

HEARING STATEMENT

CITY OF YORK LOCAL PLAN EXAMINATION

MATTER 4: SPATIAL STRATEGY AND SITE
SELECTION PROCESS

March 2022

Carter Jonas

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Client: L&Q Estates (formerly Gallagher Estates)

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1.0 INTRODUCTION

- 1.1 The following Hearing Statement is made for and on behalf of L&Q Estates (L&QE). This Statement responds to selected questions set out within Matter 4: Spatial Strategy and Site Selection Process of the Inspector's Matters, Issues and Questions.
- 1.2 The Inspector's Issues and Questions are included in bold for ease of reference. Where a specific Question is not covered L&QE has no comment as part of this hearing statement.
- 1.3 This Hearing Statement is pursuant to and cross-references with previous representations by Carter Jonas in respect of: the Pre-Publication Draft (Regulation 18); Main Modifications (Regulation 19) consultations in July 2019; Phase 1 Hearing Statements (December 2019); and, City of York Local Plan Proposed Modifications and Evidence Base Consultation (Regulation 19) in July 2021.

2.0 MATTER 4: SPATIAL STRATEGY AND SITE SELECTION PROCESS

MIQ 4.1 Is the Spatial Strategy set out in the Plan based on an appropriate and reasonable assessment and justified by robust evidence?

- 2.1 We note the Proposed Modifications (June 2019) [EXCYC/19] to the Spatial Strategy in PM4 and PM5 to align with the updated housing requirement evidenced through the City of York – Housing Needs Update January 2019 published by GL Hearn. There were then further Proposed Modifications in April 2021 [EXCYC/58] in relation to the Spatial Strategy (PM 49, 50, 51, 52, 53, 54, 55) to clarify the housing requirement over the plan period, define Gypsy and Traveller Need, the Council’s approach to phasing in relation to brownfield land and sustainable development and the range of sites delivered within the Spatial Strategy.
- 2.2 However, despite the recent proposed modifications we continue to consider (in line with our earlier representations) that Policy SS1 is not sound as it is not positively prepared, effective or consistent with national policy for the reasons set below which reiterate our previous representations.
- 2.3 We object to the housing requirements being set at 882 dwellings over the plan period to 2023/33 which the Council state in PM54 includes “*an allowance for a shortfall in housing provision from the period 2021 to 2017*” based on an objectively assessed housing need of 790 dwellings per annum. As per representations previously submitted, we consider that the OAHN should be higher and in the region of 1,069 dpa. We consider that the points raised in the Turley OAHN Critique report previously submitted as part of representations to the Proposed Modifications (June 2019) are still relevant and are therefore reattached in Appendix 2. The conclusions of this report concur with the Planning for the Right Homes Publication Data spreadsheet which identifies a figure of 1,070 dpa for York, a significant increase from the 790 dpa.
- 2.4 The June 2021 Turley Critique of Housing Need (attached to our representations to the Proposed Modifications in April 2021 [EX/CYC/58]) sets out the basis of our objection to the continued use of the 760 OAHN based on the Council’s continued use of the 650 jobs per annum target which appears to be linked to shortcomings within the evidence base in relation to Oxford Economics (December 2019) York Economic Outlook: Economic Outlook and Scenario Results for the York Economy [EX/CYC/29] and also the GL Hearn (September 2020) Housing Needs Update: City of York Council [EX/CYC/43a] which appears to stem from the untested judgements that have been made in relation to population growth without both reports with no attempt to analyse the key factors which will influence housing need.

2.5 The use of the 2018-based household projections within the GL Hearn (September 2020) Housing Needs Update: City of York Council [EX/CYC/43a] report which has been used to support the OAHN raises concern. The Planning Practice Guidance sets out a clear statement from Government that the 2016 and 2018 based projections should not be used for assessing housing needs and the 2014-based projections are more appropriate.

2.6 We have concerns that the evidence base [EX/CYC/36: Affordable Housing Note Final February 2020] provided by the Council in relation to affordable housing continues to show that affordable housing need will not be met. It is well documented and was highlighted at the Hearing Sessions in December 2019 that the City is suffering from an acute affordable need following years of under provision. With a supply of only 38.6% of the affordable housing need with historical completions of less than 10% of the total completions highlighted within the Affordable Housing Note this demonstrates a serious flaw within the Council's approach to housing need and affordability. Although the recent appeal decision (September 2021) for Land at Boroughbridge Road, west of Trenchard Road, York referenced APP/C2741/W/21/3271045 was dismissed the Inspector highlights

"its is clear from the submitted evidence that there is a legacy of a significant mismatch between need and supply in the City area.....There is no dispute between the main parties that York is one of the most unaffordable places to live in the country. Furthermore, it was demonstrated that this affordable need exists within both the locality of the site and the wider City area and shows no signs of arresting. Even on the basis of the Council's calculation, the differential between need and supply is still very large".

2.7 The housing crisis within York was also highlighted within the Barwood Appeal ref. APP/C2741/W/19/3233973 in which the Secretary of State agreed with the Inspector in paragraph 22 that:

"All parties are agreed that there is a housing crisis in York and that a five-year supply of housing land cannot be demonstrated. The Secretary of State agrees with the Inspector at IR342 that the provision of housing would be a considerable benefit of the proposal".

2.8 The updated evidence base highlights a clear lack of understanding and willingness on the Council's behalf to acknowledge the seriousness of the issue and look for possible solutions in the form of an uplift to the housing requirement to aid the delivery of affordable homes and housing supply.

- 2.9 The Council's paper on housing monitoring and Housing Flow Reconciliation [EX/CYC/32: CYC Annual Housing Monitoring and MHCLG Housing Flow Reconciliation Return 2019] shows a significant difference in the two forms of data. This raises questions over the validity of the use of such data in the formation of the wider evidence base and subsequent strategy for delivering sustainable growth in York.
- 2.10 The lack of a robust approach to address the issues raised clearly highlights how the plan is unsound as it has not been positively prepared, nor is it justified, effective or consistent with the NPPF core principles at paragraph 17, bullet point 3.
- 2.11 We consider that the points raised in the Turley OAHN Critique report previously submitted as part of representations to the Proposed Modifications (June 2019) are still relevant and are therefore reattached in Appendix 2. The conclusions of this report concur with the Planning for the Right Homes Publication Data spreadsheet which identifies a figure of 1,070 dpa for York, a significant increase from the 790 dpa.
- 2.12 In summary, the evidence base, proposed housing requirement and associated modifications at PM50-54 are not justified or consistent with the NPPF. We continue to consider that this could be resolved through proposed housing requirement based on a minimum OAN of 1,069 dpa.

MIQ 4.2 Is the approach taken in informing the Spatial Strategy and the distribution of development across the Plan area justified, effective and in accordance with national policy?

- 2.13 Paragraph 17 of the NPPF 2012 highlights the Core planning principles, with the third bullet point stating that planning should:

“proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs. Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area, and respond positively to wider opportunities for growth, Plans should take account of market signals, such as land prices and housing affordability, and set out a clear strategy for allocating sufficient land which is suitable for development in their area, taking account of the needs of the residential and business communities”.

- 2.14 We continue to have concerns in relation to the Spatial Strategy and evidence base that has been used to justify the approach, as highlighted by our comment to question 4.1 above, along with comments

raised in our response to the Proposed Modifications and Evidence Base Consultation (Regulation 19) in July 2021 and our earlier representations.

- 2.15 There is an over reliance on a number of key large/complex sites (strategic sites) which make up the majority of the housing supply. The Council's assumptions for the delivery of new homes at these sites is considered over-optimistic because they are based on unrealistic lead in times and annual completion rates.
- 2.16 Table 1a and 1b within Proposed Modification 55 (April 2021) [EX/CYC/58] highlights the source of supply over the plan period with the majority (11,067) of the projected 18,294 dwellings coming from Strategic Housing Allocations, with 5,532 dwellings from new settlements/garden villages.
- 2.17 The Plan requires a comprehensive strategy that identifies a broader range of sites to respond fully to the range of housing needs, including affordable housing and a range of family housing. This will ensure delivery can be both achieved and sustained over the plan period. As history shows us, reliance on large strategic sites that are complex and require significant upfront infrastructure, investment and resource; adds risk to the delivery of housing in the early period of the plan; and, in the case of the proposed location of the new garden villages is unsustainable. As a result, the Plan as proposed will not deliver the most sustainable growth strategy that Policy SS1 purports to achieve. The Council's approach fails to recognise that large sites will be delivered over a longer time frame. The overestimation of delivery and over reliance on two of the new settlements/garden villages does not reflect that due to their makeup (more than one housebuilder and landowner is normally involved), quality and viability, typically result in having a slower build out rate than other small and medium sites. A more rational approach would be through the identification of additional sites within the outer ring road, which would create a more sustainable spatial strategy and ensure delivery of housing in the context of the identified needs throughout the plan period.

MIQ 4.3 Does Policy SS1 provide an appropriate basis for the delivery of sustainable development and growth within the City of York?

- 2.18 In broad terms Policy SS1 has the potential to provide an appropriate basis for the delivery of sustainable development and growth within the City of York in line with the sustainability objectives of the NPPF (paragraphs 7 – 16) and we consider that the five spatial principles set out within this policy will help to provide a focus for the location of development.

2.19 Proposed Modification 55 (April 2021) provides a key diagram and tables showing the anticipated pattern of growth. However as set out above, due to the significant reliance on garden villages as a preference over the release of more green belt land from the inner boundary for a more dispersed pattern of sustainable urban housing allocations, the Plan as proposed will not deliver the most sustainable growth strategy that Policy SS1 seeks to achieve and paragraph 182 of the NPPF 2012 requires.

2.20 In sustainability terms, it should be considered 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 risks further exacerbating the already significant affordability pressures in the City over the plan period.

MIQ 4.4 Policy SS1 sets out a spatial principle for sustainable modes of transport and Paragraph 3.12 of the submitted Plan says support will be provided for a pattern of development that favours and facilitates the use of more sustainable transport to minimise the future growth of traffic.

a) How does the Plan deliver this?

2.21 Based on the comments raised in response to previous questions, we consider that the Plan as submitted does not provide for a pattern of development that favours and facilitates the use of the most sustainable modes of transport. The sustainability of the proposed new settlements, in particular ST15, is questionable as it is located in an isolated countryside location, with no existing infrastructure capable of accommodating the proposed levels of development. Paragraph 35 of the 2012 NPPF requires:

“Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to

- *accommodate the efficient delivery of goods and supplies;*
- *give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;*
- *create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;*
- *incorporate facilities for charging plug-in and other ultra-low emission vehicles; and*
- *consider the needs of people with disabilities by all modes of transport”.*

2.22 A development of the scale of ST15 would generate significant travel movement. the majority of employment opportunities, and all of the main retail, leisure and other community facilities likely to be accessed by residents of the development, are situated off-site. These are principally within York, and other surrounding locations.

b) What evidence is there that the Spatial Strategy delivers what Paragraph 3.12 of the submitted Plan says?

2.23 There is no evidence that the Spatial Strategy delivers what paragraph 3.12 of the submitted Plan states. To the contrary the reliance on garden villages which have no existing infrastructure does not support the use of more sustainable transport to minimise the future growth of traffic. They have the potential to exacerbate congestion on the surrounding highway networks and will require significant improvements in the highways infrastructure to facilitate access.

c) Is it the most appropriate strategy when assessed against alternatives?

2.24 No, the most appropriate strategy is to make best use of existing infrastructure and resources, as well as ensuring that the needs of the local community are met through focusing growth in the York urban area, such as our client site at Kettlestring Lane, Clifton Moor, York SHLAA Site Reference 959.

MIQ 4.5 Is the proposed approach to new development and its location, as outlined by Policy SS1, sufficiently clear within the submitted Plan and is it supported by a robust and up to date evidence base?

2.25 We consider the location of new development should be made clearer within the submitted plan as a result of the proposed modifications in 2019 [EX/CYC/20] and 2021 [EX/CYC/58] however we do not believe that the location of new development is supported by a robust and up to date evidence base.

2.26 Para 158 of that NPPF (2012) states:

“Each local planning authority should ensure that the Local Plan is based on adequate, up-to-date and relevant evidence about the economic, social and environmental characteristics and prospects of the area. Local planning authorities should ensure that their assessment of and strategies for housing, employment and other uses are integrated, and that they take full account of relevant market and economic signals”.

- 2.27 The word ‘base’ requires the evidence to be considered prior to the drafting of the Plan submitted. It should be the fundamental evidence base upon which the Plan was established. The evidence base in relation to the York Local Plan has been continually retro fitted throughout the Local Plan process in particular during the Examination which has been ongoing for a significant length of time now following the submission of the Plan to the Secretary of State on 25th May 2018.
- 2.28 The sheer raft of evidence and numerous modifications that have taken place during this time makes the paperwork trail confusing, time consuming to navigate, unequitable to those without planning knowledge or advice and ultimately casts doubt on the soundness of the Plan.

MIQ 4.6 Are the (broad) locations for new development the most appropriate locations when considered against all reasonable alternatives?

- 2.29 The broad locations for new development are not the most appropriate locations when considered against all reasonable alternatives. The identification of garden villages as a preference over the release of potentially more sustainable urban sites such as our clients site at Kettlestring Lane, Clifton Moor, York SHLAA Site Reference 959 is not a sustainable option and demonstrates the flaws within the Council’s retrospective approach to the location of development throughout the plan.
- 2.30 It is considered that the Local Plan fails to make the best use of land, whilst taking advantage of existing infrastructure.

MIQ 4.7 What factors have influenced the distribution of development proposed?

- 2.31 Paragraphs 3.4 – 3.12 of the Publication Draft cover ‘Factors Which Shape Growth’ and refer to the technical information in relation to ‘The Character and Setting of the City’, ‘Green Infrastructure’, ‘Nature Conservation’, ‘Green Corridors’ and ‘Open Space’, ‘Nature Conservation’ and ‘Flood Zones’ which the Council has relied upon to inform the distribution of growth.

The explanation set out in proposed modification PM 55 states that:

“The Plan focuses on identifying sufficient land to meet housing and economic growth (spatial drivers) in a pattern of development aligned to the factors which shape growth (spatial shapers) set out in SS1. Development is directed to the most sustainable locations, making as much use as possible of suitable previously developed land (with some release of green belt land). As is set out in SS1, sustainable growth for York emphasises conserving and enhancing York’s historic environment. The scale and

pattern of development is guided by the need to safeguard a number of key elements identified as contributing to the special character and setting of the historic City. These include the City's size and compact nature, the perception of York being a free-standing historic city set within a rural hinterland, key views towards the City from the ring road and the relationship of the City to its surrounding settlements".

- 2.32 This is the Council's attempt to retrospectively justify how the proposed distribution that has been arrived at.

MIQ 4.8 Are the factors which shape growth, as set out in Section 3 of the Plan, clearly explained, justified and set out and are they supported by robust and up to date evidence?

- 2.33 The factors which shape growth are set out and explained to an extent within Section 3. Whilst we note that these are factors which should be given consideration within the Site Selection Process, we consider that they are not supported by a robust and up to date evidence base for the reasons previously explained. The evidence being used is dated and is merely being continually recycled, tweaked and represented.

MIQ 4.9 With regard to the impact of distribution of development on the transport network:

a) What role has the transport appraisal had in influencing the distribution of development?

- 2.34 Transport is mentioned in an almost fleeting fashion within the supporting text for Policy SS1, however it is unclear exactly how transport and the need to maximise sustainable travel has influenced the proposed distribution of development.

- 2.35 Paragraph 34 of the NPPF sets out how

"Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However this needs to take account of policies set out elsewhere in this Framework, particularly in rural areas"

- 2.36 Paragraph 35 elaborates on this further detailing how:

“Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to

- *accommodate the efficient delivery of goods and supplies;*
- *give priority to pedestrian and cycle movements, and have access to high quality public transport facilities;*
- *create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones;*
- *incorporate facilities for charging plug-in and other ultra-low emission vehicles; and*
- *consider the needs of people with disabilities by all modes of transport”.*

2.37 The Plan should ensure that sustainable transport has clearly influenced the distribution of development.

b) Is the Council’s transport evidence robust and adequately up to date?

2.38 In terms of information/evidence in relation to transport there is the Transport Topic Paper was prepared in 2017 [SD075] and updated in September 2018 [SD076], the Transport Modelling Review was prepared in 2019 [EXSoCG/App 1] and the City of York Council Local Transport Plan 3: 2011-2031 (2011). Given the time that has elapsed since these documents were prepared we consider that these should be reviewed and updated accordingly where necessary to ensure that there is a robust evidence base.

What are the cumulative impacts on the transport network of the spatial distribution of development set out in the Plan and are any adverse impacts severe? If so, how has that been addressed?

2.39 It is noted within paragraph 14.6 of the Plan that developments likely to generate significant traffic movement include but are not limited to:

- Strategic housing allocations (i.e. sites over 5ha);
- New ‘garden village’ settlement;
- Strategic employment locations;
- Other residential development sites that are over 5ha and
- Residential development sites that are under 5 ha, but have more than 200 dwellings

- 2.40 It is noted in the Plan that cumulative impacts of the distribution haven't been determined and are merely dealt with within the Policy text as something that should be addressed for example:

Policy SS10: Land North of Monks Cross

Demonstrate that all transport issues have been addressed, in consultation with the Council and Highways England, as necessary, to ensure sustainable transport provision at the site is achievable. The site will exacerbate congestion in the area, particularly at peak times given its scale and the capacity of the existing road network. The impacts of the site individually and cumulatively with sites ST7, ST9, and ST14 should be addressed.

MIQ 4.10 What role has the sustainability appraisal had in influencing the distribution of development?

- 2.41 We consider that the Sustainability Appraisal does not support the proposed distribution of housing as there are a range of negative and significant negative effects that have been identified for a number of the 'garden villages' (or stand-alone settlements). For example, ST15 scores poorly overall with 4 of the Objectives Scoring as significant negative effects (SA02, SA03, SA10, SA013), two as significant/negative effects (SA014 and SA015), one as negative effect (SA08), two as no significant effect/clear link to policy (SA04) and SA012), two as depends upon Policy implementation (SA05 and SA06), one as negative/positive effect (SA09), one as a positive effect (SA07) and once as significant positive effect (SA1).
- 2.42 The scoring therefore implied that the only clear significant positive effect from the development of ST15 as a stand-alone settlement would be that it would assist in meeting the housing needs of York in a sustainable way. How sustainable a development on greenfield land, detached from the main urban area with no services or facilities would actually be is debatable given the negative effect identified within the Sustainability Appraisal scoring.
- 2.43 It is also clear that there is flaws with the scoring of the Sustainability Appraisal as there are various scores which underplay the significance of the effect of a number of the 'garden villages' such as ST7, ST14 and ST15. For example the majority of ST15 (just over two thirds) is greenfield and there will be a significant negative effect from the loss of this land (SA09) whereas it has been scored as likely to have a positive effect and also a negative effect on SA objectives. We assume that this is due to the site including an element of the Elvington Airfield brownfield site. In relation to SA Objective 06 Access to Transport, the site scores "1 – depends upon Policy implementation". This should be identified as a

significant negative effect as at present there are no frequent bus services, or access to train services with walking/cycling distance.

- 2.44 Overall, it is considered that the distribution of housing identified within the Plan will not lead to the most sustainable pattern of housing growth. As mentioned above, the allocation of 'garden villages' such as ST15 in preference to the release of more sustainable sites such as our client's site at Kettlestring Lane, Clifton Moor. SHLAA Site Reference 959 should be considered for allocation

MIQ 4.11 With regard to the sites proposed for all types of development (i.e. housing and nonhousing):

a) How have the sites been identified, assessed and selected?

- 2.45 The site selection process is set out within the Site Selection Paper June 2013 [SD072A] and the accompanying Annexes [SD072B]. There was an addendum in September 2014 [SD072B] which considered new sites submitted for the first time and through the Further Sites Consultation in summer 2014 or sites where either a revised boundary has been submitted for consideration or where new evidence has been submitted through the Further Sites Consultation.
- 2.46 The Site Selection Paper June 2013 [SD072A] highlights that sites were identified for assessment via the Call for Sites Consultation held in 2012, and also further sites previously submitted to the Council for consideration through the Local Development Framework process, including the Call for sites 2008, SHLAA and Core Strategy consultations, were included. The Paper states that whilst no up-to-date information on these sites may have been submitted (between 10 and 14 years ago), it was deemed that there was previously an intention to develop the land and that this was worth reconsidering in the new assessment. Sites with existing or lapsed consent for residential or commercial use were also included. Annex 2 of the report also lists sites considered from other sources.
- 2.47 The Site Selection Papers also identify the methodology and how the use of this methodology resulted in identifying the most suitable sites for further more details consideration

b) Is the methodology used for each justified?

- 2.48 The Council state that the methodology used for the Site Selection Paper Addendum September 2014 [SD072B] is the same used in both the original Site Selection Paper 2013 [SD072A] published to support the Preferred Options Consultation and the Further Sites Consultation. The Site Selection Paper June

2013 [SD072A] and Site Selection Paper Addendum September 2014 [SD072B] and the states that “the methodology of assessment undertaken for Residential, Employment and Retail sites followed a 4 stage criteria methodology including:

- *Criteria 1: Environmental Assets protection*
- *Criteria 2: Openspace retention*
- *Criteria 3: Greenfield protection and high flood risk avoidance*
- *Criteria 4a: Access to facilities and services*
- *Criteria 4b: Access to Transport*

2.49 The Site Selection Paper Addendum September 2014 [SD072B] goes on to state that:

“All the sites were also subject to a supplementary assessment of environmental considerations to understand more about key environmental and historic assets or issues within the vicinity of the site”.

2.50 The methodology used is clear and justified for all types of development.

c) What role has the Sustainability Appraisal had in this process?

2.51 The Site Selection Paper June 2013 [SD072A] identifies that the SA Scoping Report sets out the proposed methodology for determining the most sustainable site allocations to enable the assessment to be interactive with other evidence being prepared for the Local Plan and to fit with the sustainability aspirations both nationally and locally. The methodology took into consideration all 3 aspects of sustainability (economic, social and environmental) in determining the best location for development. This was a desktop assessment using GIS based data to accurately determine the sites location relative to the criteria.

2.52 The Sustainability Appraisal Appendix K Policy and Site Audit Trail February 2018 [CD009c] includes all the sites which passed criteria 1 to 4 in the site selection process and were considered reasonable, but some where not chosen as allocations. It identifies that between Pre-Publication consultation 2017 and Publication 2018 the list of reasonable sites has been subject to further technical officer analysis which included updates to availability and deliverability, analysis of further evidence in relation to show stoppers and technical officer comments.

2.53 As previously highlighted above we consider that there are flaws in the scoring of the e Sustainability Appraisal.

d) Have any site size thresholds been applied in the site selection process? If so, what, how and why?

2.54 A site threshold of 0.2ha was set in SHLAA Phase 1 (Strategic Land Availability Assessment Phase 1, CYC, April 2008) and used in SHLAA phase 2 (SHLAA Phase 2, CYC, September 2011).

The Site Selection Paper 2013 [SD072A] states that:

“This is line with SHLAA guidance which advises that authorities should recognise the potential of smaller sites. This level of 0.2ha is lower than the 0.4ha threshold that is used by most Local Authorities for the purpose of SHLAA. This lower threshold was used by the Council to recognise the high level of small sites in York and to proactively attempt to identify as many sites as possible”.

