



York Civic Trust

Inquiry into York's draft Local Plan: Phase 4

Written Statement in connection with Matter 5 – Green Infrastructure

Final Version

30th August 2022

This statement in relation to Matter 7 is submitted by York Civic Trust. The Civic Trust is a membership organisation representing some 1300 individuals. Our vision is 'promoting heritage, shaping tomorrow'. Our Mission is to: protect and contemporise York's unique heritage; champion our environment and its sustainability; encourage the city's economic development in line with its character and engage with all sectors of the community.

This statement has been prepared by Dr Chris Webb of our Environment Committee. It will be presented by our Chief Executive, Andrew Morrison.

York Civic Trust is committed to helping to secure a Local Plan, based broadly on the current draft. We are concerned, however, that there are weaknesses in the way in which the Plan has been formulated, and aspects of its resulting content which render it unsound. We have endeavoured throughout the process to work with City of York Council to secure improvements which overcome these deficiencies. In June 2022 we prepared a Statement of Common Ground with the Council, which we understood had the Council's support, and which we expected to be signed and submitted in time for consideration in Phase 3. Two months later, and within two working days of the deadline for submitting statements for Phase 4, we finally received a suggested redraft, with no explanation. Regrettably, therefore, we have had to submit our draft of June 2022, as evidence of our good intent. We focus here on the areas which we suggest in that draft Statement still need to be resolved.

The Inspectors ask us to:

- Explain which part of the Plan is unsound;
- Explain why it is unsound, having regard to the Framework;
- Explain how the plan can be made sound; and
- Explain the precise/change/wording that is being sought.

We have endeavoured to do this, though where we have concerns over the process of plan making, we are clearly unable to answer the last of these.

Matter 5

Before turning to the individual questions, we wish to draw attention to some areas that apply, sometimes more to one policy, sometimes more to another, across all the GI policies in one degree or another.

1 We are concerned that the evidence base is not up to date and does not explicitly or systematically cover some key habitats; and that therefore it is not sufficient to enable sensible planning and decision-making across all areas of the City.

1.1 The biodiversity audit was signed off in 2010 (12 years ago). It is itself only a partial audit, based in some part on an audit carried out in 1996 (26 years ago), and that audit was also a partial audit:

‘the 1996 audit, was based on known information and did not carry out any significant new survey work to identify the overall extent of the wildlife interest. Indeed, although parts of the Greater York area had had some Phase 1 survey work carried out prior to re-organisation in 1996 by previous authorities, no extensive survey of the whole of York had ever been undertaken (para 1.6).’

The 1996 report further notes that some data in it in fact predated 1990 (para 1.8). By the time the draft Local Plan comes to the end of its life the Biodiversity Audit it is based upon will be 30 years out of date, while parts of it will be 50 years out of date, at a time when climate (and the habitats it helps to produce) is changing at unprecedented speed.

We recommend that CYC commits to a regular, decennial survey (2010 being the baseline – and we note that the current Pollinator Strategy has a five-year life) to ensure that changes in habitats wrought by time, climate change and development can be accounted for in the interpretation and implementation of Green Infrastructure and other environmental policies in the Local Plan. This commitment should be expressed in a new Biodiversity Audit policy, to sit in the Climate Change suite of policies.

1.2 The 2010 audit report recorded the difficulty of surveying the whole of the City area with the resources allocated to it by the City, and so sensibly sought to exclude improved grassland and arable as being unlikely to merit designation as a SINC (para 1.15), which was a principal driver for the work at this date (para 1.11).

1.3 The 2010 report was forced to exclude hedgerows and ponds from systematic survey work, ‘because the survey requirement would be extensive and could only be done systematically across the whole City area. This was not feasible within the resources available.’ Thus both hedgerows and ponds, both key habitats named in the subsequent Biodiversity Action Plan, were included only on an occasional basis, which has the unfortunate consequence of missing historic boundary hedgerows from the database, and largely ignoring a fast-declining and scarce habitat in ponds.

1.4 None of the above suggests anything other than that the two surveys were performed to the highest standard within the resources available and to the objectives laid down by the Council when they were carried out.

We recommend that further survey work in these missing areas is undertaken within the next two years to strengthen the evidence base; that the new Biodiversity Audit policy is written to include these areas as a matter of course; and that policies, strategies and action plans are amended accordingly.

2 Much other evidence is also out of date, partly because of the passage of time between submission of the Local Plan and its examination.

2.1 The policies refer to out of date plans (e.g., the City and St Mary's Walls plan, which has yet to be formally adopted, but which is more comprehensive and quite radically different to its predecessor), and do not reference other strategies (e.g. the Pollinator Strategy, 2020) which are clearly relevant. These Green Infrastructure Policies are characteristically affected by changes over time, which can be swift and unexpected, but do not contain any guidance in them to suggest that updating over the course of the Plan will take place as a matter of urgency when changes need to be made. This is unhelpful to planners, developers, citizens and visitors. We have more comment deriving from this point under question 5.1.

3 There is a general lack of congruence between strategies in the GI section of the Plan, and related strategies in other parts of the Plan. Thus, strategy D2 Landscape and Setting, is not referenced in GI Policies, when it is clearly relevant and, indeed, the relationship to GI is noted specifically by the cross references cited under D2.

4 We note that the GI Policies are couched generally in the language of conditionality. Thus, in GI1 green corridors are to be extended and enhanced 'where possible'; Policy GI2 requires that 'In order to conserve and enhance York's biodiversity, any development should where appropriate ...' take the actions listed. In addition, we note a general lack of congruence between the wording of the Biodiversity Action Plan, the relevant paragraphs of the NPPF, and GI Policies. This can lead to further ambiguity and confusion which could be avoided by tying these related documents more closely and clearly together.

We would like to see less ambiguous writing, which is more clearly derived from the Biodiversity Action Plan and from the relevant paragraphs of the NPPF. We believe this will be of significant help in achieving the aims of the GI Policies and will assist planners and developers to be clear about how they must meet their GI requirements.

5 The Biodiversity Audit and the Action Plan name and describe the range of habitats inside the York boundaries, and assign them their levels of importance nationally and locally; 11 priority habitats are specified at in the Audit's executive summary. These habitats are not named or described in the GI Policies, and it is not clear from the Policies that the Action Plan envisages an increase (by extension and/or creation) of key habitats where possible (NPPF para 175).

We recommend that the two be tied more closely to make this clearer and increase the likelihood that the Policies will achieve the aims they and the Action Plan set out.

6 The Biodiversity Action Plan is explicit in recommending that enhancements to, e.g. green corridors should be predicated on enhancing the habitat that the area is likely to support,

rather than creating a habitat that might fail in a given location. This is not made clear in any of the GI Policies.

We recommend that this practice forms part of the explanation or introduction to the suite of GI Policies.

7 The Local Plan, nor amendments to it, does not make any reference to the City's Pollinator Strategy, which runs from 2020-25. This is a key omission from the Plan, and from the suite of Green Infrastructure Policies.

We recommend that the Pollinator Strategy be included as a reference document, along with the Biodiversity Audit and Action Plan, at clause i of Policy GI1.

8 We recommend the inclusion of a number of missing cross references, which are given here for convenience.

8.1 There is a cross reference to Policy CC1 under Policies GI1, 2 and 4-6. Only the corresponding reference to GI1 is present under Policy CC1. We recommend that there is a cross reference to the York Civic Trust recommended policy on Sequestration and wetlands/grasslands.

8.2 There is a cross reference to Policy ENV4 under Policies GI1-7. The corresponding references are missing.

8.3 There is a cross reference to Policy T1 under Policy GI7. The corresponding reference is missing.

8.4 There is a cross reference to Policy D1 under Policy GI2. The corresponding reference is missing.

5.1 Is the general approach of Policy GI1 to green infrastructure sound?

It is not clear to us that the GI suite of Policies recognises the wider networks of which York's environment is a part (the habitats described in the Biodiversity Audit and Action Plan). The introduction to the GI Policies could be clearer in citing the relevant paragraphs of the Biodiversity Audit and of the Action Plan, and by citing para 175 of the NPPF.

We note that GI1 begins with a general catch-all clause that references partner strategies that will assist in delivering York's own Green Infrastructure Strategy. Only one partner strategy is named (for Leeds City Region). The NPPF requires that (para 175) 'Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries'. Paragraph 179 (a) elaborates on this point.

We recommend that the Policy is rewritten with closer reference to these paragraphs of the NPPF.

This catch-all clause also references ‘any other plans formally approved in the future by the Council as part of the Green Infrastructure Strategy’. This loose wording seems to us to leave open the possibility of change, but without linking changes to these Policies or to the evidence base on which they are built.

We recommend that the need for change over time, and the need to recognise that the Council’s habitats sit in wider environmental networks are separated into two clauses, giving them the prominence that they require if they are to produce the desired outcomes.

The Policy explanation could benefit from a clearer separation of the natures of recreational space for sport (field-based sports like rugby league, water-based activities such as fishing), recreational space for exercising animals and recreational space that is focused upon the enjoyment of biodiversity (para 9.3). This point is a key part of the Habitat Regulation Assessment’s consideration of the possibility of mitigation in developments close to Strensall Common. Each of those spaces requires radically different management requirements, which are unhelpfully mixed in para 9.3’s explanation.

We recommend that this Policy is rewritten to make a clearer separation between the types of habitat that it considers, as required by the NPPF, and refers carefully to the Biodiversity Audit and Action Plan.

5.2 Does Policy GI2 deal with biodiversity and access to nature in a reasonable way?

5.3 Will (new) Policy GI2A and the associated text be effective in protecting Strensall Common SAC?

These policies are closely linked, and we will deal with them together.

New Policy GI2a is welcome in that it recognises the importance of Strensall Common. It takes account, and replicates the recommendations, of the Habitats Regulation Assessment: the wording of GI2a exactly reflects the wording advocated. As such, together with the removal of Policies SS19/ST35 and H59(A), it protects the integrity of Strensall Common.

However, the HRA also dealt with the Lower Derwent Valley and Skipwith Common, which is an important reminder that there are other internationally and nationally important reserves in York. The full extent of the recommendations of the HRA, and Natural England, are embedded in a broader and more significant suggested wording change to Policy GI2, which has not been adopted by CYC. Our reading of the suite of GI and other Environmental Policies in the Plan suggests that CYC envisages the possibility of the creation of new SINCs at various levels, and that this vision is properly reflected in the changes put forward to Policy GI2 by the HRA and NE. We believe that at least part of the intention of GI Policies is to protect important sites currently in being, and that the policies envisage the possibility of other sites being designated.

We recommend that this Policy and its explanation adopts the wording recommended by the HRA in full. This will protect and enhance all York's current and future international and national designated sites, and the whole range of SINCs, in being and to be created. This will also help to meet the requirements of the NPPF at para 181.

Policy GI2 has two clauses relating to water and water quality, focused primarily and understandably on our rivers and other watercourses. The Biodiversity Audit references ponds, among other features, as making 'a significant further contribution to the overall interest. Whilst not extensive in area terms, these do contribute in great measure to the overall biodiversity of York and their protection is therefore integral to nature conservation in the city'. Nationally, we have lost about 50% of our ponds in the last half century, to the extent that they are now an endangered habitat.

We recommend that because GI2 does not refer to ponds, while the Local Plan itself references ponds only as 'attenuation ponds' (para 3.58), they are specifically referenced here.

Policy GI2 focuses on the conditions that need to be met by built developments. The NPPF at para 180d makes clear that developments 'whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.'

We recommend that this positive framing of biodiversity and access to nature is included in this Policy.

5.4 Is Policy GI3 sufficient to protect or enhance the city's Green Infrastructure Network?

The introduction to Policy GI3 adopts the conditional wording 'where relevant', which, as always, opens up some key areas of debate. This could be especially important in GI3 iv, where developments are required to create and/or enhance stepping-stones and new green corridors. This is a sensible and laudable aim, which we support, but neither this policy nor its explanation provides any clue as to how relevance might apply. Is this a function of geographical proximity, or of habitat type? Does it apply differently to water bodies, watercourses and land? Is the condition susceptible of offsetting in some way?

The policy appears to do its job of protecting and enhancing existing green space, therefore, but is weaker on creating new such space or connections linking spaces.

5.5 Will Policy GI4 offer appropriate protection to trees and hedgerows?

The Policy and its explanation offer a broad range of protections for trees and hedgerows (coupled with other related Policies and statutory protections). It acknowledges the need to ensure the health of trees at maturity, and cites the importance of perpetuating trees and hedgerows as features of a development. There is no suggestion of a mechanism (such as

planning conditions) for maintaining the health of trees or hedgerows to meet the policy's aims.

We recommend that the Policy be revised to include a mechanism for maintaining the health of trees and hedgerows over the long term (and their replacement), and to note the importance of selecting species appropriate to both setting and the exigencies of disease and climate change.

We recommend also that the evidence base upon which the historic and biodiverse significance of hedgerows is judged (e.g. where they mark historic boundaries) is updated and maintained as a live record.

5.6 Does Policy GI5 offer proper protection to open space and playing fields?

This Policy is confusingly constructed and does not sit easily alongside its accompanying explanation. The thrust of the Policy is about open space for organised recreation, which it identifies as playing pitches. In contrast, the relevant section of the NPPF (paras. 98-103) is titled 'Open Space and Recreation', which implies a different perspective on the nature of Open Space. It can be constructed to reflect this, but in that case references to environmental value are unhelpful: playing pitches are not generally biodiverse, and their surfaces and facilities require different management than, for example, a meadow. The Policy, if it is to include Open Space for e.g. dog walking, should be extended to reflect this; similarly, if it is to include Open Space for its biodiversity (as the explanation makes clear), then further amendments should be effected. The NPPF at paras 92, 98 and 179-182 is clear in discriminating between recreation and sporting facilities.

There are some detailed problems. The second bullet (why are these not numbered as the other policies are?) would permit a development to utilise a playing pitch for buildings if there is deemed to be a local surplus of playing pitches. However this judgement is arrived at, it permits the quantity and nature of playing pitches across the City to be reduced; there is no provision in the Policy (though there is mitigation in the explanation) for ensuring that the overall provision of playing pitches is secure. Bullet three refers to the requirement for playing pitches to be implemented to 'a high standard', but with no indication of what this might mean (we accept that standards change over time, and that policies must be worded to reflect change). Bullet four's first sentence is grammatically unsound, while its last sentence is opaque in its meaning and application.

We recommend that this Policy is revised in the light of the above observations.

5.7 Is the approach of Policy GI6 to the provision of new open space sound?

This Policy is unclear in several respects, mostly, we suspect, due to poor drafting. It is important to get this right, since it is a key Policy in delivering protection (by way of additional recreational space) to Strensall Common. The Policy's main thrust is focused on recreational space, paying scant attention to biodiversity and environmental conditions. If biodiversity and ecological impact are to be key planks of this policy they should be introduced in the first

sentence alongside 'recreation and amenity'. As we have commented before, where recreation is part of the reason for an open space the needs of the various forms of recreation need to be teased out and their individual requirements specified. Similarly, where ecology and biodiversity are to be factored in, this needs greater emphasis and reference in the policy. As it is, they are afterthoughts. It is important to note in this context that recreational pressure is a key consideration for Natural England and the HRA.

The introduction to the numbered clauses suffers from the same conditional language as the rest of this suite of policies. A firmer introduction would read, for example, 'The Council will expect on-site provision, but off-site provision will be acceptable in the following circumstances ...'. The sentence structure of clause ii, together with typographical errors and, we think, missing words or clauses, makes it hard to understand what it is intended to mean. Similar problems beset clause iii.

The introduction to the first set of bullets after the list of identified and indicative sites uses the phrase 'where appropriate', but it is hard to see what function the phrase performs given the bulleted list that follows. The second bullet introduces the requirement to 'mitigate and compensate for ecological impacts, and provide for ecological enhancement'. It would help to refer to the Biodiversity Action Plan where emphasis is placed upon the need to create appropriate enhancement given the nature of the environment in the site, and the requirement to create more, and better, habitats of particular types.

We recommend that this Policy is rewritten for clarity and understanding, to identify the needs of different recreational spaces, and to include reference to the Biodiversity Action Plan where open space is to be provided with an environmental element.

5.8 Does Policy GI7 deal with burial and memorial grounds in a reasonable manner?

The Policy deals with the functional nature of burial and memorial grounds, and it does this effectively. However, the Policy notes that the demand for further burial grounds increases as population grows, so it is important that the full range of services provided by these spaces is acknowledged. Burial grounds can be key providers of biodiverse habitats; these latter are one among several reasons for visiting burial grounds, and for extended dwell times in them. They provide real and effective environments for solace and hope – a unique form of recreation.

We would like to see these key and integral services built into the Policy, which will also assist in embedding new burial grounds (or extensions to existing burial grounds) into the local community.

We are surprised to see that the Diocese of York is not among the key delivery partners, since churchyards in villages outside the City are still mostly active, and possibly will require extensions during the life of this Plan.

We recommend the addition of the Diocese of York to the list of key delivery partners.