

---

**Report to:** LCR Heads of Planning

**Date:** 14<sup>th</sup> June 2019

**Subject:** CITY OF YORK LOCAL PLAN – Proposed Modifications Consultation (June 2019)

---

## **1.0 PURPOSE**

1.1 This report provides an update on the City of York Local Plan examination and the Council's proposed modifications to the submitted Local Plan which will be the subject of a 6 week consultation compliant with Regulation 19. The consultation will commence on 10<sup>th</sup> June 2019 and will finish at midnight on Monday 22<sup>nd</sup> July 2019. Appendix 1 provides a copy of the modifications schedule (June 2019) and Appendix 2 shows the Plan's alignment with the Leeds City Region (LCR) Strategic Economic Plan.

## **2.0 RECOMMENDATION**

2.1 Heads of Planning officers are asked to:

- Note and offer comment on the proposed modifications (at Appendix 1);
- Note and offer comments on the Self-Assessment for showing alignment of the Local Plan with the LCR Strategic Economic Plan (at Appendix 2); and
- Endorse the approach taken by City of York Council in meeting the requirements of the Duty to co-operate in the plan making process.

## **3.0 BACKGROUND**

3.1 The Localism Act 2011 introduced the Duty to co-operate (the Duty) that requires local planning authorities and other prescribed bodies to 'engage constructively, actively and on an on-going basis' to maximise the effectiveness of local plan preparation in relation to strategic matters.

3.2 The Act also extended the purposes of the independent examination to include determination as to whether the Duty has been complied with. National Planning Practice Guidance (PPG) makes it clear that Inspectors testing compliance with the duty at examination will assess the outcomes of co-operation rather than the process of dialogue. Failure to demonstrate compliance with the duty at the examination cannot be corrected after the local plan has been submitted for examination.

3.3 The City of York Local Plan (the Plan) has been regularly reported to Heads of Planning (HoP) via the 'LA Core Strategy Updates' standing item on HoP agendas. HOP officers are reminded that:

- a Local Plan Preferred Options (LPPO) was consulted on between 5 June 2013 and 31 July 2013 – the Leeds City Region Strategic Planning (Duty to Cooperate) Group was informed about this consultation at its meeting on 19 June 2013.
- a Further Sites Consultation (FSC) was issued for a six-week consultation in Summer 2014 with a closing date of 16 July 2014, and
- a Publication Draft Local Plan (PDLP) was prepared in autumn 2014 and that the Plan's progress through the statutory stages was halted by Council resolution, that asked for further work to be carried out on the evidence that underpins the objectively assessed need for housing (OAHN), on the 9 October 2014.

3.4 Following the completion of this further work HoP considered a report on the City of York Draft Local Plan Preferred Sites Consultation (PSC) on 8 July 2016, and at subsequent HoP meetings further updates were reported via the 'LA Core Strategy Updates'. Further reports were presented to HOP and the LCR Planning Portfolios Board (PPB) (now LCR Place Panel) in December 2017 on the City of York Local Plan Pre-Publication Draft (Regulation 18) consultation that took place from Monday 18 September 2017 to Monday 30 October 2017. It should be noted that the PPB resolved

(i) That the representations by the Prescribed Bodies summarised in Appendix 1 be noted.

(ii) That the Self-Assessment for showing alignment of the Local Plan with the Strategic Economic Plan in Appendix 2 be noted.

(iii) That the approach taken by City of York Council in meeting the requirements of the Duty to Co-operate in the plan making process be endorsed.

3.5 The Council undertook the Regulation 19 Publication Consultation from 21<sup>st</sup> February to 4<sup>th</sup> April 2018. The Regulation 22 (C) consultation statement submitted with the Plan [CD013] sets out the Council's consultation process and representations made on the Local Plan. The York Local Plan was submitted for examination on 25<sup>th</sup> May 2018 following approval by Council on 17<sup>th</sup> May 2018.

#### 4.0 DUTY TO CO-OPERATE ACTIVITIES

4.1 On-going and constructive engagement with neighbouring authorities and relevant organisations has taken place since work on the Local Development Framework Core Strategy (CS), as the antecedent to the Local Plan, began in 2004. Many of the neighbouring authorities and relevant organisations provided comment or raised issues at the CS 'Preferred Options' and 'Publication (Submission)' Stages. The CS was tested against the requirements of the Duty as the CS went through the Examination in Public (EiP) process. **The Inspector wrote to the Council on 1 May 2012, stating that he was satisfied that the Council had complied with the Duty's legal test.**

- 4.2 Following the Council's withdrawal of the CS from EIP in 2012, work started on the City of York Local Plan and this has required CYC to develop evolving but ongoing methods of co-operation at the sub-regional and regional level. This has included;
- the preparation and updating of a Duty to Cooperate Matrix (that has been generally circulated to the officer level groups for subsequent discussion and comment), that forms part of the Local Plan supporting evidence
  - regular one-to-one officer meetings;
  - making representations, as appropriate, to other authorities Local Plan documents , and vice versa, and
  - regular discussions at regional sub-regional Member and officer groups.
- 4.2 The formal groupings within the Leeds City Region at which issues relating to the Duty are raised are, primarily:
- The Leeds City Region Planning Portfolios Board (replaced by the LCR Place Panel in 2018)
  - The Leeds City Region Heads of Planning Group
  - The Leeds City Region Strategic Planning (Duty to Cooperate) Group;
- 4.3 Through the various regional and sub-regional groups and actions following representations made during the preparation of the Local Plan the 'positive outcomes' identified in the Duty to Cooperate Matrix include:
- The analysis, the general direction and purpose of the work undertaken by City of York to analyse the extent of the York housing market area (HMA) and information on housing land supply across the market area are all supported
  - Minimising the increase in inward or outward commuting
  - Statement of Cooperation for Local Planning Leeds City Region
- 4.4 More detail on how CYC has fulfilled its requirements under the Duty is contained in the Local Plan Submission Draft Statement to demonstrate compliance with the Duty to Co-operate (April 2018) [CD020] that is part of the supporting evidence base for the submitted Local Plan.
- 4.5 The Council will be meeting with prescribed bodies, including neighbouring authorities, as part of the modifications consultation and a report is being taken to the equivalent York, North Yorkshire and East Riding Heads of Planning, Directors of Development and Spatial Planning and Transport Board.

## **5.0 CITY OF YORK LOCAL PLAN EXAMINATION - BACKGROUND**

- 5.1 The York Local Plan was submitted for examination on 25<sup>th</sup> May 2018. The Council has been appointed two Inspectors, Simon Berkeley and Andrew McCormack to undertake the examination. The Inspectors wrote to the Council on 24th July 2018 setting out their initial observations in relation to the Plan. Key issues raised were in relation to OAN, green belt and infrastructure delivery. Officers reported an update on the response to Local Plan Working Group on 20th September 2018 following the release of revised sub-national household projections by Office for National Statistics (ONS).

- 5.2 The Council responded to the Inspectors in detail on 13th November 2018 and advised that since the publication of new national evidence on population and household projections in September which showed a marked downward trend in forecast growth for York we had been in dialogue with the Ministry of Housing, Communities and Local Government (MHCLG) regarding the assessment of housing need. Specifically the letter set out the intention of the Council to commission an update to the OAN to look at any potential implications of the new evidence with the suggestion to Inspectors that they should consider allowing early hearings on this matter specifically. The letter also confirmed the Council's approach to greenbelt and the delineation of greenbelt boundaries and confirmed that we would produce an addendum to Topic Paper 1 (Approach to York's Greenbelt) providing the additional clarification that the Inspectors have requested.
- 5.3 The Inspectors wrote back to the Council on 14th December confirming that the York Local Plan would be examined under transitional arrangements applying the 2012 NPPF, acknowledging the provision of additional evidence and agreeing to a phased approach to hearing sessions, with the first phase dealing with Duty to Co-operate, legal matters, OAN and Greenbelt principle.
- 5.4 The Council submitted the OAN Update from consultants GL Hearn to the Planning Inspectorate on 29<sup>th</sup> January 2019 along with a covering letter updating on other related matters including the Habitat Regulations Assessment (HRA) and the greenbelt. A report was taken to the Council's Executive on 7<sup>th</sup> March 2019 asking members to note the additional OAN evidence submitted to PINS and to approve the modifications schedule for submission to PINS for examination. These modifications and additional evidence documents were submitted to PINS on 26<sup>th</sup> March 2019.
- 5.3 The Inspectors wrote back to the Council on 7<sup>th</sup> May 2019. The Inspectors have requested that the Council undertakes a modifications consultation on the proposed changes and additional evidence, compliant with Regulation 19, to allow interested parties the opportunity to make further representations on the proposed changes to the submitted Plan prior to hearing sessions commencing later in the year.

## **6.0 PROPOSED MODIFICATIONS TO THE LOCAL PLAN**

The proposed modifications to the Local Plan (attached at Appendix 1) cover the following main issues:

### **Objective Assessment of Need (OAN)**

- 6.1 Since the submission of the draft Local Plan (May 2018), there have been two changes which have affected national housing policy: the national population and household projections which form the basis of the local housing need assessment have been updated; and the Government have brought into force a Standard Method for calculating housing need linked to the publication of the revised NPPF (2018 with update in 2019).
- 6.2 York's Plan is being examined under transitional arrangements, applying NPPF 2012 and its associated practice guidance (PPG). Both the NPPF (2012) and the associated

PPG with regards to housing needs assessments are clear that the latest household projections published by the Office for National Statistics (ONS) should provide the starting point estimate of overall housing need. The PPG is clear that wherever possible, local needs assessments should be informed by the latest available information and the NPPF is clear that Local Plans should be kept up-to-date. It is also clear that 'a meaningful change in the housing situation should be considered in this context, but this does not automatically mean that housing assessments are rendered outdated every time new projections are issued'.

- 6.3 The Office for National Statistics (ONS) released revised sub national population projections (2016-based) in May 2018 post the submission of the York Local Plan which show a marked discrepancy with the previous 2014 based figures on which the submitted Plan's OAN was calculated. This was further confirmed by the release of the 2016 based sub-national household projections by ONS in September 2018.
- 6.4 The Council submitted the Housing Needs Update report (2019) to PINS in January 2019 which supersedes the previous SHMA Update (2017) [SD050] and advises that York's OAN is 790 dwellings per annum. This is based on a detailed review of the latest published evidence including the national population and household projections and the latest mid year estimate. The review has been undertaken based on applying the requirements of the National Planning Practice Guidance in relation to the assessment of housing need, under the 2012 NPPF, applying transitional arrangements. It concludes that 790 dpa would be sufficient to respond to market signals, including affordability adjustments, and make a significant contribution to meeting affordable housing needs.
- 6.5 The York Local Plan is subject to transitional arrangements as set out in the NPPF (2019) and is therefore being examined against the original NPPF (2012). The Standard method for calculating housing need is therefore not applicable to the Council. The application of the standard method has been confirmed by the Inspectors in their letter to the Council on 14th December 2018. This states that "this examination is being conducted pursuant to the 'transition arrangements' in the NPPF 2018 [noting that this reference has now been superseded by the NPPF 2019]. As such, it is the policies of the 2012 NPPF that apply. The 2012 NPPF requires that an OAN figure be identified. But there is nothing in Government policy or guidance requiring that Local Plans being examined under transitional arrangements must use the standard method".
- 6.6 The Council considers that the submitted Plan's housing supply can be robustly demonstrated to meet the revised OAN of 790 dwellings per annum both for the plan period to 2033 and post plan period to 2038. The proposed housing supply in the submitted Plan includes an appropriate level of flexibility in order to deal with unforeseen circumstances over the duration of the plan period. Whilst the flexibility in the proposed housing supply has increased by approximately 1500 dwellings as a consequence of the reduction in the OAN it is considered that this additional flexibility is warranted due to the need for increased flexibility to help to future proof the Plan in the context of NPPF 2019. The proposed supply of sites will create a green belt boundary for York which will endure beyond the end of the plan period to meet longer term development needs, as set out in paragraph 83 of NPPF (2012).

- 6.7 The Council is proposing to make modifications to the submitted Plan as a result of the updated OAN and these modifications are set out in the modifications document. These modifications include an update to figures 5.1 and 5.2 of the Plan – the housing trajectory and figure 6 of the Strategic Housing Land Availability Assessment (SHLAA) [SD049A] which provides the detailed housing trajectory. The housing trajectories are provided for both the plan period to 2033 and for the post plan period to 2038. These trajectories include the deletion of sites ST35 and H59 outlined in the HRA section below.

#### **Habitat Regulations Assessment (HRA)**

- 6.8 Following submission of the Plan and ongoing engagement with Natural England (NE) the Council commissioned Footprint Ecology to undertake visitor surveys at Strensall Common Special Area for Conservation (SAC), the Lower Derwent Valley Special Protection Area (SPA) and Skipwith Common SAC and a final draft report was issued in January 2019. It is considered that the visitor survey provides new, strong evidence that the proposed mitigation set out in Policy SS19 of the submitted Plan and the proposed modifications submitted with the Plan [CD003] cannot be completely relied upon. Therefore the Council, as the competent authority, cannot conclude that the proposed site allocations ST35 (Queen Elizabeth Barracks) and H59 (Land at Howard Road, Strensall) and the associated site specific policy SS19 would not undermine the conservation objectives for Strensall Common SAC.
- 6.9 This new evidence contradicts the expectation of the submitted HRA [CD012] that the additional requirement for a wardening service would remove the threat of an adverse effect on the integrity of the SAC given the predicted increase in visitor numbers of 24%. Fundamentally this scale of increase, the uncertainty surrounding the effectiveness of the mitigation measures and the associated increase in the worrying of livestock ensures that adverse effects on integrity (AEOI) cannot be ruled out.
- 6.10 To avoid an AEOI it is recommended in the updated HRA, which forms part of the consultation documents, that proposed site allocation ST35 and H59 are removed from the submitted Plan. The Council has consulted with Natural England and they conclude that ‘given the scale of increase in access predicted from the visitor surveys, the proximity of new development and concerns relating to current impacts from recreation, adverse integrity on the SAC cannot be ruled out as a result of the quantum of development proposed. In addition for individual allocations that are adjacent to the site it will be difficult to rule out adverse effects on integrity’. Natural England also state, in relation to potential approaches to mitigation, that ‘Natural England does not believe it is possible to rule out an adverse effect on the integrity of the Strensall Common SAC as a result of allocations currently included in the draft York Local Plan’.
- 6.11 These modifications propose the removal of housing sites ST35 and H59 from the submitted Plan resulting in the deletion of 545 dwellings from the plans housing supply. Officers consider that the submitted plans proposed housing supply can be robustly demonstrated to meet the revised OAN of 790 dwellings per annum both

for the plan period (to 2033) and post plan period ( to 2038). The proposed housing supply in the submitted Plan provides the required flexibility in order to be able to demonstrate to the Inspector that it can respond to unforeseen circumstances over the duration of the plan. In addition the submitted Plan proposes to create a green belt boundary for York which will endure beyond the end of the plan period to meet longer term development needs, a requirement of the National Planning Policy Framework (NPPF, 2012) against which the Plan will be examined, applying transitional arrangements.

### **Green Belt**

- 6.12 As requested by the Inspectors the Council has produced an addendum to Topic Paper 1: Approach to York's Green Belt. The TP1 Addendum provides further clarity on the approach to defining the inner and outer green belt boundary and the exceptional circumstances within which allocations within the general extent of green belt have been made. This work brings together conclusions from previously published evidence and decision making.
- 6.13 As part of the further work undertaken to produce the Addendum to Topic Paper 1 and as a result of the proposed modifications required by the updated HRA the Council is proposing modifications to the green belt boundary depicted on the 2018 policies map and these are set out in the modifications schedule.

## **7.0 CONCLUSION**

- 7.1 It is considered that where cross boundary strategic issues have been identified these have either been, or are capable of being addressed and that there are no materially significant matters remaining. City of York Council will continue to engage with duty to co-operate partners through existing structures and one to one meetings during this consultation process and as the Plan progresses through examination.

### **Appendices**

Appendix 1: Proposed Modifications Document (June 2019)

Appendix 2: Self-Assessment – Local Plan Alignment with the LCR Strategic Economic Plan