

## City of York Local Plan 2017-2033

### Phase 2 Hearing Statement prepared on behalf of Level Developments (Yorkshire) Limited (Reference ID:260 (CD014A))

#### Matter 5 Housing Land Supply

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##### **1. Introduction and Context**

- 1.1 This Hearing Statement has been produced by Pegasus Group on behalf of our client, Level Developments (Yorkshire) Limited.
- 1.2 In accordance with the transitional arrangements set out in Annex 1 of the revised National Planning Policy Framework (July 2021), it is understood that the plan is being examined against the previous 2012 version of the Framework. All references within this hearing statement to the National Planning Policy Framework (NPPF) therefore relate to the 2012 version, unless otherwise stated.
- 1.3 Our client wishes to ensure that the City of York Local Plan (CYLP) is prepared in a robust manner that passes the tests of soundness contained in paragraph 182 of the NPPF, namely that the plan is:
  - Positively Prepared;
  - Justified;
  - Effective; and
  - Consistent with national policy.
- 1.4 The CYLP also needs to be legally compliant and adhere to the Duty to Cooperate.
- 1.5 Our client submitted representations to the various stages of plan production including the Publication Draft, Proposed Modifications, Phase 1 Hearing Sessions and the Local Plan Modifications and Evidence Base Consultation. Despite the Council's attempts to overcome fundamental issues with the CYLP our representations continue to identify several elements where we believe the CYLP is unsound.

## 2. Response to the Inspector's Matter 5 Issues and Questions

2.1 We welcome the opportunity to comment on the Inspector's Matters, Issues and Questions and provide the following responses to selected questions in so far as they relate to our previous representations.

### **The housing land supply overall**

***Q5.1 Does Policy SS1, and the Plan as a whole, provide an appropriate policy framework for the delivery of housing over the Plan period? If not, how is this to be addressed?***

2.2 No, the policy provides limited guidance upon the quantum of delivery from specific settlements. Within our response to the following questions we highlight our concerns over the supply and whether it will deliver the housing requirement as a minimum.

***Q5.2 We understand through the latest housing trajectory update [EX/CYC/69] that the sources of housing land supply underpinning the Plan are as follows:***

- ***8,642 dwellings on allocated new strategic housing sites (ST)***
- ***1,703 dwellings on allocated housing sites (H)***
- ***1,853 dwellings (commitments – unimplemented permissions as at 1 April 2021)***
- ***3,113 dwellings (cumulative completions between 2017-2021)***
- ***planning permission or resolution to grant planning permission as at 1 April 2021)***
- ***720 dwellings in communal establishments /student accommodation***
- ***1,764 dwellings on windfall sites (from 2024/25 – 2032/33 @196 per annum)***

***This provides a total housing supply of a minimum of 17,795 dwellings during the Plan period. Is this correct?***

2.3 This is our understanding of the Council's position based upon the most recent trajectory (EX/CYC/69). As noted in our response to the following questions we do not consider these figures to be robust.

***Q5.3 We note that the windfall allowance per annum has been increased from 169 dwellings per annum in previous housing trajectories (e.g. [EX/CYC/17]) to 196 dwellings per annum in the 2021 Housing Trajectory [CYC/EX/69]. Is this correct? If so, what is the basis and justification for this change in the windfall allowance?***

2.4 The trajectory does identify a windfall allowance of 196 dwellings per annum (dpa) from 2024/25. Unless this is an error on the trajectory it is unclear how this has

been determined or why it deviates from the figure of 169 dwellings identified in the plan. It is notable that Table 1a of the April 2021 Composite Modifications Schedule (EX/CYC/58) also identifies a windfall figure of 169dpa.

- 2.5 The position is further confused as the updated 2021 SHLAA (EX/CYC/56) (paragraph 5.4) identifies that based upon average past completions 182dpa have become available from this source. Given the lack of evidence for a windfall figure of 196dpa is therefore unjustified.
- 2.6 The non-inclusion of a windfall allowance until 2024/25 is, however, supported. Providing a three-year period from the baseline of any assessment minimises the potential for double-counting.

**Q5.4 Is the estimate of windfall numbers identified by the Plan appropriate and realistic? Is the approach consistent with the Framework? Given the time that has passed since the Plan was submitted, is the identified windfall allowance in the Plan (169 dwellings per annum) still appropriate, realistic and justified?**

- 2.7 No, whilst the inclusion of a windfall allowance isn't disputed the scale of the allowance is considered unjustified. This applies equally to the 169 identified in the plan, the 196 as indicated in the most recent trajectory or 182 identified in the SHLAA.
- 2.8 The NPPF, paragraph 48, identifies that local planning authorities may make an allowance for windfall sites in the five-year supply. This should, however, only be done where it will: *"...continue to provide a reliable source of supply. Any allowance should be realistic having regard to the Strategic Housing Land Availability Assessment, historic windfall delivery rates and **expected future trends...**"* (para. 48, **our emphasis**).
- 2.9 Annex 4 of the 2021 SHLAA (EX/CYC/59) provides the Council's evidence in relation to windfalls. It is not disputed that windfalls have played a significant role within York over recent years, delivering on average over 43% of total net delivery. This is, however, unsurprising given the lack of an up-to-date plan and as such a lack of alternative sources of supply.
- 2.10 The level of supply from windfalls will inevitably decline once other, more certain, sources of supply, such as allocations, are available once again. This is recognised by the Council. It is our understanding, based upon annex 4 of the 2021 SHLAA, that the windfall allowance is based upon 10-year average net completions from very small sites (less than 0.2ha) and conversions / change of use. It is stated that

these sources are identified because they are not likely to be identified in the SHLAA or other evidence base documents. This is considered appropriate.

- 2.11 It is, however, notable that there has been significant fluctuation in the year-on-year figures, particularly in relation to conversions / change of use.

*Table 1: Windfalls (net) from very small sites (<0.2ha) and change of use / conversion (source: York City Council 2021 SHLAA)*

Year	Very Small Sites (<0.2ha)	Change of use / conversion
2010/11	58	66
2011/12	30	44
2012/13	28	58
2013/14	36	56
2014/15	16	116
2015/16	34	216
2016/17	26	<b>399</b>
2017/18	49	166
2018/19	<b>103</b>	155
2019/20	48	111
<b>Total</b>	<b>428</b>	<b>1,387</b>
<b>Average</b>	<b>43</b>	<b>139</b>

- 2.12 Within both data sets there are outlier figures which skew the average over the last 10-years. Within the 'very small site' category 2018/19 is 77.6% greater than the second highest delivery figure. In relation to change of use / conversions 2016/17 is 84.7% greater than the second greatest figure, both have a profound impact upon the average over the 10-year period. Removal of these outlier figures identifies an average rate of 36dpa from very small sites and 110dpa from changes of use / conversions. **A combined total of 146dpa.**

- 2.13 The Council acknowledge the risks of reliance upon windfalls (paragraphs 4.36 to 4.38, 2021 SHLAA) particularly considering the significant period without an up-to-date local plan. It is our view that whilst it is legitimate to include windfalls in the supply the reliance should be reduced to 146dpa.

***Q5.5 Are the suggested rates of planned housing development realistic and achievable when considered in the context of the past completion rates? What actions are being taken to accelerate housing delivery? Where is the evidence to support the approach adopted?***

- 2.14 Past levels of completions within York have generally been poor. This is largely due to the lack of a positive framework, by virtue of an up-to-date Local Plan, upon which to assess proposals and provide allocations. Table 2 below replicates the

levels of completions over the last decade and compares this to the Council's proposed plan requirement and the local housing need figure (2020 base line).

- 2.15 Table 2 identifies that other than the years 2015/16 to 2017/18 the Council has failed to deliver either the proposed housing requirement or local housing need over the last 11 monitoring years. Indeed, on some occasion's delivery has been less than 50% of the proposed housing requirement.
- 2.16 This is largely due to a lack of appropriate sites outside of the Green Belt hampering delivery. In order to address this issue, the CYLP needs to provide a wide range of sites across a wide geography providing numerous noncompeting outlets. The proposed allocations will undoubtedly assist, however, it is considered that further sites in different market locations, such as Strensall are required in order to ensure that the plan requirement is consistently delivered as a minimum.

*Table 2: Dwelling completions (net) compared to proposed Local Plan requirement (790dpa to 2017 and 822 post 2017) and local housing need figure (1,026dpa)*

Year	Delivery (net)	Difference to plan requirement	Difference to LHN
2010/11	514	-276	-512
2011/12	321	-469	-705
2012/13	482	-308	-544
2013/14	345	-445	-681
2014/15	507	-283	-519
2015/16	1121	+331	+95
2016/17	977	+187	-49
2017/18	1331	+509	+305
2018/19	451	-371	-575
2019/20	627	-195	-399
2020/21	704	-78	-322

(Source: CYC SHLAA 2021, Housing Trajectory)

**Q5.6 Is the housing trajectory update [EX/CYC/69] realistic? In the context of footnote 11 of the NPPF, does it form an appropriate basis for assessing whether sites are deliverable?**

- 2.17 No, the trajectory identifies a significant proportion of sites will commence delivery in 2022/23 or 2023/24. Whilst it is recognised that some sites already benefit from some form of consent<sup>1</sup>, many do not.
- 2.18 Based upon the fact that several sites do not currently benefit from an extant detailed permission the trajectory is considered ambitious. It appears unlikely that

<sup>1</sup> See table 4 2021 SHLAA (EX/CYC/56)

applications will be submitted and approved, conditions discharged, development commence, and initial delivery will occur within 24 months.

- 2.19 Delivery rates also appear high with several sites anticipated to deliver in excess of 100dpa on a consistent basis over a number of years. Based upon usual residential delivery rates this will require several outlets operating at the same time on each of these sites. For example: ST15 Land to West of Elvington Lane is anticipated to deliver 280dpa from 2032/33, based upon 50dpa per outlet this will require 5 to 6 outlets operating consecutively. This appears unlikely.
- 2.20 Lower levels of delivery or delivery which commences later than anticipated will have a significant impact upon the trajectory and delivery of the housing requirement.

**Five-year housing land supply**

***Q5.7 What is the five-year housing supply requirement upon adoption of the Plan? The Council is asked to clearly set out the calculation for the five-year housing supply requirement.***

- 2.21 Presuming that the CYLP is adopted in 2022 and the housing requirement is set at 822dpa<sup>2</sup> the supply requirement is:
- CYLP housing requirement: 5\*822 = 4,110 dwellings
  - Under-supply 2017 to 2021 = 175 dwellings
  - Buffer (20% based upon 2021 HDT result) = 857 dwellings
  - Five-year supply requirement = 5,142 dwellings

***Q5.8 Will the Council be able to demonstrate a rolling five-year housing land supply upon adoption of the Plan?***

- 2.22 The Council's trajectory suggests an over-supply of 958 dwellings in the first five-years from 1st April 2021. This is an incorrect assessment of the supply requirement as it fails to take account of the under-supply. The actual level of over-supply if the Council's trajectory is to be believed is 748 dwellings.
- 2.23 Table 3 below provides our analysis of the rolling five-year supply based upon the Council's trajectory. This suggests that a five-year housing land supply could be maintained until 2030/31 based upon the Council's trajectory. It is, however, notable that from 2027/28 the supply would be marginal.

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<sup>2</sup> We dispute this figure – see our matter 2 statement

- 2.24 The assessment in table 3 is based solely upon the identified trajectory within EX/CYC/69. As discussed within our response to question 5.6 the identified trajectory appears optimistic in terms of both lead-in times and build out rates. Any slippage in the major sites or failure to deliver at the identified rates will have significant impacts upon the supply.
- 2.25 It should also be noted that many of the identified sites within the trajectory do not currently meet the 2021 NPPF Annex definition of a deliverable site against which the supply will be measured post adoption.

**Q5.9 The five-year housing supply, as set out in the latest housing trajectory update [EX/CYC/69], includes an allowance for windfall sites – the aforementioned 196 per annum: a) What is the compelling evidence that such sites have consistently become available in the local area and that they will continue to provide a reliable source of supply? b) Is the allowance made realistic, having regard to paragraph 48 of the Framework?**

- 2.26 I refer the Inspectors to our response to question 5.4 above.

**Q5.10 Does the five-year housing land supply position, as set out in the updated Housing Trajectory 2021 [EX/CYC/69], present the most up-to-date position? Is it consistent with all other remaining up-to-date housing evidence? If not, how is this to be addressed?**

- 2.27 This is an issue for the Council to address. It is our understanding that EX/CYC/69 remains their most up to date position.

**Q5.11 Paragraph 5.9 of the submitted Plan identifies that the Council accepts that there has been a persistent under delivery of housing as defined by the NPPF. As such, does the submitted Plan, and any subsequent submitted evidence on meeting housing need and supply, take into account the requirement for a 20% buffer to be applied to the housing supply? Has this buffer been applied to any subsequent update of evidence or proposed modification to the Plan identified?**

- 2.28 The fact the Council acknowledges the persistent under-delivery at paragraph 5.9 of the submitted plan is supported. It is also notable that the most recent housing trajectory (EX/CYC/69) also identifies a 20% buffer is required, albeit this is incorrectly only applied to the housing requirement, rather than requirement and under-supply.

- 2.29 It is notable that the 2021 Housing Delivery Test (HDT) identifies that CYC delivered just 65% of their housing requirement, as such a 20% buffer currently applies alongside the presumption in favour of sustainable development.

***Q5.12 Overall, is there a supply of specific deliverable sites sufficient to provide five years' worth of housing, with an appropriate buffer (moved forward from later in the Plan) to ensure choice and competition in the market for land? We ask the Council to clearly set out how the five-year supply requirement has been calculated and, as part of this, to identify the specific deliverable sites against which that five-year requirement will be met. Please ensure that this tallies with the delivery of housing shown in the Infrastructure Requirements Gantt Chart (January 2022) [EX/CYC/70].***

- 2.30 I refer the Inspectors to our responses to the above questions. Our client reserves the right to make further comment during the hearing sessions based upon the Council's response to this question.



Table 3: Rolling five-year supply analysis, based upon Council trajectory

Period	2021/22 - 2025/26	2022/23- 2026/27	2023/24- 2027/28	2024/25- 2028/29	2025/26- 2029/30	2026/27- 2030/31	2027/28- 2031/32	2028/29- 2032/33	2029/30- 2033/34	2030/31- 2034/35	2031/32- 2035/36
Plan Req'ment	4110	4110	4110	4110	4110	4110	4110	4110	4110	4110	4110
Under-supply	175	416	145	0	0	0	0	0	0	0	0
Buffer	857	905	851	822	822	822	822	822	822	822	822
Total	5142	5431	5106	4932	4932	4932	4932	4932	4932	4932	4932
Supply	5890	6748	6704	6087	6011	5431	4957	5014	4935	4877	4714
<b>Years</b>	<b>5.7</b>	<b>6.2</b>	<b>6.6</b>	<b>6.2</b>	<b>6.1</b>	<b>5.5</b>	<b>5.0</b>	<b>5.1</b>	<b>5.0</b>	<b>4.9</b>	<b>4.8</b>

