



Our Ref: York EiP/Phase3/Matter5

Your Ref:

20 July 2022

FAO Inspector Simon Berkeley (BA MA MRTPI) and Inspector Paul Griffiths BSc (Hons) BArch IHBC  
C/O Carole Crookes, York Local Plan Examination Programme Officer

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Dear Sirs

### **York Local Plan Examination in Public – Phase 3 Hearings Sessions**

#### **Matter 5 – Queen Elizabeth Barracks**

Avison Young acts for Defence Infrastructure Organisation (DIO). DIO is a Representor in respect of the emerging York Local Plan and will be a participant in the Phase 3 Hearing Session concerning Matter 5 (QEB) on 21 July 2022.

Since September 2021, DIO has been working with the Council and Natural England with a view to settling a Statement of Common Ground ("SoCG") on matters relating to the QEB allocations (ST35 and H59). The original intention was for the SoCG to identify both matters agreed and matters in dispute. However, in spite of the parties having had numerous discussions about both, and having considered various iterations of lists of matters in dispute, it has not been possible to find a format, or a form of words that the parties are agreed best describes the issues that remain between them. Accordingly, the SoCG has been confined to those matters that the parties agree.

Notwithstanding how the work on the SoCG has concluded, DIO is mindful that it can be extremely helpful to identify the matters that remain in dispute between the main parties, particularly in a case like this where there is a lot of material to consider. So, to assist the Inspectors, we have compared the respective cases of DIO and the Council / Natural England and have compiled a list of the matters that DIO believes remain in dispute. These are as follows:

- a) whether the SAC is under intense pressure from recreational use;
- b) whether the way in which the SAC is being used currently is impacting adversely on either its qualifying features or its typical species;

- c) whether the forecast increase in use that might reasonably be attributed to the development of Sites SS19/ST35 and H59 would pose a threat to the integrity of the SAC;
- d) whether the mitigation measures proposed by DIO would be effective, either individually or when deployed in combination;
- e) whether there is any evidence which demonstrates that visitors that live within 400m of an SAC are more likely to cause harm to it than visitors that live more than 400m away and whether the behaviour of visitors who live within 400m of an SAC is more difficult to control than the behaviour of people that live further away;
- f) whether 400m is an appropriate / evidenced distance and whether it is relevant to this particular SAC;
- g) whether the HRA addresses itself to the question of whether no housing development should be allowed within 400m of the SAC and whether there is any evidence within the HRA or any other CYC document which demonstrates that the additional protection that is proposed by way of an exclusion zone is required to avoid a breach of the Habitats Regulations (and, therefore, whether Policy GI2A is a necessary addition to the Plan);
- h) whether the 1.2% increase in visitor numbers being attributed to Site H59 requires mitigation;
- i) whether, in its assessment, DIO has taken a suitably precautionary approach and demonstrates, to the required extent, that the proposed allocations will not have an adverse effect on the integrity of the SAC;
- j) whether the 2020 HRA is sound and, in particular, whether it:
  - correctly applies the relevant legal tests (e.g. reasonable scientific doubt v absolute certainty);
  - makes appropriate and consistent judgements when assessing the likely effects of proposed housing allocations and the mitigation measures proposed in association with these;
  - is correct to address itself to the possibility of harm being caused to typical species within the SAC;
  - contains an adequate or appropriate assessment of the likely efficacy of mitigation measures when these are deployed in combination; and
  - gives any or adequate consideration to whether there are alternative or additional mitigation measures that could be deployed, or different ways of dealing with the proposed developments themselves that might provide the mitigation that is required.

We hope that the Inspectors will find this helpful but if you require any further information on any of the above, please do not hesitate to ask.

Yours sincerely



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**For and on behalf of Avison Young (UK) Limited**