

HEARING STATEMENT

CITY OF YORK LOCAL PLAN EXAMINATION

MATTER 5: HOUSING LAND SUPPLY

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 5: Housing Land Supply 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) and 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.
- 1.4 We trust that any evidence which the Council submits in response to the Matter 5: Housing Land Supply of the Inspector's Matters, Issues and Questions will be made publicly available as soon as possible to provide representors with sufficient opportunity to consider this well in advance of the hearing sessions commencing.

2.0 MATTER 5: HOUSING LAND SUPPLY

THE HOUSING LAND SUPPLY OVERALL

MIQ 5.1 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?

- 2.1 As highlighted within our previous representations we consider that Policy SS1 is not sound as it is not positively prepared, effective or consistent with national policy for the reasons set out within our representations to the Pre-Publication Draft (Regulation 18) and Main Modifications (Regulation 19) consultations in July 2019; and, the City of York Local Plan Proposed Modifications and Evidence Base Consultation (Regulation 19) in July 2021.
- 2.2 We object to the housing requirement of 822 dwelling per annum over the plan period to 2032/33, which the Council state in PM54 includes “an allowance for a shortfall in housing provision from the period 2012 to 2017”. As per representations previously submitted, we consider that the OAN should be higher and in the region of 1,069 dpa. We consider that the points raised in the Turley OAN Critique report previously submitted as part of representations to the Proposed Modifications (June 2019) are still relevant. 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, which is a significant increase from the 790 dpa based on an objectively assessed housing need and the Council’s housing requirement which amounts to a minimum average annual net provision of 822 dwellings over the plan period to 2032/33.
- 2.3 We support the re-use of previously developed land to be prioritised in locations where its development would be sustainable, however, it is not clear how this will translate in practice.
- 2.4 We believe the Council should have a strategy which provides a broader range of sites for a range of needs including affordable housing and family housing to ensure delivery can be sustained over the plan period. Reliance on large strategic sites which require infrastructure to enable delivery adds risk to the delivery of housing in the early period of the plan.

5.2 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?

2.5 This question is for the Council to respond to. We reserve the right to comment further once we have had sight of the Council's response.

MIQ 5.3 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?

2.6 This is for the Council to respond to. However, it appears from a review of the previous trajectories [EXCYC/17] and the latest Housing Trajectory [CYC/EX/69] that the windfall allowance has been increased to 196 dwellings per annum. We are not aware of any basis or justification that supports the increase in windfall allowance to 196 dwellings.

2.7 We note that the justification for the increase in windfall allowance to 182 dwellings per annum is set out in the SHLAA Update, April 2021 [EX/CYC/56] within paragraphs 4.10-4.12 and 5.4 (page 11/12). Additional justification is provided within the Windfall Update Technical Paper (2020) and within Annex 4 of the 2021 SHLAA Update. The Windfall Update Technical Paper (2020) sets out that the windfall allowance is based on completion data from the last 10 years (2010/11 to 2019/20) and comprises the sum of the mean average figures for delivery on sites of <0.2ha and completions on change of use and conversation sites.

MIQ 5.4 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?

- 2.8 Paragraph 48 of the NPPF allows local planning authorities to *“make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply”*.
- 2.9 We therefore acknowledge that there should be a windfall allowance within the Plan.
- 2.10 Based on our response to the previous question we are unsure what the figure is that the Council are actually proposing is it 196, 182 or 169 dwellings per annum?
- 2.11 We note that over the last 10 years the figure of 182 dwellings has only been achieved four times and that there was a decline in windfall completions for both on sites of <0.2ha and completions on change of use and conversion sites since a peak in 2016/17. We therefore question if any of these figures are realistic. Especially given the tightly defined settlement boundaries in York and surrounding settlements, removal of garden sites in 2010 following the change in definition of previously developed land and possibly a slow down in conversion rates which spiked as a result of changes to permitted development rights in 2013.
- 2.12 York has not had an up-to-date plan for decades, which has resulted in a high level of windfall housing delivery over recent years, it follows that on adoption of a Plan, the availability of windfall opportunities will reduce as allocated sites are brought forward for development. Whilst windfall housing can contribute to a local authority’s housing supply, there should not be an over reliance on housing from this source. York has been unable to demonstrate a 5YHLS in recent years and the continued reliance on windfall housing is not an effective or sustainable housing delivery solution.
- 2.13 The use of historic windfall rates in an area where there has been no up-to-date Plan for decades and the Council have been unable to demonstrate a 5-year housing land supply in recent years may not provide the most appropriate basis for windfall development going forward. We consider that windfall should be treated with caution and any allowance should be realistic given the points raised above.

MIQ 5.5 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 The Updated Housing Trajectory [EXCYC69] shows the projected annual completions in York over the plan period, ranging from 645 in 2021/22 to 1,809 in 2023/24 which represents a significant difference. As highlighted in earlier representations we consider that the Plan underestimates the length of time it will take for the housing allocations to start delivering completions. A significant amount of supply is based upon the regeneration sites and large strategic allocations set out within Section 3: Spatial Strategy and therefore are likely to take a number of years to achieve detailed planning permission given the requirements for, inter alia: remediation, Environmental Impact Assessment and complexities of the likely Section 106 Agreements involving the delivery of new schools, local centres and significant infrastructure etc.
- 2.15 The over-optimistic projections are concerning, especially in the context of past completion rates, which have been falling rapidly since the recession as highlighted in detail by other respondents¹. It was also highlighted in the Inspectors Report dated May 2020 for the Barwood Appeal APP/C2741/W/19/3233973 in paragraph 340 that *“all parties are agreed that there is a housing crisis in York, with a wholly inadequate identified Housing Land Supply”*.
- 2.16 There has been very little change since in the delivery of housing since this time and there doesn't appear to be any clear actions being taken to accelerate housing delivery through measures to support and supplement delivery through other sources, including additional planned housing allocations. To accurately reflect these figures relating to the projected completions, we believe that the Council will need to further consider and allocate additional sites and work with the promoters to set a realistic trajectory. We also note that there is a current undersupply of homes against the proposed requirement, which reinforces the need to be realistic and to work with site promoters.

MIQ 5.6 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 We understand from statistics available from the Department for Levelling Up Housing and Communities, that over the last 5 years, York has provided on average 661 net additional dwellings per year, with a peak of 1,296 in 2017-18. The Housing Trajectory Update [EX/CYC/69] shows projected completions ranging from 645 in 2021/22 to 1,809 in 2023/24. This is a significant uplift in completions in 2023/24 and we suggest that this is taken with caution and re-reviewed with input from the development industry to help scrutinise its accuracy.

¹ Lichfields on behalf of Taylor Wimpey

2.18 The Housing Trajectory Update [EX/CYC/69] should not be taken as a basis for assessing whether sites are deliverable. It is not accompanied by any detailed notes setting out the assumptions that have been made and therefore we are unable to comment further on whether this trajectory is realistic.

MIQ 5.7 What is the five-year housing supply requirement upon adoption of the Plan?

2.19 We consider that this is a question for the Council. We reserve the right to comment further once we have had sight of the Council's calculations.

MIQ 5.8 Will the Council be able to demonstrate a rolling five-year housing land supply upon adoption of the Plan?

2.20 The Update Housing Trajectory (EXCYC69) implies that the Council will be able to demonstrate a five-year housing land supply upon adoption of the Plan, however without detailed information in relation to the assumptions that have been used we are unable to comment on whether a rolling five year supply is achievable. We consider that this is a question for the Council. We reserve the right to comment further once we have had sight of the Council's assumptions.

MIQ 5.9 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?**

2.21 We do not consider that the Council has provided compelling evidence to support the inclusion of windfall development within the five-year supply. We have concerns in relation to the assumptions that have been made and refer to our response to question 5.3 and 5.4 above.

b) **Is the allowance made realistic, having regard to paragraph 48 of the Framework?**

2.22 As mentioned above, without clear evidence to support the windfall provision we cannot comment as to whether this allowance is realistic. We do have concerns in relation to whether this allowance is unrealistic and unsustainable going forwards as set out within our response to questions 5.3 and 5.4 above.

MIQ 5.10 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?

2.23 We consider that this is a question for the Council. We reserve the right to comment further once we have had sight of the Council's response.

MIQ 5.11 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?

- 2.24 The Council has continued to persistently under deliver homes and therefore the 20% buffer should be applied. The updated Housing Trajectory 2021 [EX/CYC/69] includes a 20% buffer.

MIQ 5.12 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?

- 2.25 The Council's Updated Housing Trajectory [EXCYC69] suggests that the Council will be able to demonstrate a five-year housing land supply upon adoption of the Plan. As highlighted above without detailed information in relation to the assumptions that have been used we are unable to comment on whether the five year supply identified by the Council is achievable.
- 2.26 We do have concerns that there appears to be an over reliance on a number of key large and/or complex sites, and over-optimistic and unsupported assumptions over both timing, phasing and number of dwellings to be delivered.

