

CITY OF YORK LOCAL PLAN EXAMINATION: PHASE 2

City of York's Response to EX/OTH/20 (Statement by Fulford Parish Council Local Plan Sustainability Appraisal)

1. At the Matter 1 hearing on 10 May, Fulford Parish Council (“**FPC**”) stated that it considered the Sustainability Appraisal/SEA for the draft local plan had not been carried out lawfully and CYC asked for FPC’s contentions to be put into writing as EX/OTH/20 (“**the Note**”).

Summary of FPC’s case

2. This is set out in para. 2 of the Note where it is alleged that “the SA is significantly flawed in the following ways”:
 - (1) Important parts of the SA are not based on a reliable and up-to-date evidence base which makes its conclusions unreliable.
 - (2) The lack of any SA of the spatial distribution strategy (“**SDS**”) which underlies the Local Plan or its reasonable alternatives.
 - (3) The failure to consider lower reasonable alternatives to the housing growth figure preferred by CYC.
 - (4) The inclusion of judgments on key impacts which are unreasonable.
 - (5) The failure to consider the significant impacts of required off-site infrastructure which are essential to the development of key sites within the preferred spatial strategy.
3. Some of the above allegations (e.g. (2)) are incorrect as a matter of fact. Others rely on alleged unreasonableness in the approach taken or judgments reached.
4. On the latter point, what this means in reality is that FPC disagrees with the judgments that CYC has reached rather than there being a specific error or omission. Judgments are, in the first place, a matter for CYC and then for the Inspectors to assess. The fact that there may be a difference of judgment is not a legal flaw since the purpose of SA/SEA is to assess and for consultation to take place and for the process to be repeated

at appropriate stages during the plan process including at adoption.

Key legal principles

5. See the Environmental Assessment of Plans and Projects Regulations 2014 (“**SEA Regs**”) and PPG “Strategic environmental assessment and sustainability appraisal”¹.
6. In **R. (Blewett) v Derbyshire CC** [2005] Env. L.R. 29 [EX/CYC/74] at [41] Sullivan J gave important guidance on (in that case environmental impact assessment) which has been applied to other forms of assessment such as SEA and environmental permitting. Assessments do not have to meet unrealistic standards of perfection or be excessively defensive but focus on the important issues.
7. Sullivan J held:

“41. ...The Regulations should be interpreted as a whole and in a common-sense way. The requirement that “an EIA application” (as defined in the Regulations) must be accompanied by an environmental statement is not intended to obstruct such development. ... In an imperfect world it is an unrealistic counsel of perfection to expect that an applicant’s environmental statement will always contain the “full information” about the environmental impact of a project. The Regulations are not based upon such an unrealistic expectation. They recognise that an environmental statement may well be deficient, and make provision through the publicity and consultation processes for any deficiencies to be identified so that the resulting “environmental information” provides the local planning authority with as full a picture as possible. There will be cases where the document purporting to be an environmental statement is so deficient that it could not reasonably be described as an environmental statement as defined by the Regulations..., but they are likely to be few and far between.”

8. This approach has been endorsed at the highest level by the House of Lords in **R (Edwards) v Environment Agency** [2008] Env. L.R. 34² and very recently by the Supreme Court in **R (Friends of the Earth) v Secretary of State** [2021] PTSR 190, at [142] to [147] [EX/CYC/74] (Lord Hodge and Lord Sales), who held at [146]:

“146 The appropriateness of this approach is reinforced in the present context, having regard to the function which an environmental report is supposed to fulfil under the scheme of the SEA Directive. It is intended that such a report should inform the public by providing an appropriate and comprehensible explanation of the relevant policy context for a proposed strategic plan or project to enable them to provide comments thereon, and in particular to suggest reasonable alternatives by which the public need for development in accordance with the proposed plan or project could be met. As article 6(2) states, the public is to have an early and “effective opportunity to express their opinion on a proposed plan or programme. It is implicit in this objective that the public authority responsible for promulgating an environmental report should have a significant editorial

¹ <https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal>

² Referred to in **Friends of the Earth** at [143].

discretion in compiling the report to ensure that it is properly focused on the key environmental and other factors which might have a bearing on the proposed plan or project. Absent such a discretion, there would be a risk that public authorities would adopt an excessively defensive approach to drafting environmental reports, leading to the reports being excessively burdened with irrelevant or unfocused information which would undermine their utility in informing the general public in such a way that the public is able to understand the key issues and comment on them. In the sort of complex environmental report required in relation to a major project ... there is a real danger that defensive drafting by the Secretary of State to include reference to a wide range of considerations which he did not consider to be helpful or appropriate in the context of the decision to be taken would mean that the public would be drowned in unhelpful detail and would lose sight of the wood for the trees, and their ability to comment effectively during the consultation phase would be undermined.”

9. Reasonable alternatives are a matter of judgment and do not require to be kept open as options throughout a plan’s progress providing reasons have been given for the selection of the preferred option over the reasonable alternatives. As Ouseley J. held in **Heard v Broadland DC** [2012] Env. L.R. 23:

“67. I accept that the plan-making process permits the broad options at stage one to be reduced or closed at the next stage, so that a preferred option or group of options emerges; there may then be a variety of narrower options about how they are progressed, and that that too may lead to a chosen course which may have itself further optional forms of implementation. It is not necessary to keep open all options for the same level of detailed examination at all stages. But if what I have adumbrated is the process adopted, an outline of the reasons for the selection of the options to be taken forward for assessment at each of those stages is required, even if that is left to the final SA ...”

10. In **Ashdown Forest Economic Development v Secretary of State** [2016] PTSR 78 Richards LJ held:

“42. ...the identification of reasonable alternatives is a matter of evaluative assessment for the local planning authority, subject to review by the court on normal public law principles, including Wednesbury unreasonableness: see *Associated Provincial Picture Houses Ltd v Wednesbury Corpn* [1948] 1 KB 223. In order to make a lawful assessment, however, the authority does at least have to apply its mind to the question.”

11. Note also that the law does not require scrutiny the fine detail but focuses instead on whether specific issues have been addressed. This is in keeping with the approach regarding the sufficiency of EIA environmental statements See Ouseley J. in **R. (Bedford & Clare) v Islington LBC and Arsenal FC** [2003] Env. L.R. 22, who held:

“203. Whilst one should not be over-impressed by the volume or weight of documents - and even very lengthy documents can omit significant factors - I confess to approaching [counsel for the claimant's] submissions with a degree of doubt as to whether the deficiencies to which he drew attention could be such as to mean that Islington could not reasonably regard the material as constituting an Environmental Statement. It is inevitable that those who are opposed to the development will disagree with, and criticise, the appraisal, and find topics which matter to them or which can be said to matter, which have been omitted or to some minds inadequately dealt with. Some or all of the criticism may

have force on the planning merits. But that does not come close to showing that there is an error of law on the local planning authority's part in treating the document as an Environmental Statement or that there was a breach of duty in Regulation 3(2) on the local authority's part in granting planning permission on the basis of that Environmental Statement.”

12. Here the reasons for options selection and preference over reasonable alternatives have been approached in significant detail and over a period of more than 7 years. This can first be seen in the SA 2013 that accompanied the Preferred Options [**SD 007A-007C**] and the Scoping Report [**CD 008A-008B**] and the process is usefully summarised in Appendix K to the Reg. 19 Plan SA 2018 [**CD 009C**] which contains audit trails for the assessments of the policies (Part 1), the strategic sites (Part 2) and all sites (Part 3). They also draw on evidence e.g. from the Heritage Topic Paper update (2014) and the supporting documents at **SDI01-SDI06** and **SDI08** including the Historic Character and Setting Technical Paper and its Update (2011 and 2013), Transport Topic Papers and supporting material (e.g. **SD074-079**) and Green Belt Topic Paper and Addenda [**TPI, EX/CYC/18-18f** and **CYC/59-59j**].
13. With regard to the options and the selection criteria applied to preferred options and possible alternatives these are set out firstly in detail in the SA [**SD008**] and Appendixes [**SD007C**] (and can be traced back to the 2013 SA Preferred Options):
 - (1) SA Sections 3 (esp. 3.3) and 4
 - (2) Appx 4 indicators
 - (3) Appx 7 site selection and methodology
 - (4) Appx 8 strategic sites selection
 - (5) Appx 9 sites not taken forward
14. These are then carried forward through the iterations of the SA as summarised in **Appx K** to the reg 19 SA [**CD007C**]
15. Further, if the Inspectors consider there are any matters that have not been assessed which ought to have been assessed, or assessed further, this does not mean the SA/SEA was invalid since these can be dealt with (and consulted upon) in further iterations of the SA e.g., at the Main Mods stage. This was made clear in **Cogent Land LLP v Rochford DC** [2013] 1 P. & C.R. 2 where Singh J rejected a challenge to the reliance of the Inspector to an Addendum to the SA/SEA produced after the submission of the draft plan on the basis it was *ex post facto* or a “*bolt-on consideration of an already chosen preference*” to justify a decision which had already been taken.

Adequate evidence base

16. There is no specific requirement for an SA to draw on any specific evidence base but only for it to comprise a report which contains the information required by Schedule 2 to the SEA Regs. There is no reason why part of the evidence base and the assessment of that evidence cannot be contained in the SA (which is also the SEA environmental report).
17. Whilst the Town and Country Planning (Local Planning) (England) Regulations 2012 contain a number of requirements with regard to form, content and procedure for local plans it does not prescribe any specific means of gathering or presenting evidence on which the plan has been based nor do the provisions of the Planning and Compulsory Purchase Act 2004. As the PPG on *Plan-Making* notes:

“Evidence base

How are local plans produced?

Authorities preparing local plans should assess future needs and opportunities for their area, explore and identify options for addressing these, and then set out a preferred approach (except where this has already been dealt with through a spatial development strategy). This involves gathering evidence, carrying out a Sustainability Appraisal to inform the preparation of local plans, and effective engagement and consultation with local communities, businesses and other interested parties.

There is considerable flexibility open to local planning authorities in how they carry out the initial stages of local plan production, provided they comply with the specific requirements in regulation 18 of the k, (‘the Local Plan Regulations’) on consultation, and with the commitments in their Statement of Community Involvement. It is important to make clear how any consultation fits within the wider local plan process.

Local planning authorities must make available each of the proposed submission documents that they intend to submit to the Planning Inspectorate for examination to enable representations to come forward that can be considered at examination, under regulation 19 of the the Local Plan Regulations.

Paragraph: 034 Reference ID: 61-034-20190315”

18. It is also important to note that the SA is directed to a plan and its policies, at a fairly high level, and is not a detailed EIA of an development project even in the case of individual allocations. However, the SA Reports cross refer to several other key documents (see above) and undertake assessments of all important and relevant issues. As the PPG dealing with SEA and SA explains (in a paragraph added in 2014) the level of detail is to be proportionate for the plan:

“What level of detail is required in a sustainability appraisal?

The sustainability appraisal should only focus on what is needed to assess the likely significant effects of the plan. It should focus on the environmental, economic and social impacts that are likely to be significant. It does not need to be done in any more detail, or

using more resources, than is considered to be appropriate for the content and level of detail in the Local Plan.

Paragraph: 009 Reference ID: I1-009-20140306”

19. Issues such as air quality and other matters which are not the direct subject of a topic paper have been considered in the context of the SA assessments. Taking AQ as an example, given frequent reference to it by FPC and others, see e.g. -

(1) SA 2013 and Appxs baseline

(a) SA Chapter 2

(b) Appx 3 pp 68-71

(c) These include the following -

“Key Issues from the baseline

- York’s air quality continues to get worse in the city centre.
- A combination of measures is needed in order to tackle improving air quality including a modal shift in Transport and moving to low emission technologies with supporting infrastructure.
- York’s ambition is to become the first low emission city.”

(d) Appx 4 indicators 7 (climate change and emissions) and 12 (improve AQ);

(2) 2016 SA [**SD020**] (preferred sites) which sets out at Sections 2 and 3 the methodology (using the SA objectives) and assesses the housing and employment sites by reference to that methodology.

(3) Reg. 19 SA 2018 [**SD008A**]

(a) **Appendix G** Residential & Employment Site Selection Methodology.

(b) **Appendix D** baseline includes under Section 9 AQ an updated consideration including revised -

“Key Sustainability Issues

- York’s air quality continues to decline in the City Centre although there are improvements in other areas (the Salisbury Terrace AQMA may be revoked);
- A combination of measures is needed in order to improve air quality including a modal shift in transport and moving to low emission technologies with supporting infrastructure;
- York’s ambition is to become the first low emission city.”

(c) **Appendix J** assessment of thematic policies on employment Table J1 pp. J15-J17 considers the effects in terms of AQ (SAO 12) and for housing table

J2 in terms of AQ at pp. J39-J40

- (4) AQ monitoring reports for 2021 and 2022 have been added to the Examination Library [EX/CYC/78 and 80] which show challenges but recording continuing improvement. See e.g., the Executive Summary for 2022 [EX/CYC/80] at pp. i-xvi. These refer to the revocation of the Fulford AQMA in 2020 at p. 4. This needs to be considered against the position in the SA, the proposals for each strategic site (which were selected by reference to criteria including sustainability and AQ objectives) and proposed improvements in sustainable transport measures and in the electrification of the vehicle fleet (see e.g. EX/CYC/79).
20. The fact that consultees may dispute the judgments reached as to the identification and appraisal of options and alternative is not unusual and is a recognised part of the assessment process, which provides for the contribution of the views of consultees which can be considered by the Inspectors in the course of their examination. However, a difference of view does not amount to a legal flaw. As Ouseley J. held in the **Bedford and Clare** case (above) which is equally applicable to SA/SEA –
- “It is inevitable that those who are opposed to the development will disagree with, and criticise, the appraisal, and find topics which matter to them or which can be said to matter, which have been omitted or to some minds inadequately dealt with. Some or all of the criticism may have force on the planning merits. But that does not come close to showing that there is an error of law on the local planning authority's part in treating the document as an Environmental Statement...”
21. Further, the environmental baseline for the plan is set out in the Preferred Options SA (2013) [SD 007A] Chapter 2 and Appendix 3 and in successive versions up to and including the reg. 19 SA (2018) [CD 008] Chapter 4 and Appendix D.
22. Note the SA 2018 Chapter 1 Section 5, describing the SA, which includes *Stages in the Sustainability Appraisal Process* §§1.5.6-1.5.10 which ends:
- “1.5.9 The SA Report is now being made available for representations alongside the Local Plan Publication Draft prior to consideration by an independent planning inspector. The publication of the SA Report itself therefore fulfils Stage D.
- 1.5.10 Following Examination in Public (EiP), and subject to any significant changes to the draft Local Plan that may require appraisal as a result of the EiP, the Council will issue a Post Adoption Statement as soon as reasonably practicable after the adoption of the Local Plan. This will set out the results of the consultation and SA process and the extent to which the findings of the SA have been accommodated in the adopted Local Plan. During the period of the Local Plan, the Council will monitor its implementation and any significant social, economic and environmental effects (Stage E).”
23. SA is an iterative process (see above) and there is no proper basis to object to the making of changes, or submission of additional material, to support and update the

evidence base provided there is adequate consultation, and the results are reflected in subsequent iterations of the SA. It is a basic misunderstanding of the legal requirements:

- (1) to assume that the evidence base must remain fixed in time to the submission of the reg. 19 draft plan and cannot be amended or supplemented (see **Cogent Land**, above); or
- (2) to contend that the policy choices and their alternatives must be revisited at every stage in the plan process (see **Heard**, above); or
- (3) to equate disagreements over judgments regarding options, alternatives or impacts as giving rise to legal flaws in the SA/SEA process.

Claimed lack of any SA of the SDS

24. This contention is factually incorrect. The SDS has been subject to SA and consideration of alternatives. This is not a comprehensive set of references, but see e.g.

(1) SA 2013 [**SD 007A, 007C**]

- (a) Chapter 3.3 describes the assessment methodology.
- (b) Chapter 4.3 sets out the *Preferred Options and Alternatives Assessment* which includes at §§4.3.13-4.3.22 pp. 60-64 assessment of the SDS policies and their alternatives, together with reasons for the choices made.
- (c) **Appx 6** sets out the *Policy Alternatives Assessment* which includes *Spatial Distribution* at section 5.4 pp. 28-48.

(2) SA 2018 [**CD 008, 009A, 009C**]

- (a) Main SA Chapter 5 which includes at 5.5 a summary account (cross-referencing the Appendices) *Appraising the Draft Spatial Strategy* which includes the spatial strategy policies and the allocations
- (b) **Appx F** *Appraisal of Spatial Strategy Policies* applies 15 SA Objectives to SS1-SS24
- (c) **Appx G** *Residential and Employment Site Selection Methodology* which includes -
 - (i) 2.5 *Detailed flow diagram of Criteria 1-4 and Environmental Considerations*, which includes consideration of the nature of the locations and their

distance from services and transport

(ii) 2.6 *Selecting the most sustainable sites* which includes the criteria of proximity to service and transport

(d) **Appx K Part I** which is a policies audit trail.

(3) With regard to the selected option for accommodating housing growth, which was for one of urban extensions plus a new settlement, it has already been explained during the discussion of Matter 4 that the change which occurred was to adjust two of the sites in 2016 (ST7 and ST14) which were originally urban extensions to pull back their boundaries to mitigate against impact on historic character which left them as freestanding developments. See **Appendix K [CD 009C]** Policy Audit Trail, summarising each stage in the SA process and highlighting that ST7 and ST14 moved (for historic setting reasons) from being urban extensions to free standing settlements and that for similar reasons ST15 was moved to the east and pulled away from the urban edge:

- ST7 p. K187
- ST14 p. K194
- ST15 p. K195

Reasonable alternatives to the housing growth figure

25. Again, the claim by FPC is factually incorrect since alternatives were considered. What the reasonable alternatives are is a matter of judgment for CYC as are the reasons for their rejection in favour of the preferred option. The fact that FPC argues for a lower figure does not make CYC's approach wrong in law but is an issue for consideration by the examination on the merits and evidence.

26. It is not open to reasonable debate that the preferred options and reasonable alternatives were considered and assessed, with reasons. See e.g.

(1) SA 2013 Scoping Report [**SD 008A**] which sets out the proposed approach and issues for the SA

(2) SA 2013 Main SA [**SD 007A**] Section 4 *Housing Growth and Distribution* §§4.3.47-4.3.54 which includes reasons for the preferred approach at §§4.3.50-54 pp. 71-72 and alternatives at §§4.3.53-4.3.54 p. 72(second set of paras. numbered §§4.3.53-43.54)

(3) SA 2017 for the reg. 18 draft [**SD 023A**] Chapter 6.4 including *Reasons for the*

selection of the preferred housing growth option and for the rejection of alternatives pp. 99-102

(4) SA 2018 for the reg. 19 draft [**CD 008, 009C**]

(a) Main SA Chapter 6.4 (*Housing and Employment Growth Options*) including the section *Appraisal of housing growth figure and reasonable alternatives* §§6.4.3 to 6.4.36. This includes reasons for the preferred growth figure and the rejection of the reasonable alternatives (6.4.34-6.4.36).

(b) **Appx K Part I** policy audit trail Section 10 “Scale of Housing Growth”

Unreasonable judgments on key impacts

27. FPC confuses disagreements with regard to judgments which have been reached by CYC, and which are matters for the examination, with legal errors and the Note seeks to equate the two by a submission that the judgments were so unreasonable that they were not valid judgments at all. This is a hopeless argument. The Courts have made it clear time after time that to establish that an exercise of planning judgment is unreasonable (also referred to as perverse or irrational) is a very high hurdle to overcome.
28. As already mentioned, disagreement over judgments in the environmental assessment context is to be expected, and they form part of the process, but it does not make them unlawful. It is rather a matter for the Inspectors to judge on the evidence before the Examination.

Significant impacts of required off-site infrastructure

29. FPC submits in its Note at §11 that impacts have not been assessed and add -
“... the SA takes no account of this new infrastructure in its appraisal of ST15 which must make it deficient.”
30. Again, this is factually incorrect since an assessment of infrastructure implications is part of the SA process, having regard to the fact that the SA is not a project specific highly detailed EIA, and the assessment is at a proportionate level appropriate to plan policies and allocation (see the PPG, above, Reference ID: 11-009-20140306). It might also be thought self-evident that a new settlement would require new off-site infrastructure to connect it to existing networks.
31. Further, see e.g.

(1) SA 2013 [**SD 007A**] Appx 8 which includes assessment of the strategic sites under SAO which includes impacts of infrastructure e.g.

(a) for **ST14** pp. 80-86 under SAO 6 which refers to the need for “new connections to the existing transport network”, “need to provide further links to existing pedestrian and cycle networks which extend to the ring road and facilities at Clifton Moor” and

“The location of the site in close proximity to the ring-road may exacerbate congestion in the area, particularly at peak times. This is an area known to be at capacity at these times and therefore significant transport alternatives and improvement to existing infrastructure would need to be implemented to not negatively impact on this further. Improvements to the junctions should also incorporate safe crossings for cyclists to maximise safe alternatives to the car.

There are both positive and negative effects identified against this objective.”

(b) Under SOA 7 –

“The location of the site would require significant infrastructure development to ensure that sustainable travel modes and alternatives to the car were available. The success in meeting this objective will be determined by the ability to promote sustainable travel behaviour and alternatives to the car to minimise greenhouse gas emissions. This aspect of the development will be dependent upon masterplanning implementation of a sustainable transport network.”

(c) Under “key challenges” –

“• Ensuring transport network connectivity to promote alternative travel to the car given its suburban edge location is paramount to ensure key destinations are accessible sustainably;

• Potential for exacerbating congestion, particularly at peak times, from increased traffic flows;

• A significant investment in infrastructure will be required;

• Whilst this site is large enough to create a cohesive community, there is a challenge to integrate this into the existing residential locations given the ring-road is a major barrier and segregates the site from the existing urban area;”

(d) The former version of ST15 is assessed at pp. 86-93

(2) SA 2016 [**SD 020**] at Chapter 3 assessed the strategic sites including the revised ST15 at pp. and stated -

“This site currently has poor access to services and facilities. However, due to the scale of the potential development commensurate facilities and transport links would need to be provided as part of any development.”

(3) SA 2018 [**CD 008, 009B, 009C**] -

(a) Table 6.2 is a *Summary of Strategic Sites Appraisal* pp. 117-118 against the

SAOs

(b) **Appendix I** Appraisal of Strategic Sites clearly includes consideration not only of the sites themselves but of the infrastructure required. There are clear references under the various SAO heads of assessment to this. See e.g. in connection with **ST15** (these references are not comprehensive) -

(i) at p. I 116 refers to the effects (under SAO 2) of

“Preliminary analysis of available data indicates that the background air quality submitted by the site promoter remains relevant. This stated that air quality across the site is likely to be within objective levels. However, this may change in accordance with the proposed new road infrastructure and occupation of the site in line with an increase in traffic as development progresses in the medium to long-term.”

(ii) At p. I 118-119 (under SAO 4)

“Initial infrastructure work undertaken by the site promoter indicates that new access to the university should be considered as part of the new junction onto the A64, which may be positive for the associated University of York Extension allocation (ST27), which includes employment uses.”

(iii) At pp. I 120-122 (under SAO 6)

“This is a new garden village and consequently would require significant infrastructure to ensure it promotes sustainable travel behaviour and has good connectivity to the rest of York. This site would be subject to policies in the Local Plan relating to infrastructure requirements to ensure this is sufficiently provided.

....

It is inevitable that the scale of development will increase car trips from this area of the city as a result of development. The scale to which this occurs will depend on the implementation and uptake of sustainable travel modes. This should be phased appropriately throughout the development to maximise positive impacts for this objective for the duration of the development. A Sustainable Access and Movement Strategy should be prepared and agreed in conjunction with the Highways Agency and City of York Council.

There will need to be vehicular access and connectivity to and from the site. The current access to the site is from Heslington Village via Common Lane, which is a non-designated road/ green lane or from Elvington Lane on to the airfield. In order to avoid adverse impacts to the existing villages of Heslington and Elvington, suitable alternative access will need to be in place with potentially managed access to this existing route into Heslington. Although the boundary is now 1.5km from the A64, a junction on/off the A64 is still proposed as the primary access to the settlement for vehicles with a secondary access to Elvington Lane. These accesses are relevant for all of the site boundaries. Traffic modelling indicates that the ring-road (A64) in this location is not at capacity and initial agreement for the suitability of a new junction to serve any development has been gained from the Highways

Agency.

Increased car use and accessibility onto the A64 may exacerbate congestion in the area, particularly at peak times towards the direction of the University and city centre along existing transport corridors (A19 and A1079). This is likely to be commensurate with the scale of development and therefore may be greater as a result of the alternative site boundaries in comparison to the allocation. Existing junctions may need improvement subject to the scale and impact of development. Timing of the implementation of transport infrastructure is therefore crucial to enable sustainable access to the new settlement and will affect how significant any impacts are.

Initial infrastructure work undertaken by the site promoter indicates that new access to the university should be considered as part of the new junction onto the A64, which may directly help ease existing junction capacity at Grimston Bar and have in-combination positive effects for accessing the associated University of York Extension allocation (ST27).

There may be some short-term impacts on the A64 through the construction of new junctions for accessing the settlement. The scale of this is unknown as it would depend on the magnitude of infrastructure improvements undertaken.”

- (c) The assessment of thematic policies in **Appx J** regarding housing Table J2 includes assessment of likely significant effects in terms of the need to travel (pp. J30-J32) and likely AQ effects arising from increased use of vehicles (pp. J39-40)

32. It is therefore clear that the SA did take into account off-site infrastructure including junction improvements for ST15. There was no omission such as the Note asserts.

Conclusion

33. The Note, as a detailed consideration of the SA iterations and associated documentation make clear, has not made good the submission at Examination which led to its production, namely that the SA process was legally flawed. Differences of judgment and assessment, including over the level of detail in the assessment of impacts and alternatives, do not amount to a legal flaw. The claim that judgments were unreasonable is no more than a disguised disagreement with the judgments exercised throughout the SA process. As the Supreme Court has recently reiterated (see above):

“It is implicit ... that the public authority responsible for promulgating an environmental report should have a significant editorial discretion in compiling the report to ensure that it is properly focused on the key environmental and other factors which might have a bearing on the proposed plan or project. Absent such a discretion, there would be a risk that public authorities would adopt an excessively defensive approach to drafting environmental reports, leading to the reports being excessively burdened with irrelevant or unfocused information which would undermine their utility in informing the general public in such a way that the public is able to understand the key issues and comment on

them.”

34. The criticism advanced in the Note do not approach the high degree of flaws in the process which the Courts have made clear are required to demonstrate that the SA undertaken is not in law a proper SA.
35. As already mentioned, if it is considered that there are any significant deficiencies in the SA process, they can be addressed in the next iteration of the SA. However, for the reasons set out above, CYC submits that the SA and the procedure followed have been sufficient to meet legal and policy requirements and that the FPC contentions are misconceived and should be rejected.

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MAIN SA/SEA Documents

Title	Date	Details	Core document/ Examination library ref
Local Plan Preferred Options SA Scoping Report	May 2013	Sets out the scope and methodology for undertaking SA. <i>Method write – up superseded by 2018 SA report</i>	Main report: SD008A Annexes: SD008B
Local Plan Preferred Options SA	June 2013	Sets out SA appraisal of sites and reasonable alternatives following SSP. <i>Technical Officer/ commentary superseded by 2018 SA onwards</i>	Main report: SD007A Non-Technical Summary: SD007B Appendices: SD007C
Further Sites Consultation SA Technical Note	June 2014		SD017
Aborted Local Plan Publication Draft SA	Sept 2014		Main Report: SD011A Appendices: SD011B
Local Plan Preferred Sites Consultation Interim SA	July 2016	Used SA framework indicators to inform consultation on comparative sustainability of sites.	SD020
Local Plan SA Pre-Publication Draft Reg. 18 Consultation	Sep 2017		Main report: SD023A Non-Technical Summary: SD023B Appendices: SD023C – E
Local Plan SA Publication Draft Reg.19 Consultation	Feb 2018	Full SA of policies and sites including audit trail of evolution between 2013-2018 submission. See following: <ul style="list-style-type: none"> • <i>Section 2:</i> development of LP for overview of policies and sites evolution • <i>Section 5.2:</i> SA Framework • <i>Section 6.4:</i> Housing and employment growth options • <i>Section 6.5:</i> spatial strategy, including sites appraisal. • Appendix H – Appraisal of site allocations and alternatives • Appendix I – Detailed appraisal of Strategic Site allocations and alternatives • Appendix K part 1 – policies audit trail • Appendix K part 2 – Strategic Site Audit Trail • Appendix K part 3 – All sites audit trails 	Main Report: CD008 Appendices: CD009A - CD009D Non-Technical Summary: CD010
Local Plan SA Addendum	April 2018		CD011

Local Plan Publication Draft (Reg. 19 Consultation) SA Report Addendum - Proposed Modifications Consultation	May 2019		Main Report: EX/CYC/24a Appendices: EX/CYC/24b Non-Technical Summary: EX/CYC/24c
SA Addendum of Composite Modifications Schedule	May 2021		EX/CYC/62