

**From:** Laura Fern [REDACTED]  
**Sent:** 29 March 2023 09:22  
**To:** localplan@york.gov.uk  
**Subject:** York Local Plan Main Modifications Consultation - representations on behalf of Mr J Harrison  
**Attachments:** York Local Plan Main Modifications March 2023 Mr J Harrison.pdf  
**Importance:** High  
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Dear Sir/Madam

I submitted the representations attached yesterday evening, however I have just gone to send the email to our client for reference and it is not in my sent items folder.

It would be greatly appreciated if you could confirm whether you received the email and attachment?

Please do not hesitate to contact me should you have any queries.

Kind regards

Laura

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PLANNING & DESIGN

## York Local Plan Examination

Main Modifications Consultation

Mr J Harrison

March 2023

## **Introduction**

1. These representations are submitted on behalf of Mr J Harrison [REDACTED] [REDACTED] relation to the Local Plan Main Modifications consultation of February / March 2023. In general, it is very disappointing to see that ST14 (land west of Wigginton Road) remains as a proposed housing allocation within the Local Plan.
2. We remain of the opinion that the allocation is not soundly or legally based and that the proposed Main Modifications to Policy SS12 (relating to ST14) do not alleviate the failings and shortcomings of the allocation and therefore Local Plan as a whole.
3. For that reason our client is currently seeking King's Counsel advice to determine whether a Judicial Review challenge could be an appropriate course of action should the Local Plan be determined to be sound and legally compliant, and official adoption of the document be made by CYC.
4. We provide commentary below on the Main Modifications relating to SS12 and ST14.

### **MM3.42 Policy SS12: Land West of Wigginton Road (highway works)**

5. It is stated that the proposed amendment is made for clarity and effectiveness and to reflect the off-site highway works required.
6. Originally the off-site highway works were required to be delivered by the developer, which included local capacity upgrades to the outer ring road in the vicinity of the site. However, the dualling works to the Outer Ring Road, including creation of a 4<sup>th</sup> arm to the Clifton Moor Gate roundabout and pedestrian/cycle underpass, have now been granted funding by the Department for Transport and local match funding contributions (confirmed at ref: 2.02 of the Infrastructure Gantt Chart, August 2022, EX/CYC/107/8). It should be noted that both the 4<sup>th</sup> arm of the roundabout and the pedestrian/cycle underpass would not serve anything other than ST14 and are therefore site specific. If ST14 was to be removed as a proposed allocation, such provision would not be necessary.
7. MM3.42 seeks to remove the need entirely for the developer to provide or contribute to the off-site highway works required in order to make ST14 acceptable as a proposed housing allocation. It is therefore unclear where the "local match funding" is coming from, certainly not from the developer's pockets. It would appear that DfL and the local authority (and therefore the taxpayer) are funding infrastructure provision that should be made by the developer in order to bring forward this site for development.

8. It also seems that the removal of the need for the developer to pay for such provision coincides conveniently with the realisation that ST14 is not financially viable when taking account of the extensive infrastructure contributions required. Yet again this shows that CYC is willing to retrofit policies and assessments to suit the allocation of ST14 when it is clear that the site is unsuitable for development.
9. In our opinion this approach is unjustified and therefore renders the Local Plan unsound.

**MM3.43 Policy SS12: Land West of Wigginton Road (public transport provision)**

10. MM3.43 requires means of delivering a 'high quality, frequent and accessible public transport' service to be 'identified and agreed as part of a Sustainable Transport Strategy' aiming to achieve 15% or more trips by public transport. However, during the Public Inquiry, the monies put aside in the draft heads of terms for any S106 agreement indicated that £10m would be set aside for these bus measures. It was also identified at the Public Inquiry that the £1m cited by the Council as the 'cost' for providing a bus service (unsupported by evidence, and, at the Hearing, confirmed to be simply an Officer's guess) was not the cost of providing a bus service for the site for a year, but was the cost of providing a single bus which could be used on the route. Clearly the bus route, in order to provide a frequent service would need more than one bus (probably 4 or 5) so that the indicated amount of money would not last a significant period of time, and York Council would effectively be subsidising the provision of public transport to this unsustainable location. Clearly this is an inappropriate use of public funds to help to justify this unsustainable 'settlement' that does not accord with the principles of the plan.
11. In our opinion this approach is unjustified and therefore renders the Local Plan unsound.

**MM3.44 Policy SS12: Land West of Wigginton Road (Green Belt boundaries)**

12. MM3.44 seeks to ensure that strong Green Belt boundaries around the site are secured in response to the assessment at EX/CYC/59g.
13. The policy acknowledges that some of the site boundary is not defined by recognisable or permanent features, which is a point we have raised on a number of occasions. However, MM3.44 seeks to rectify the situation by simply stating that those boundaries will be addressed through the masterplan and design process in order for strong and defensible Green Belt boundaries to be created and secured.
14. This remains contrary to the National Planning Policy Framework (NPPF), which clearly states that Paragraph 143 that "*when defining Green Belt boundaries, plans should (inter alia) define boundaries clearly, using physical features that are readily recognisable and likely to be permanent*".

15. The Green Belt boundaries associated with ST14 should be drawn at the time the allocation is made through the Local Plan process and not at a later date during any subsequent planning application or masterplanning process, which is what is being implied by the wording of MM3.44. In numerous locations along the boundary, ST14 is not defined by any features on the ground, let alone ones that are readily recognisable and likely to be permanent, and it is therefore impossible to distinguish exactly where the so-called boundary is.
16. The original policy wording and that of MM3.44 remain unjustified and therefore unsound.

**MM3.46 Policy SS12 explanation paragraph 3.61 (design and layout of the road)**

17. MM3.46 seeks to add a paragraph of explanation to SS12, which states that the “*design and layout of the road should minimize the impact upon the openness of the Green Belt and demonstrate how it would safeguard those elements which contribute to the special character and setting of the historic City*”.
18. This is a fundamental element of the proposed allocation and any subsequent development that in our opinion CYC has failed to give due consideration to. Two access roads are proposed for ST14, one from the south from Clifton Moor Gate roundabout and one from the east from Wigginton Road. Due to the isolation of ST14, these access roads will be substantial in length and no assessment has been undertaken so far to determine whether they would be appropriate features within their Green Belt context.
19. Furthermore, the text only considers the safeguarding of those elements of the Green Belt associated with contributing to the special character and setting of the historic City of York. Other Green Belt purposes (Paragraph 138 of the NPPF) have not been considered such as:
  - a. to check unrestricted sprawl of large built-up areas; and
  - c. to assist in safeguarding the countryside from encroachment.
20. CYC has failed to appropriately assess ST14 and its associated access road locations within the context of the Green Belt to which they will sit. It is considered that the planning application stage is too late to be considering such fundamental issues and that should any potential impact on the Green Belt and its setting be caused by the access roads, this could render the whole allocation inappropriate and unsuitable.
21. It is therefore considered that the allocation of ST14 and the Local Plan is unjustified and unsound.