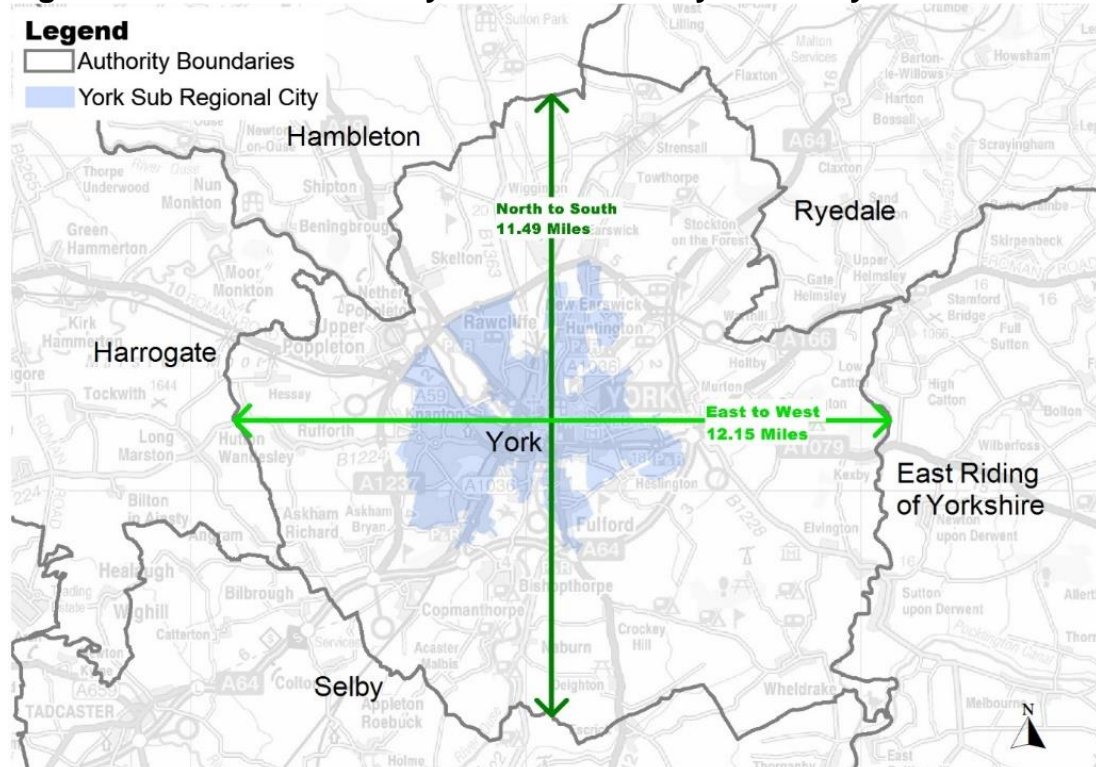
- The Council considers that reference to the City Centre can however be interpreted as an area. The emerging Local Plan designates an area which represents the city centre in the context of the Plan. Historic England, at the examination hearings, proposed an approach of using the city walls to define the historic city centre, the application of this area to a 6 mile boundary is illustrated overleaf in Figure 2. This approach is supported by the Heritage Topic Paper [SD103, Page 4], where the term historic city refers to the urban nucleus defined by the city walls.

Figure 2: Six Miles from York City Walls



11. The TP1 Addendum [EX/CYC/18] also refers to York as “approximately 6 miles across” (paragraph 5.14). This relates to an evaluation of the City of York Authority boundary, as being approximately 12 miles from North to South, and 12 miles from East to West, giving the authority area an approximate 6 mile radius around a general central city focus. This is illustrated below in Figure 3.

Figure 3: Dimensions of City of York Authority boundary



12. As explained at the Phase 1 hearings, RSS policy Y1 provides for flexibility in the setting of the outer boundaries in its references to “**about** 6 miles” from York City centre.
13. The policy is not prescriptive therefore, and allows the Council to define a boundary having regard to policy requirements, including saved RSS policy (see point 2 of Y1(C) as set out above), as well as the NPPF2012 (including paragraph 85). The relationship between defining the green belt and the wider strategy in the Local Plan (including Policy SS2 [CD001]) is set out in the Green Belt TP1 Addendum [EX/CYC/18].
14. The Council considers that the approach it has taken to identifying boundaries accords with this policy (and is also in general conformity with the remainder of the RSS as required by section 24 of the PCPA 2004). Its approach does not mechanistically apply a simple 6 mile distance from a central point or area but takes into account the purposes of Green Belt policy and the requirements of the second bullet point of saved RSS policy Y1(C), which have involved a review of the entire area of land within its area where a Green Belt boundary is required. This strategic approach (set out in TP1 (2018) and section 4 of the TP1 Addendum (2019) [EX/CYC/18]) establishes that areas of value to the York Green Belt exist throughout the York authority area.
15. The Council’s approach is justified in that the series of maps included within the strategic approach to the York Green Belt (figures 3 to 6 [EX/CYC/18]) illustrate that there are areas which need to be kept permanently open in both the northern and south eastern edges of the authority in order to safeguard the special character and setting of the historic city. Figure 2 of this note identifies that these lie beyond a strict 6 mile measurement from the edge of the city walls.
16. These areas include land which has been defined as important to the historic character and setting of York as part of extended green wedges, as well as areas of important nature conservation habitats. These habitats have evolved through the creation of landscape features such as Ings and common land which have formed as a result of farming and land use methods intrinsic to understanding the evolution of the city and factors which have made it special. They now illustrate recognisable and accessible features of countryside which benefit the people of York (See Paras 4.35 to 4.37 [EX/CYC/18]).
17. In determining the detailed location of specific boundaries, the methodology as set out in section 5c of the TP1 Addendum applies (see EX/CYC/18 p.31-2). This involves 2 levels of consideration; strategic and local. Both of which involve the consideration of various evidence base documents, policy guidance and site visit appraisals to assess the function of the land to be included within the Green Belt, and its role in protecting and enhancing the historical and environmental character of York.
18. The strategic considerations for the outer boundaries are set out as bullet point 1 of the Openness Criteria for boundary delineation (See table in section 5c p.31 of TP1 Addendum [EX/CYC/18]). The use of these areas is explained in more detail in paragraphs 5.39 to 5.42 [EX/CYC/18] and illustrated on pages 4 and 47 of Annex 2 to the report [EX/CYC/18e](also included in this note overleaf as figures 4 and 5 for reference, illustrating the approach taken).

Further evaluation in relation to “Strategic Openness” is documented within the Annex for each individual section of the outer boundary considered (see pages 23, 26, 29, 32, 35, 38, 51, 55, 59 and 62 [EX/CYC/18e]).

Figure 4: Outer Boundary Section 1 relationship to broad strategic areas (taken from EX/CYC/18e, Page 4).

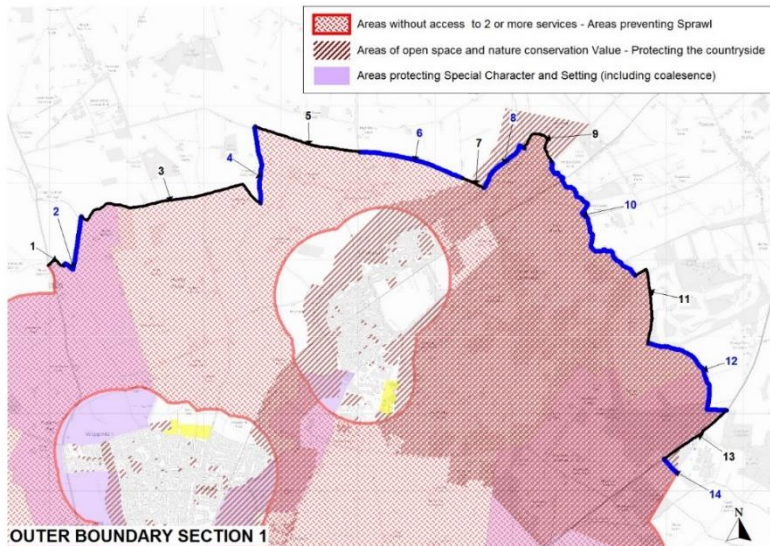
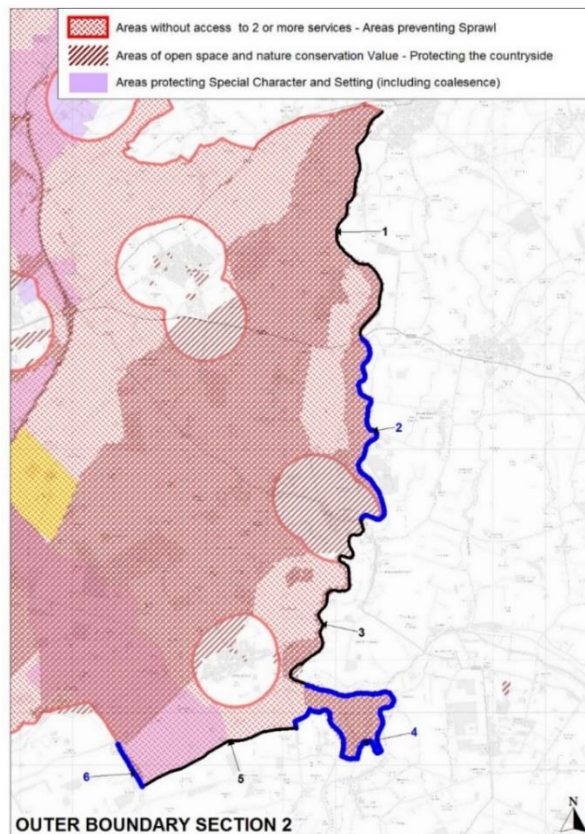
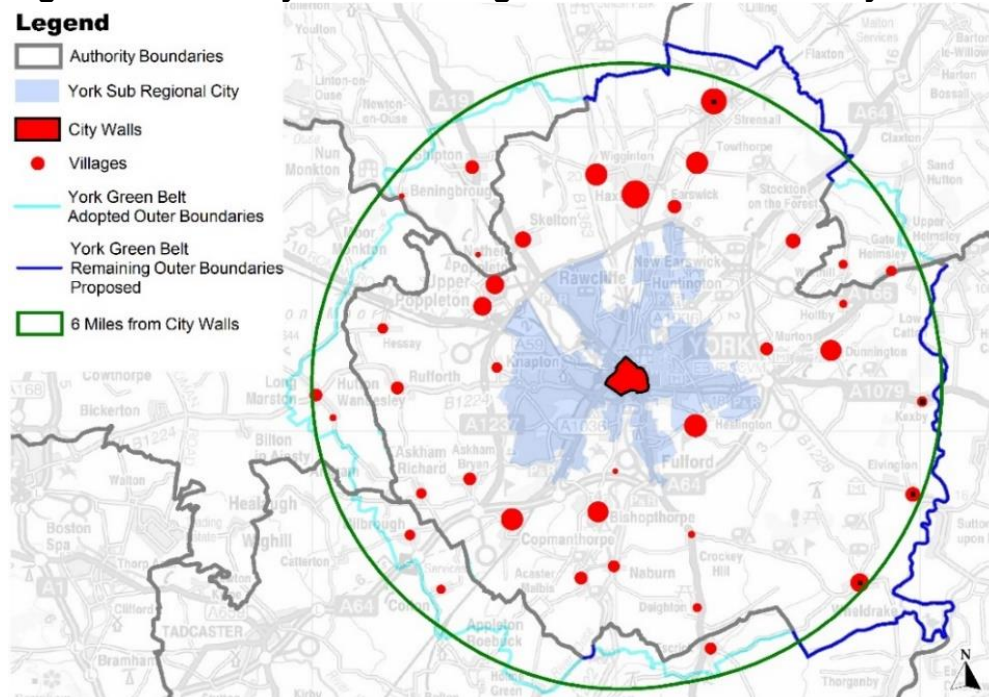


Figure 5: Outer Boundary Section 2 relationship to broad strategic areas (taken from EX/CYC/18e Page 47).



19. In addition to the strategic approach, the methodology also calls for the local assessment of openness criteria as set out in bullet point 2 of the Openness Criteria, which includes the consideration of the principles of the Heritage Topic Paper [SD103] (2014) (see [EX/CYC/18] page 31 and explanation para 5.46).
20. The Heritage Topic Paper [SD103] is a key piece of the local plan evidence base in understanding the characteristics which are essential to the significance of the historic city and what makes it special. This document sets out that the character of York is “defined by ancient arterial roads and commons, the river valley, and the pattern of villages set within a predominantly flat landscape of pasture, arable woodland and wetland” (para 2.4). It establishes the relationship of the historic city to the surrounding settlements as a key character element of the city (page 63) and explains the importance of the landscape setting of villages (para 5.84).
21. The proposed York Green Belt outer boundaries beyond a strict 6 mile distance are those which are in proximity to the villages of Strensall, Elvington, Wheldrake and Kexby as presented in Figure 6. The villages themselves are within 6 miles of the city and the landscape and setting of all these settlements are considered to be important as part of the nested landscapes of the historic city of York, and therefore as part of the York Green Belt, as land which needs to be kept permanently open to protect the setting and special character of the wider city landscape and setting. This is in line with Historic England Guidance (see EX/CYC/18 para 4.12) The analysis of the proposed outer boundaries to the York Green Belt, in relation to the setting of these villages is presented in Annex 2 to the TP1 addendum [EX/CYC/18e] as “Local Openness -historic context & open and urban fabric” (See pages 15, 18, 21, 24, 27, 30, 33, 36, 39, 52, 53, 57, 60 and 63).

Figure 6: Proximity of York Villages to Six Miles from City Walls



22. The villages of Elvington and Wheldrake in particular are referenced by the Heritage Topic Paper as examples of early planned agricultural settlements from the 12th century where openness and views out to the countryside are important features to maintain (Page 41 [SD103]).
23. Further, the Heritage Topic Paper, as part of the evidence base considered, makes several references to the importance of the River Derwent and its floodplains and Ings, as well as Strensall Common. These references occur both when considering the “Factors” which have shaped the character and significance of the city (paras 4.8-4.9 [SD103]) as well as the “themes” which represent the visible and hidden spatial and physical expression of activities (paras 5.70 – 5.81 [SD103]).
24. The River Derwent and its floodplains and Ings form a significant part of the proposed York Green Belt boundary to the south east, and Strensall Common forms a significant part of the proposed York Green Belt boundary to the north. While the edges of both these designations are beyond 6 miles from the city as depicted by Figure 2 of this note, they are important as part of the topographical context of the historic development of York which illustrates the landscapes influence on human involvement throughout the evolution of the city (see [SD103]). The application of the methodology set out in Section 5c of the TP1 addendum [EX/CYC/18] therefore identifies these areas necessary to keep permanently open to protect the character and setting of the historic city, in line with the policy context of the York Green Belt.
25. Site visits carried out to establish detailed boundaries appraised the whole area to evaluate a boundary which maintained land which needed to be kept permanently open and was most likely to be permanent in line with the criteria set out in section 5c of the TP1 addendum [EX/CYC/18]. As set out in paragraph 5.67 to 5.70 of the addendum, the boundaries selected were those within the area which were recognisable and demonstrated the most resilience to change, preferably following the most regular or consistent line to give maximum resilience to erosion. Using a strict 6 mile limit alone was considered to be subject to misinterpretation. An example of boundary selection is presented on page 22 of Annex 2 [EX/CYC/18/e] - *“While there are other alternative pieces of infrastructure which the boundary could follow the visually intrusive hedge and tree line presents the clearest and the most consistent/continuous edge in the area”*.
26. To the extent that the outer boundary has been determined beyond a strict 6 mile distance from the city centre (if that is correct given the lack of precision in the measurement point), it has acknowledged the flexibility in the policy and the need to apply broader Green Belt policy when devising a boundary. That boundary has been set in accordance with a clear methodology that is consistent with the policy context. Land within the boundary is of strategic importance in safeguarding the special character and setting of the historic city and is not readily distinguishable from other land falling within the 6 mile distance. The approach taken is consistent with RSS policy and NPPF.

Inner boundary definition and exceptional circumstances

27. The dotted line around York as a sub-regional City, presented on the illustrative RSS 'key diagram,' is not considered by the Council to represent alignment with the ring road, or a defined demarcation of an inner Green Belt boundary line in any way. It is not considered that it relied on any particular physical feature to direct where any defined boundary should lie (cf Satnam Millennium Ltd v. Warrington Borough Council at [2007] EWHC 2648 (Admin) [36] [EX/OTH/8]). The RSS was prepared under Reg 9 of the Town and Country Planning (regional Planning) (England) Regulations 2004/2203 and the associated key diagram was therefore not prepared on a map base. It is stipulated on the legend to the diagram that the line relates to policy YH9 which states as follows:

“the detailed inner boundaries of the Green Belt around York should be defined in order to establish long term development limits that safeguard the special character and setting of the historic city”.

28. This approach requires further assessment, and again allows for flexibility rather than the adoption of a boundary which strictly follows the dotted line on the diagram. That line does not appear to have been drafted with the objective of defining prescriptively where the boundary should be, without a detailed consideration of how the special character of the city should be safeguarded.
29. With this policy objective in mind, in determining an approach to the sequence of setting the inner boundary of the York Green Belt, in accordance with the requirements of Saved RSS policy YH9, the Council approach focussed on the RSS policy requirement by establishing the features which were most important in terms of safeguarding the special character and setting of the historic city, applying a consistent methodology for all boundary delineation.
30. Historic England have advised on how to most effectively safeguard the special character and setting of the city. This work was fundamental in defining the boundaries given the clear policy of the RSS. The Green Belt Appraisal work undertaken in 2003 [SD107] and updated in 2011[SD106] and 2013 [SD106] illustrates areas which are important to the historic character and setting of the city (see [EX/CYC/18] fig 3), albeit that this alone does not identify all of the land which needs to be kept permanently open to safeguard this purpose of the York Green Belt and further consideration must be given to heritage topic paper principles at the local level and in assessing proposed sites (See [EX/CYC/18] paragraphs 4.17 to 4.21, openness criteria methodology page 31, and paragraphs 5.36 and 5.71).
31. In determining the inner boundaries of the York Green Belt, the same methodology as set out for establishing the outer boundaries of the York Green Belt applies, and is set out the TP1 Addendum [EX/CYC/18] sections 4-5 which explains how the approach followed NPPF guidance. This included evaluating both strategic and local considerations of various evidence base documents and policy guidance. The appraisals undertaken to assess the appropriate inner Green Belt boundary involve analysis of the function of the land to be included within the Green Belt and its ability to protect and enhance the historical and environmental character of York through the consideration of principles set out in the Heritage Topic Paper [SD103]. This is also in line with

the policy approach, including the need for boundary setting to be consistent with the local plan strategy (see NPPF paragraph 85).

32. Further, the Council took into account guidance in NPPF paragraph 84, which advises that when drawing up Green Belt boundaries local planning authorities should take account of the need to promote sustainable patterns of development and consider the consequences for sustainable development of channelling development towards urban areas. However, sustainability must also take into consideration the historic and environmental character of York.
33. It considered that in order to establish the amount of growth which could be accommodated within urban areas, it was necessary first to understand the limits of the urban area and land clearly not within the Green Belt, which thus enabled the full capacity of the urban areas to be assessed, including the testing of increased densities. This approach enabled assessments to be made as to the quantity of development which can be accommodated without any risk of incursion into the Green Belt. This required a boundary to be devised (in conjunction with establishing the areas that needed to be kept open as set out above), in order that the scope for developing within urban areas could be understood, in advance of considering whether the boundary needed to change to accommodate any remaining need.
34. NPPF paragraph 85 also advises that boundaries should be set consistently with the Local Plan strategy, which was taken into account, along with other requirements in paragraph 85 emphasising the need for permanence and to not include land which it is unnecessary to keep permanently open.
35. The Council was also mindful of Secretary of State planning appeal decisions at Avon Drive (for the erection of 109 dwellings adjacent to the urban area at Huntington) and The Brecks (application for 102 dwellings at Strensall), which indicated that all land outside the urban area has the potential to be considered within the general extent of the York Green Belt, including the land directly adjacent to the main built up area, within the outer ring road. The approach set out in the appeal decisions was clear that land in these periphery locations could only be suitable for development if it did not contribute to the openness or purposes of including land in the Green Belt. Thus it was considered that any land outside the urban area should be treated initially as within the Green Belt; and this informed the approach of devising an initial boundary, without taking into account the overall level of housing need to be accommodated within the boundary that was ultimately proposed.
36. Work to establish a detailed inner boundary to the Green belt in line with this approach, and the methodology set out above, included identifying previously undeveloped land to the periphery of the main urban area which did not serve Green Belt purposes. The outcome of this work is detailed in Annex 3 [EX/CYC/18d] and helped to identify sites such as ST4 (Land at Hull Road) and ST2 (Civil Service Sports Ground) which, when assessed through site visits, did not contribute to the historic character and setting of the city and other purposes of Green Belt in a way which required them to be kept permanently open.
37. All sites which were considered part of the existing urban capacity are set out in table 1, section 7 of the TP1 addendum [EX/CYC/18]. The amount of new land

which needed to be identified for development could not be quantified without this assessment of the current capacity. This was an important step to facilitate discussion with neighbouring authorities around the level of growth which remained to be accommodated.

38. After following this process, the Council had an initial boundary which, it was recognised, created a distinction between land which was within or outside the general extent of the Green Belt. Once the existing sustainable patterns of development had been maximised and neighbouring authorities established they could not accommodate the additional growth at this time, this approach also created an equal basis for assessing the release of any further potential land required to meet housing needs and the potential harm this could have to the special character and setting of the historic city.
39. The Council took the view that where land was to be allocated outside this initial boundary, exceptional circumstances should be demonstrated having regard to NPPF paragraph 83. The options for development included substantial sites identified for allocation by the Council that were clearly separated from the existing built up/urban areas. These sites were brought forward as part of a strategy of creating new settlements and limiting growth to the urban edge, and is endorsed by Historic England as causing far less harm to the historic city than would be caused by development on the edge of the existing built up area (see para 8.7 [EX/CYC/18]). These sites were easily distinguished within the established general extent of the York Green Belt and were not considered to fall within the process for setting an inner (or outer) boundary under the RSS. Although NPPF paragraph 83 does not explicitly contemplate the demonstration of exceptional circumstances for the allocation of such sites, it was considered to be consistent with the overall objectives of Green Belt policy to demonstrate exceptional circumstances, where land was being removed from the Green Belt. It would be a futile exercise to include land that would be likely to fall within the exceptional circumstances approach. These sites are identified in Table 2 of section 8 of the TP1 Addendum as “freestanding settlement” (ST7, ST14, ST15) (and “freestanding employment” (ST26 and E18) [EX/CYC18]).
40. Concerns were raised at the examination with the approach taken, in particular regarding the application of exceptional circumstances to allocations which extended the periphery of urban areas, on the grounds that such sites should be considered as part of the boundary-setting exercise, taking into account an up-to-date assessment of housing and employment needs, rather than being treated as requiring the demonstration of exceptional circumstances. These concerns appear to have been expressed in relation to all sites identified in Table 2 as “urban extensions” and “village extensions”.
41. As explained above, in taking the approach set out, the Council had already established which land performed a Green Belt function and was able to accommodate development in the existing built-up areas (including villages). This involved considering an initial boundary before assessing the extent to which land left within the general extent of the Green Belt should be taken up for new development. This enabled potential harm to Green Belt to be explicitly considered as part of the site selection process; and for potential allocations to be considered on a consistent basis, following the consideration of an initial

boundary which focussed on the specific objective of RSS policy. Whilst some allocations were more obviously free-standing away from the urban area (in particular ST7, ST14 and ST15), others nonetheless involved material incursions onto land beyond the built-up area and it was considered that a consistent approach should be followed for all allocations. The Council considers that it was sound to proceed on the basis that all land released in these locations should be justified, and is justified, under the exceptional circumstances test.

42. Notwithstanding this approach, if it is considered that the extension allocations are not required to meet the exceptional circumstances test, as objectors have alleged, and fall only to be considered as part of a wider boundary setting exercise which takes into account current housing needs, in the view of the Council this would neither alter the form and extent in which the allocations have been proposed nor would it alter the proposed boundary generally.
43. Land has been justified for release from the Green Belt having regard to housing need; and if that need were taken into account within a boundary setting exercise as objectors have suggested it would have justified setting the proposed boundary in the same locations. Allocations have been proposed having regard to the principles of sustainable development, which are reflected in the factors shaping the Local Plan Spatial Strategy and also applied to the sites selection process through the SHLAA [CD049]. The same spatial shapers informed the delineation of Green Belt boundaries, as explained in the TP1 Addendum (see sections 4-5). These principles include the need to protect and enhance the nationally significant historical and environmental character of York, including its setting and important open areas as well as using access to services to focus development towards sustainable locations. Each of the sites considered for release from the Green Belt was also subject to a Heritage Impact Appraisal which applied the characteristics identified within the Heritage Topic paper [SD103] to the potential land to assess their impact on the historic environment. These considerations identified appropriate locations to enable overall housing needs to be met sustainably, within an identified and permanent Green Belt boundary. If there were no requirement to identify exceptional circumstance justifying the release of these sites, but housing need was instead to be taken into account at an earlier stage as a factor which generally informed where boundaries were to be set, it would have led to the same boundaries being proposed.